

## Contractor Past Performance Information

### Guiding Principles

Evaluation of past performance prior to the award or modification of a contract or the exercise of an option increases the likelihood of successful contract performance.

Evaluation of past performance facilitates best value selection decisions.

Consistent application of past performance evaluation factors increases the caliber of competitors.

[Reference: [FAR 42.15](#), [FAR 15.3](#), [FAR 9.1](#), [DEAR 909.1](#)]

This section discusses contractor current and past performance as a tool to gauge contractors' performance on future contracts.

### Background

The Federal Acquisition Streamlining Act of 1994, at section 1091, amended the Office of Federal Procurement Policy (OFPP) Act to specify that past performance is a relevant factor to consider in contractor selection. It directs OFPP to issue guidance on the use of past performance in contractor source selections.

The OFPP has issued a Guide to Best Practices for Collecting and Using Current and Past Performance Information. This Guide contains useful techniques for recording and using current and past performance information in the contractor selection process. DOE contracting activities should use the OFPP Guide as their primary reference.

The OFPP Guide is available on the Internet at:

<http://www.acqnet.gov/Library/OFPP/BestPractices/pastpefguide.doc>

### General

DOE collects and maintains information on contractors' performance and routinely uses this information, as well as past performance information available from other sources, in making contract award decisions. DOE uses the National Institutes of Health Contractor Performance System (NIH CPS) as its automated contractor performance information database.

Contracting activities establish local procedures to provide for the collection and maintenance of necessary information pertaining to contractor performance.

**DOE Collection and Maintenance Procedures:****HQ Office of Contract Management**

This office provides overall guidance concerning DOE's efforts to effectively evaluate contractor's past performance. It assists contracting activities in the development of procedures and promotes uniformity to ensure that DOE contracts with responsible contractors. Upon request, the Office of Contract Management also assists the contracting activities in assuring the effectiveness of their local procedures.

**Contracting Activities**

Contracting activities establish local procedures for the collection and maintenance of information on contractor performance. The procedures identify the responsibilities of the technical and contracting offices for collecting, maintaining, disseminating, and using past performance information. The procedures identify pertinent performance data elements for collection. Contracting activities collect, review, and utilize information on contractor performance and share this information with the Office of Contract Management and other Federal contracting activities.

In order to ensure consistent, comprehensive, and meaningful past performance information, the information shall be collected for all contracts, task orders and delivery orders over \$100,000. Local procedures should reflect the following:

Final evaluations are prepared at the completion of a contract, task order, or delivery order.

- For all contracts more than 1 year in length, interim evaluations should be conducted halfway through the contract period of performance.
- Evaluations should be conducted prior to any noncompetitive award or modification, especially prior to an extend/compete decision.
- Under multiple award type contracts evaluations should be conducted at the completion of a task order or group of task orders.
- That Contracting Officer and Contracting Officer Representative (COR) training on the NIH CPS is accomplished and that there is continuing refresher training at least once a year.
- That the contract specialist is responsible for ensuring that the COR and contractor are knowledgeable about the NIH CPS and the on-line training that is available to them. (Note: the Contracting Officer/Contract Specialist, COR and contractor have different on-line training modules)

- The Contracting Officer is the responsible party for monitoring, enforcing the use of and administering the NIH CPS.
- The contracting team members are collectively responsible for compliance with local procedures.
- The Contracting Officer Representative should ensure that detailed supporting rationale for the score is provided with each evaluation.

### **Program Offices**

Program offices should assign a COR that is trained in the use of the NIH CPS and provides technical information into the system regarding a contractor's performance when requested by the Contracting Officer.

### **Best Practices**

Past performance evaluation before consideration of option exercise may be used to reward quality performers.

Past performance evaluation is waived if its application is inappropriate to a specific solicitation, such as a once in a lifetime new project with no comparable precedent.

Past performance information is requested in a distinct solicitation section to increase the offerors' awareness of the importance of past performance.

In order to improve quality control associated with the NIH CPS, the contract specialist should be responsible for collecting the data and ensuring the data has been accurately entered into the NIH CPS. Under a centralized approach, this can be accomplished by requiring the contract specialist to perform a quality control function by accessing the system to verify the information entered by the administrative support person. This will also help contract specialists to become familiar with the system.

Offices should establish a "tickler system" to remind contract specialists when a performance report needs to be completed.

Contracting activities should not downgrade a contractor for filing protests or claims or not agreeing to use alternative dispute resolution (ADR) techniques. Conversely, contracting activities should not rate a contractor positively for not having filed protests or not having made claims or agreeing to use ADR techniques. However, the quality of a contractor's performance that gave rise to the protest or claim may be considered. In other words, while performance must be considered, a contractor exercising its rights may not.

**Point of Contact**

Questions regarding past performance issues may be directed to the Office of Contract Management, ME-62, at (202) 287-1349.