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# Acquisition & Assistance Policy Directive (AAPD)

From the Director, Office of Acquisition & Assistance Issued: April 27, 2006

**AAPD 06-05 (Revised March 9, 2007\*)**

## Evaluation and Use of Contractor Performance Information

Subject Category: ACQUISITION MANAGEMENT  
Type: POLICY AND PROCEDURE

AAPDs provide information of significance to all agency personnel and partners involved in the Acquisition and Assistance process. Information includes (but is not limited to): advance notification of changes in acquisition or assistance regulations; reminders; procedures; and general information. Also, AAPDs may be used to implement new requirements on short-notice, pending formal amendment of acquisition or assistance regulations.

AAPDs are EFFECTIVE AS OF THE ISSUED DATE unless otherwise noted in the guidance below; the directives remain in effect until this office issues a notice of cancellation.

This AAPD:  Is New  Replaces/  Amends CIB/AAPD No: CIB 99-04 and AAPDs 02-06, 02-08 and 02-18

<p>Applicable to:</p> <p><input checked="" type="checkbox"/> Existing awards; <input type="checkbox"/> Modification required</p> <p><input type="checkbox"/> No later than</p> <p><input type="checkbox"/> As noted in guidance below</p> <p><input checked="" type="checkbox"/> RFPs/RFAs issued on or after the effective date of this AAPD; all other Pending Awards, i.e., 8(a), sole source, IQC</p> <p><input type="checkbox"/> Other or N/A</p>	<p>Precedes change to:</p> <p><input type="checkbox"/> AIDAR Part(s) Appendix</p> <p><input checked="" type="checkbox"/> USAID Automated Directives System (ADS) Chapter 302</p> <p><input type="checkbox"/> Code of Federal Regulations</p> <p><input type="checkbox"/> Other</p> <p><input type="checkbox"/> No change to regulations</p> <p><input checked="" type="checkbox"/> New Provision/Clause Provided</p>
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**Note:** Hyperlinks to the Mandatory References and Additional Help documents that are specified in **bold font** on the following pages may be found at first reference and on Pages 11-13.

\* THIS REVISION IS SPECIFIED ON PAGE 2.

(signed copy on file)  
Michael F. Walsh

THIS REVISION:

- INSTRUCTS COs TO USE THE NEW CPS A&E REPORT MODULE AND TEMPLATE FOR REPORTING PERFORMANCE OF ARCHITECT AND ENGINEER (A&E) SERVICES (SEE PAGES 6 AND 11);
- REVISES THE ANNUAL REPORTING REQUIREMENT TO PROVIDE AN EXCEPTION FOR PHASES OF A&E SERVICES THAT EXCEED ONE YEAR (SEE PAGE 4, FOOTNOTE 2);
- ADDRESSES PROCEDURES FOR AMENDING COMPLETED CPRs (SEE PAGE 8);
- ADDS NEW MANDATORY REFERENCES: CO A&E USER'S MANUAL, CPS ARCHITECT AND ENGINEER REPORT (TEMPLATE), AND USAID GENERAL NOTICE ON CONTRACTOR PERFORMANCE REPORTS (CPRs) FOR ARCHITECT AND ENGINEER SERVICES AND CPR AMENDMENTS IN GENERAL, DECEMBER 19, 2006 (SEE PAGES 11-13); AND
- SPECIFIES NIH'S NEW HYPERLINKS TO THE USER'S MANUALS AND REPORT TEMPLATES (SEE PAGES 11-12).

EXCEPT FOR THE PARAGRAPHS MARKED WITH AN ASTERISK IN THE LEFT MARGIN, THE AAPD REMAINS UNCHANGED.

THE NOVEMBER 13, 2006 REVISION:

- REVISED THE DOLLAR THRESHOLDS FOR THE REQUIRED EVALUATIONS OF CONSTRUCTION AND ARCHITECT AND ENGINEER SERVICES CONTRACTS, EFFECTIVE WITH FAC 05-13, SEPTEMBER 28, 2006 (SEE PAGE 4);
- ANNOUNCED THE NOVEMBER 29, 2006 AVAILABILITY OF NIH'S CPS A&E REPORT MODULE AND TEMPLATE AND DIRECTED THEIR USE, IN LIEU OF THE CPS STANDARD REPORT MODULE AND TEMPLATE, FOR EVALUATING PERFORMANCE UNDER ARCHITECT AND ENGINEER SERVICES CONTRACTS (SEE PAGES 6 AND 11);
- REVISED A FOOTNOTE TO REFLECT THE REISSUANCE OF ADS 303 (SEE PAGE 2); AND
- ADDED HYPERLINKS FOR THE E-MAIL ADDRESSES OF THE POINTS OF CONTACT. (SEE PAGE 13).

**1. PURPOSE:** The purpose of this AAPD is to provide consolidated guidance on the evaluation and use of contractor<sup>1</sup> performance information (CPI). We are issuing this AAPD to replace and update the agency guidance in ADS 302.5.9 and 302.5.10 plus the following CIB/AAPDs on the evaluation and use of CPI: 99-04, 02-06, 02-08, and 02-18. In addition to the prior guidance, this AAPD also establishes requirements for:

- a. a 15-day response time for the initial assessor, (usually the Cognizant Technical Officer [CTO]) and reviewing official to

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<sup>1</sup> Consideration of performance under assistance mechanisms is outside the scope of this directive. ADS 303.3.6.3 and 303.3.9 address the evaluation of past performance in the selection of assistance recipients.

complete their roles in the performance evaluation process (See III.1.2.4.d and III.1.2.6.d.);

b. the full utilization of the existing databases of CPI in the source-selection process and the solicitation of additional contractor performance information from business references and other sources only after the Contracting Officer (CO) finds the existing databases to be insufficient or unavailable for evaluating an offeror's performance (See III.2.4.2 and III.2.5.4.);

c. the use of the Government-wide database of Contractor Performance Reports (CPRs), the Past Performance Information Retrieval System, as the primary source of CPI (See III.2.5.1.); and

d. the use of templates 1. to provide a model for a solicitation provision for the use of CPI in source selection (See III.2.4.1.), and 2. to collect and evaluate ad hoc contractor performance information from business references and other sources during the competitive evaluation of offerors (See III.2.5.4.).

#### Actions Required:

- a. Evaluate contractor performance at least annually and upon contract completion,
- b. Use contractor performance information in source selection, and
- c. Obtain contractor performance information through the procedures provided.

**II. BACKGROUND:** The Federal Acquisition Streamlining Act of 1994 mandated the Government's collection of CPI and its use in source selection. In 1998, USAID subscribed to National Institutes of Health's (NIH) Internet-based Contractor Performance System (CPS) as the means to collect and disseminate CPI on its contracts, and this system has grown to become the standard for civilian agencies. To give the agency access to CPRs compiled by DOD and NASA, in 2002, USAID enrolled in the Government-wide, Internet-based, database for CPI, the Past Performance Information Retrieval System (PPIRS), which is hosted by the Naval Sea Logistics Center, Portsmouth, NH.

#### **III. GUIDANCE:**

##### **1. Evaluating Contractor Performance**

##### **1.1 General Considerations**

1.1.1 Regular, comprehensive, and conscientious performance evaluations will provide the information to make better acquisition decisions and will be significant incentives to the contractors to provide USAID with superior products and services. On the other hand, GAO has ruled that failure to properly document contractor performance information and make it available

for use in source selections for the same or similar items was sufficient basis to sustain a protest of a contract award in a subsequent source selection. (See the Additional Help, **Legal Trends and Caveats on Failure to Document Contractor Performance Information** [<http://www.usaid.gov/policy/ads/300/302sah.pdf>].)

1.1.2 COs and CTOs must regularly and collaboratively evaluate contractor performance to provide information for market research, future source selections, and other acquisition decisions.

a. **FAR** (<http://acquisition.gov/comp/far/index.html>) 36.201, 36.604, and 42.15 and **AIDAR** (<http://www.usaid.gov/policy/ads/300/aidar.pdf>) 742.15 require performance evaluations of contracts and orders issued under indefinite quantity contracts (IQCs), Federal Supply Schedule contracts, and Government-wide acquisition contracts (1) at least annually<sup>2</sup> (for contracts and orders exceeding one year in duration) and (2) on completion of activities when the contracts (including all options) and orders will exceed the following dollar values<sup>3</sup>:

- Construction services: \$550,000
- Construction services, if terminated for default: \$ 10,000
- Architect and Engineer (A&E) services: \$ 30,000
- Other services and commodities: \$100,000

b. If individual orders do not exceed the applicable threshold, but the combined value of the orders issued under a basic contract ordering mechanism does exceed the threshold, the CO for the basic contract must make a consolidated evaluation of the contractor's performance over all the orders.

c. COs and CTOs may conduct consolidated evaluations of the contractors' performance over all the orders under basic contract ordering mechanisms, in lieu of evaluating individual orders, if the work under the orders is substantially repetitive and it would not appreciably serve the Government's interests to distinguish between the individual orders in evaluating the contractors' performance.

d. **AIDAR** 742.15 and **FAR** 42.15 except personal service contracts and contracts awarded, under **FAR** 8.7, to Nonprofit Agencies Employing People Who Are Blind or Severely Disabled from the requirements for conducting these evaluations. Do not evaluate these contracts under the procedures specified in this guidance.

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<sup>2</sup> Due to the reporting methodology that provides for reporting A&E performance only once for a phase, a phase whose performance exceeds one year in duration constitutes an exception to the general rule that performance must be reported at least annually (for contracts that exceed one year). The CO and CTO will promptly report the contractor's performance upon the completion of the phase.

<sup>3</sup> A pending **FAR** Part 36 revision will increase the threshold for architect and engineer services to \$100,000. Additionally, under pending **FAR** Part 36 and **FAR** Subpart 42.15 revisions, if a contract is terminated for default, the performance must be reported regardless of the dollar amount. M/OAA/P will issue notices when the revised thresholds are implemented.

e. COs and CTOs may evaluate a contractor more often than the minimum periods required and may evaluate contracts not exceeding the above thresholds if they determine the evaluation to be in the best interests of the activity and of the Federal Government. Such evaluations may be appropriate when:

- sharing significant information about a contractor will promote greater confidence in future acquisition decisions,
- making information available in a more timely manner will serve the Government's interests, or
- evaluating awards below the thresholds promotes the use of small businesses or small disadvantaged businesses that are performing particularly well.

f. COs and CTOs should be conducting regular, informal dialogues with the contractors concerning their performance, providing them feedback and keeping informal records over the course of performance; so these evaluations should be neither a surprise to the contractors, nor onerous tasks.

1.1.3 COs must use CPS to compile and record Contractor Performance Reports (CPRs) of the performance evaluations, and they are primarily responsible for their content and for ensuring their timely preparation.

1.1.4 The Mandatory Reference, **Deviation No. OP-DEV-03-01c** (<http://www.usaid.gov/policy/ads/300/302mae.pdf>), authorizes COs to report CPI on construction and architect and engineer services contracts through CPS in lieu of the FAR 36.201 and 36.204(b) requirements to use forms SF 1420 and SF 1421 for these reports.

1.1.5 COs must not allow contractors to be given "downgraded" CPRs for availing themselves of their rights by filing protests and claims or for deciding not to use Alternate Disputes Resolution (ADR), nor may they allow contractors to be given more "positive" CPRs for refraining from filing protests and claims or for agreeing to use ADR. (See the Mandatory Reference, **OFPP Guidance: Protests, Claims, and Alternative Dispute Resolution (ADR) as Factors in Past Performance and Source Selection Decisions** [<http://www.whitehouse.gov/omb/procurement/publications/pastperfmemo.pdf>].)

1.1.6 All parties to the evaluation must observe the legal and ethical considerations in the Mandatory Reference, **Legal and Ethical Considerations in Evaluating Contractor Performance** (<http://www.usaid.gov/policy/ads/300/302mad.pdf>). In particular, USAID and other Federal agencies may use the CPRs to support future contract award decisions and the CPRs contain the designation of "Source Selection Information;" therefore the parties must handle the CPI in accordance with FAR 3.104 to prevent disclosure of the information to unauthorized parties.

1.1.7 The USAID Past Performance Coordinator conducts training in the use of CPS and PPIRS, (See the Mandatory Reference, **OAA Solutions Center-eGov (CPS) [For Internal Use Only]** [[http://inside.usaid.gov/M/OAA/SolutionsCenter/pastperf/cps\\_perf.html](http://inside.usaid.gov/M/OAA/SolutionsCenter/pastperf/cps_perf.html)].)

## 1.2. Procedures for the Evaluation of Contractor Performance

### 1.2.1 Access to CPS

a. The Head of the Contracting Office or Supervisory CO may request access to CPS for contracting office staff by e-mailing a request to the Past Performance Coordinator at [ppperformance@usaid.gov](mailto:ppperformance@usaid.gov). Include name, job title, Internet e-mail address (format: name@usaid.gov), office mailing address, and phone number. The Supervisory CO must also notify the Past Performance Coordinator of changes in staff duties and/or employment status when CPS access is no longer required for staff members.

b. In cases where Personal Service Contractor (PSC) staff in the contracting office requires CPS access, NIH requires that the PSC must sign (signature required) and submit a NIH-prescribed nondisclosure agreement (See the Mandatory Reference, **AID Form 302-1, Nondisclosure Agreement for USAID Personal Services Contractors [For Internal Use Only: <http://inside.usaid.gov/forms/a302-1.doc>]**.) to the Past Performance Coordinator. Submit the form by fax to (202) 216-3143 or e-mail an image file to [ppperformance@usaid.gov](mailto:ppperformance@usaid.gov). File the form in the PSC contract folder after submission. The Supervisory CO must also notify the Past Performance Coordinator of PSC contract term extensions to maintain this access beyond the expiration date listed on the form.

c. If a CTO has not been previously authorized CPS access, the CO authorizes CTO access to CPS for the limited purpose of providing the initial assessment of performance, using the Register User tab after logging into CPS. (Access rights for CTOs do not permit searches of the database.)

1.2.2 The CO begins the CPR by identifying the contracts and task orders that are due for interim and final performance evaluations.

\* 1.2.3 Accessing CPS, the CO must select the appropriate report module, i.e., CPS Standard Report, CPS Construction Report, or CPS Architect and Engineer Report (See Mandatory Reference, **USAID General Notice on Contractor Performance Reports (CPRs) for Architect and Engineer Services and CPR Amendments in General, December 19, 2006** [<http://www.usaid.gov/policy/ads/300/302mai.pdf>]). In the report module, he/she completes the contract identification information, and assigns the CPR to him/her self, a CO's Designee in the contracting office, or to the CTO (identified as Project Officer or COTR in CPS). More detailed explanations of the procedures are listed in the CPS user manuals on NIH's CPS Homepage (<http://cps.od.nih.gov/>).

### 1.2.4 Initial Assessment

a. Under the preferred procedure, the CO assigns the CPR to the CTO, who then accesses the assignment in CPS and provides an initial assessment of performance from the program office's perspective by addressing the following data fields:

- Quality of Product or Service,
- Cost Control,
- Timeliness of Performance,
- Business Relations,
- Subcontracts,
- Contractor Key personnel, and
- Customer Satisfaction.

b. The initial assessor may prepare his/her comments for each field (maximum 2,000 characters per field) in a word processing system, run the spelling and grammar checks, and then paste the comments into the respective CPS data fields. (CPS does not contain spelling and grammar check tools.)

c. To maintain his/her credibility and, consequently, the eventual utility of the CPR for the procurement decision-making processes, the initial assessor must compose authoritative, well-written narratives for the above data fields that effectively support the ratings specified: stating that "deliverables were generally on time" does not effectively support a rating of "Excellent" for the Timeliness of Performance criterion. He/She must bear in mind that the Government-wide audience for the evaluation will not be limited to his/her discipline; he/she must explain his/her assessment in general, non-technical terms as much as possible and include an explanation of all agency acronyms and jargon used. The construction of the assessment must convey that it will be the official Government evaluation of the contractor's performance, not an expression of personal opinion: he/she must not use personal pronouns or otherwise qualify it as a personal opinion.

d. The initial assessor must submit his/her assessment to the CO within 15 calendar days of receiving the assignment, unless the CO concurs in an extension of the time period.

1.2.5 The CO must supplement or revise the initial assessor's assessment as appropriate to his/her responsibility for the content of the CPR; and he/she addresses the contractor's compliance with small business and small disadvantaged business subcontracting goals and requirements (which the initial assessor does not assess).

1.2.6 The CO then mails or makes the CPR available to the contractor through CPS for review and comment. The CO must allow the contractor at least 30 calendar days to provide comments, rebutting statements, or additional information (Ref: FAR 42.1503); and he/she has the discretion to allow the contractor additional time.

a. If the CO makes the CPR available to the contractor through CPS and the contractor fails to submit comments in the allotted time period, CPS automatically completes the CPR and makes it available online for use in source selections.

b. If the CO makes the CPR available to the contractor offline, he/she must manually complete it in CPS if the contractor does not respond in the allotted comment period, and then he/she furnishes a copy of the CPR, marked completed, to the contractor.

c. If the contractor responds timely, the CO must consider the contractor comments (and incorporate them into CPS if they are submitted offline) and revise the Government ratings and comments as he/she deems appropriate in light of the contractor input.

d. If the contractor submits a response that results in a disagreement between the contractor and the CO, the CO must refer the matter to a higher level (normally the CO's immediate supervisor) for resolution. This reviewing official must review the case and render a decision in writing to the CO within 15 calendar days of receipt of the contractor's

response. This decision is final. The CO then revises the final ratings and comments, as necessary, in accordance with the reviewing official's decision.

e. The CO offers the contractor the opportunity to revise or withdraw its comments if revisions to the CPR, pursuant to c. or d. above, render the comments moot or inappropriate (and incorporates any revised comments into CPS if they are submitted offline).

1.2.7 The CO then 1. manually completes the CPR in CPS, 2. furnishes a copy of it that is marked completed to the contractor if the comments were submitted offline (If the contractor comments were provided through CPS, the system makes the CPR available to the contractor upon completion.), and 3. prints a copy of the CPR and files it and any reviewer's decision, with all attachments, in the contract administration folder.

1.2.8 CPS makes the completed CPR immediately available for use by COs in civilian agencies, and it transmits the CPR to PPIRS, where it will be posted for Government-wide use, within one week.

1.2.9 CPS and PPIRS maintain the completed CPR online for use in source selections and other acquisition decisions, and they archive it offline according to the following schedule:

- Construction and architect and engineer services: six years after the date of the report, and
- Other services and commodities: three years after contract completion.

\* 1.2.10 NIH's procedures for amending completed CPRs are specified in Mandatory Reference, **General Notice on Contractor Performance Reports (CPRs) for Architect and Engineer Services and CPR Amendments in General, December 19, 2006.**

## **2. Using Contractor Performance Information in Source Selection**

### **2.1 General Considerations.**

2.2.1 Unless the CO documents the basis for not doing so in the contract file, he/she must consider CPI, by following the directives and procedures specified below, for the following purposes when selecting an offeror to receive a contract award.

- Determining that the offeror has a satisfactory performance record in order to make a positive determination that the offeror is responsible and therefore eligible to receive the award, and
- Evaluating the offeror's performance to make a comparative evaluation of it as an indicator of how well the offeror is likely to perform the contract when CPI is an evaluation factor for making a competitive award.

2.2.2 The CO must not allow an offeror's performance evaluation to be "downgraded" for availing itself of its rights by filing protests and claims



or for deciding not to use Alternate Disputes Resolution (ADR), nor may the CO allow the offeror to be given a more "positive" performance evaluation for refraining from filing protests and claims or for agreeing to use ADR. (See the Mandatory Reference, **OFPP Guidance: Protests, Claims, and Alternative Dispute Resolution (ADR) as Factors in Past Performance and Source Selection Decisions** [<http://www.whitehouse.gov/omb/procurement/publications/pastperfmemo.pdf>].)

2.2.3 All parties to the source selection must observe the legal and ethical considerations in the Mandatory Reference, **Legal and Ethical Considerations in Evaluating Contractor Performance**. In particular, the CPRs contain the designation "Source Selection Information," and the parties must handle the CPI in accordance with **FAR 3.104** to prohibit disclosure of the information to unauthorized parties.

2.2.4 The USAID Past Performance Coordinator conducts training in the use of CPS and PPIRS. (See the Mandatory Reference, **OAA Solutions Center-eGov (CPS)**.)

### **2.3 CPI in Determining Responsibility**

The CO uses the CPI in accordance with **FAR 9.1**.

### **2.4 CPI as a Comparative Evaluation Factor**

2.4.1 When CPI is used as a comparative evaluation factor for source selection purposes, the CO must base the solicitation provision on the model contained in the Mandatory Reference, **Solicitation Template for Contractor Performance Information** (<http://www.usaid.gov/policy/ads/300/302maf.pdf>), adapting it to the circumstances of the subject procurement, but being sure to include the elements required by **FAR 15.305(a)(2)**. The solicitation provision must also contain the sub factor for the evaluation of performance in using small business concerns substantially as stated in the template except for solicitations for personal services contracts and for 100 per cent small business set asides and those for which a justification for other than full and open competition has been approved.

2.4.2 The CO must not request that an offeror solicit evaluations of its performance from its customers as a condition for submitting a proposal. (He/she requests only contact information for the offeror's customers so that Government personnel may solicit information to conduct these evaluations when existing databases of CPI are found to be insufficient or unavailable.)

2.4.3 The CO must give the comparative evaluation factor for CPI sufficient weight in the source selection process to make it a significant element in distinguishing between the offerors. The sub factor for evaluation of the performance of offerors in using small business concerns may not be given a weight which makes it the single lowest-weighted non-cost/price factor or sub factor.

2.4.4 The procurement official (the CO or the person on the technical evaluation committee designated by the CO to obtain the information) provides the CPI obtained under the provisions of 2.5. below to the technical evaluation committee, who then evaluates it in accordance with the terms of the solicitation, **FAR 15.304(c)(3)** and **15.305(a)(2)**, **AIDAR 715.303-**

70 and 715.305, and this AAPD. The committee must evaluate the CPI for each offeror against the solicitation's Section M provisions, using reasonable business judgment to determine the relevancy of the CPI as a predictor of the offeror's anticipated performance of the subject contract requirement. (See the Additional Help, **Legal Trends and Caveats on the Relevancy of Past Performance** [<http://www.usaid.gov/policy/ads/300/302sai.pdf>] and **PPI Relevancy** [<http://www.usaid.gov/policy/ads/300/302saj.pdf>].)

2.4.5 In the case of a joint venture, each partner's performance record must be reviewed. Follow-up with reference contacts concerning the partners' individual performance is recommended.

## 2.5 Obtaining CPI

2.5.1 The procurement official must attempt to obtain CPI for an offeror's contracts by searching the Government-wide Past Performance Information Retrieval System (PPIRS) when available. (See the Mandatory Reference, **Past Performance Information Retrieval System User's Guide** [<http://www.ppirs.gov/pdf/PPIRSmanual.pdf>].)

2.5.2 If PPIRS is available and the procurement official does not have access to it, he/she must request an account, and the USAID Past Performance Coordinator will grant access so that he/she may search the database. (See the Mandatory Reference, **A&A Solutions Center (for PPIRS) [For Internal Use Only: <http://inside.usaid.gov/M/OP/SolutionsCenter/ppirs/ppirs.html>]** for the detailed instructions for applying for a PPIRS account.)

2.5.3 PPIRS does not contain all the CPRs posted in CPS: It does not contain CPRs:

- in which the DUNS number was not included when, prior to April 15, 2002, this field was optional under CPS,
- for some Non-U.S. contractors for which it does not have access to the DUNS number record, which it requires for an edit check,
- for contractors that have been exempted from registration in Central Contractor Registration under either **FAR** 4.1102(a) or a **FAR** deviation,
- which are completed after the weekly transfer of CPRs to PPIRS, i.e., there may be as much as a one week delay in posting the completed CPRs from CPS to PPIRS, and
- which have not yet been completed in CPS, where it, but not PPIRS, contains contact information for the individuals charged with preparing the CPRs that are currently in progress. (The procurement official may contact these individuals concerning an offeror's performance and evaluate it as provided in III.2.5.4.)

If PPIRS does not contain sufficient data to evaluate an offeror's performance, CPS is the secondary source for obtaining CPI on an offeror's civilian-agency contracts. However, NIH does not allow program office staff on the technical evaluation committee access to CPS for this purpose, so the CO must designate a contract specialist to conduct the CPS search.

2.5.4 If the CO determines that the above CPI databases do not contain sufficient data for the purposes in III.2.3 and III.2.4 above or are unavailable, the procurement official should ordinarily ask the business references named in the offeror's proposal, as well as others who may be known to have relevant information, to address the offeror's performance. "Others" includes the members of the technical evaluation committee who have direct, personal knowledge of the offeror's performance.

The CO determines how many business references must be contacted in order to adequately address the offeror's performance. The procurement official uses the rating criteria and evaluation areas or data elements contained in the CPS report templates to collect and evaluate the reference information (Download the applicable template at:

- \* **CPS Standard Report**  
[[http://cps.od.nih.gov/Words/Standard\\_Form.doc](http://cps.od.nih.gov/Words/Standard_Form.doc)]
- \* **CPS Construction Report**  
[<http://cps.od.nih.gov/Words/CPSConstructionsForm.doc>]
- \* **CPS Architect and Engineer Report**  
[[http://cps.od.nih.gov/Words/A&E\\_FORM.doc](http://cps.od.nih.gov/Words/A&E_FORM.doc)]

2.5.5 If the CPI contains adverse information on which the offeror has not previously been given an opportunity to comment, the procurement official must provide the offeror an opportunity to comment on it prior to consideration of the CPI in the evaluation, and any offeror comment must be considered with the adverse CPI. (CPS and the other collection systems in use give the offeror an opportunity to comment in the preparation of the completed CPRs that are maintained in PPIRS and CPS, and they post such comments in the CPRs. The procurement official reviewing the CPRs may rely on the statement that "The contractor has elected not to comment." in the completed CPRs for the purpose of having given the offeror a "previous opportunity to respond" to adverse past performance information within the meaning of FAR 15.306.)

2.5.6 The CO retains the documented CPI in the contract file as part of the source selection and responsibility determination documentation.

### 3. MANDATORY REFERENCES

#### 3.1 External Mandatory References

- a. FAR (<http://acquisition.gov/comp/far/index.html>)
    - (1) 3.104
    - (2) 4.1102(a)
    - (3) 15.3
    - (4) 36.201
    - (5) 36.604
    - (6) 42.15
  - b. CPS Homepage (<http://cps.od.nih.gov/>)
- \* (1) CO User's Manual: Standard & Construction Evaluation  
(<http://cps.od.nih.gov/Words/COManual.doc>)
  - \* (2) CO User's Manual: A&E Evaluation  
([http://cps.od.nih.gov/Words/A&E\\_CO\\_Manual.doc](http://cps.od.nih.gov/Words/A&E_CO_Manual.doc))

- \* (3) CO Designee (COD) User's Manual  
(<http://cps.od.nih.gov/Words/CODManual.doc>)
  - \* (4) PO/COTR User's Manual (for use by CTOs)  
(<http://cps.od.nih.gov/Words/POCOTRManual.doc>)
  - \* (5) Contractor User's Manual  
(<http://cps.od.nih.gov/Words/CRManual.doc>)
  - \* (6) CPS Standard Report (Template for Non-Construction Contracts)  
([http://cps.od.nih.gov/Words/Standard\\_Form.doc](http://cps.od.nih.gov/Words/Standard_Form.doc))
  - \* (7) CPS Construction Report (Template)  
(<http://cps.od.nih.gov/Words/CPSConstructionsForm.doc>)
  - \* (8) CPS Architect and Engineer Report (Template)  
([http://cps.od.nih.gov/Words/A&E\\_FORM.doc](http://cps.od.nih.gov/Words/A&E_FORM.doc))
- c. Past Performance Information Retrieval System User's Guide  
(<http://www.ppirs.gov/pdf/PPIRSmanual.pdf>)
- d. OFPP Guidance: Protests, Claims, and Alternative Dispute Resolution (ADR) as Factors in Past Performance and Source Selection Decisions  
(<http://www.whitehouse.gov/omb/procurement/publications/pastperfmemo.pdf>)
- e. Civilian Agency Acquisition Council Letter 2001-03, Oct. 17, 2001, Advance Consultation: Class Deviation from FAR 36.201, 36.604(b), 53.236-1(b), and 53.236-2(d) when using the National Institutes of Health (NIH) Contractor Performance System (CPS)  
(<http://acquisition.gov/comp/caac/caacletters/c101-03.pdf>)

### 3.2. Internal Mandatory References

- a. AIDAR (<http://www.usaid.gov/policy/ads/300/aidar.pdf>)
- (1) 715.3
  - (2) 742.15
- b. AID Form 302-1, Nondisclosure Agreement for USAID Personal Services Contractors  
(For Internal Use Only: <http://inside.usaid.gov/forms/a302-1.doc>)
- c. OAA Solutions Center--eGov (For Internal Use Only:  
<http://inside.usaid.gov/M/OAA/SolutionsCenter/egov/index.html>)
- (1) CPS (For Internal Use Only:  
[http://inside.usaid.gov/M/OAA/SolutionsCenter/pastperf/cps\\_perf.html](http://inside.usaid.gov/M/OAA/SolutionsCenter/pastperf/cps_perf.html))
  - (2) PPIRS (For Internal Use Only:  
<http://inside.usaid.gov/M/OAA/SolutionsCenter/ppirs/ppirs.html>)
- d. Deviation No. OP-DEV-03-01c, Approval of Class Deviation from FAR Requirements for SF 1420 and SF 1421,  
(<http://www.usaid.gov/policy/ads/300/302mae.pdf>)

- e. Legal and Ethical Considerations in Evaluating Contractor Performance (<http://www.usaid.gov/policy/ads/300/302mad.pdf>)
  - f. Solicitation Template for Contractor Performance Information (<http://www.usaid.gov/policy/ads/300/302maf.pdf>)
  - \* g. USAID General Notice 1256, Contractor Performance Reports (CPRs) for Architect and Engineer Services and CPR Amendments in General, December 19, 2006 (<http://www.usaid.gov/policy/ads/300/302mai.pdf>)
4. ADDITIONAL HELP
- a. Legal Trends and Caveats on Failure to Document Contractor Performance Information (<http://www.usaid.gov/policy/ads/300/302sah.pdf>)
  - b. Legal Trends and Caveats on the Relevancy of Past Performance (<http://www.usaid.gov/policy/ads/300/302sai.pdf>)
  - c. PPI Relevancy (<http://www.usaid.gov/policy/ads/300/302saj.pdf>)
  - d. Contractor Performance References  
(For Internal Use Only:  
<http://inside.usaid.gov/M/OAA/SolutionsCenter/pastperf/PastPerformanceReferences.doc>)
  - f. OFPP Guide: Best Practices for Collecting and Using Current and Past Performance Information, May 2000  
([http://www.whitehouse.gov/omb/procurement/contract\\_perf/best\\_practice\\_re\\_past\\_perf.html](http://www.whitehouse.gov/omb/procurement/contract_perf/best_practice_re_past_perf.html))
  - g. DOD Guide: A Guide to Collection and Use of Past Performance Information (Version 3), May 2003  
([http://www.acq.osd.mil/dpap/Docs/PPI\\_Guide\\_2003\\_final.pdf](http://www.acq.osd.mil/dpap/Docs/PPI_Guide_2003_final.pdf))

**IV. POINTS OF CONTACT:** USAID COs may direct their questions about this AAPD to Kenneth Monsess, M/OAA/P, Phone: (202) 712-4913, E-mail: [kmonsess@usaid.gov](mailto:kmonsess@usaid.gov). Direct questions concerning access to and the functioning of CPS and PPIRS to the USAID Past Performance Coordinator at [ppperformance@usaid.gov](mailto:ppperformance@usaid.gov).

Contractors and prospective offerors for contract awards must direct their questions to the appropriate CO for the award.