



**DEPARTMENT OF VETERANS AFFAIRS
DEPUTY ASSISTANT SECRETARY FOR ACQUISITION AND LOGISTICS
WASHINGTON DC 20420**

IL 001AL-10-03
February 22, 2010

OFFICE OF ACQUISITION AND LOGISTICS INFORMATION LETTER

TO: Under Secretaries for Health, Benefits, and Memorial Affairs; Assistant Secretary for Management; Director, Office of Construction and Facilities Management; Veterans Integrated Service Network Directors; Directors, VA Medical Center Activities, Outpatient Clinics, Medical and Regional Office Centers, and Regional Offices; Directors, Denver Acquisition and Logistics Center, VA Austin Information Technology Center, Records Management Center, VBA Benefits Delivery Centers, and the VA Health Administration Center; Executive Director and Chief Operating Officer, VA National Acquisition Center; Chief Information Officer; VA Health Revenue Center; and VA Health Eligibility Center

ATTN: Heads of the Contracting Activities, Senior Acquisition Officials, and Contracting Officers

SUBJ: Reporting and Managing Contractor Past Performance Information

I. Purpose

This information letter (IL) provides Department-wide updated guidance on roles and responsibilities for reporting and managing past performance information. The IL establishes a process for evaluating and conducting regular compliance assessments on the quality and timeliness of contractor performance evaluations.

II. Background

Office of Management and Budget (OMB) memorandum, *Improving the Use of Contractor Performance Information*, dated July 29, 2009, requires each Federal agency to establish internal procedures for collecting and reporting past performance information to the Past Performance Information Retrieval System (PPIRS). The memorandum also describes new requirements in the Federal Acquisition Regulation (FAR) to strengthen the use of contractor performance information. This IL serves as interim policy guidance pending an official update to Department of Veterans Affairs (VA) Acquisition Regulations, or until rescinded.

III. Policy

Effective immediately, all VA contracting officials will follow the policies and procedures contained herein regarding reporting and management of past performance information.

- A. Contracting Officers (COs) are responsible for past performance information management, including the timeliness and quality of interim and final evaluations. COs may delegate performance documentation duties. The delegation must be in writing and signed by the CO and the individual accepting the responsibility. A number of other officials may be delegated this responsibility, such as:
1. Program managers;
 2. CO technical representatives (COTRs) and CO representatives (CORs);
 3. Receivers of goods and services;
 4. Inspectors, engineers, or other functional experts; and
 5. Contract specialists.
- B. COs for VA contracting activities or their designees shall use the National Institutes of Health's (NIH) Contractor Performance System (CPS) at _____ to capture contractor performance information during the contract administration phase. Completed interim and final evaluations on contractor past performance are automatically transmitted from CPS to the Past Performance Information Retrieval System (PIRS) (_____).
- C. Past performance evaluations shall be prepared at the time the work under the contract or order is completed (per FAR Subpart 42.1502(a)). In addition, interim evaluations shall be prepared annually for contracts or orders with a period of performance exceeding 1 year to provide current information for source selection purposes.
- D. Evaluations of performance prepared under this IL shall be provided to the contractor as soon as practicable after completion of the evaluation. The contractor shall be afforded a minimum of 30 calendar days to submit comments, rebutting statements, or additional information (FAR Subpart 42.1503(b)).

- E. The respective heads of contracting activities (HCA) shall review any unresolved disagreements between parties regarding the evaluation. The HCA's conclusion on the performance evaluation is considered final.
- F. During the reporting period in which the information may be used to assist source selection, COs shall take all necessary precautions to prevent the release of completed evaluations to anyone other than government personnel and the contractor whose performance is being evaluated (FAR Subpart 42.1503(b)).
- G. Only authorized personnel will have access to data in PPIRS and CPS. HCAs are responsible for limiting PPIRS and CPS access to users with a need for contractor past performance data. Requests for access to PPIRS and CPS shall be submitted to the cognizant HCA. Requests approved by the HCA will be forwarded to the cognizant system administrator, who in-turn will grant system access.
- H. Accepted use of contractor past performance information is, as follows:
 - 1. During the solicitation phase, COs shall:
 - a. Evaluate past performance in all contracting actions as specified in FAR Subpart 15.304(c)(3) and include a solicitation notice substantially the same as the following:

“During contract administration, the government shall prepare and submit assessments on contractor performance for contracts and orders in excess of the simplified acquisition threshold (\$550,000 or more for construction; \$30,000 or more for architect-engineer service contracts) (see FAR Subpart 42.1502) by electronic submission to NIH CPS, which automatically transmits the information to PPIRS.”
 - b. Use performance information as a stand-alone evaluation factor whenever feasible, as opposed to integrating it with other non-cost/price factors. (Performance information shall be given sufficient evaluation weight to ensure it is meaningfully considered throughout the source selection process and will be a valid discriminator among the proposals received.)

- c. Ensure solicitations clearly describe the planned approach for evaluating contractor past performance information. The approach shall be reasonably tailored to the circumstances of the acquisition and not impose an excessive burden on offerors or evaluators. At a minimum, the approach shall include:
 - i. The sources for obtaining past performance information, with a solicitation statement substantially the same as the following:

“The government will review available past performance data in PPIRS. However, the government reserves the right to obtain past performance information from any available source and may contact customers other than those identified by the offeror when evaluating past performance.”
 - ii. How past performance information will be evaluated (offerors with no relevant past performance history may not be evaluated favorably or unfavorably on past performance, per FAR Subpart 15.305(a)(2)(iv)).
 - iii. The weight or relative importance of past performance to the other evaluation factors and subfactors.
2. During a competitive range determination phase, the source selection team members shall review available PPIRS evaluations. The past performance information in PPIRS shall only be used for source selection information when it is within 3 years of the completion of performance (6 years for construction and architect-engineer contracts) (FAR Subpart 42.1503(e)).
3. As part of the contract administration phase, COs shall electronically submit contractor past performance evaluations in CPS for automatic transmission to PPIRS. When preparing contractor past performance evaluations, COs shall ensure the following information is considered:
 - a. The affirmative determination to exercise an option;
 - b. Performance determination from award fee or earned value management discussions (or similar discussions); and
 - c. “Show Cause” or “Cure” Notices.

IV. Procedures

- A. Documenting a contractor's performance shall be done in a manner easily shared with other government officials. The type and complexity of past performance documentation shall reflect the significance and complexity of the contracting action. Positive as well as negative performance must be documented in CPS in order to present a complete picture of the contractor's performance. CPS collects numerical ratings and supporting narrative for the following evaluation areas:
1. Quality of product or services;
 2. Cost control;
 3. Timeliness of performance;
 4. Business relations
 5. Comments on subcontracts/socioeconomic goals;
 6. Comments on contractor key personnel; and
 7. Customer satisfaction.
- B. The CO is required to:
1. Determine the approach for documenting performance information;
 2. Evaluate content provided by the COR/COTR or other designees, and ensure a quality evaluation is prepared;
 3. Provide the evaluation to the contractor, and consider the contractor's comments, rebuttal statements, etc.;
 4. Follow up with the COR/COTR or other designees for input regarding any contractor response;
 5. Ensure the evaluation is completed in a timely manner using CPS; and
 6. Refer unresolved disagreements between the contractor and CO to the respective HCA for final decision.

- C. Exhibit 1 (see below) provides guidance to the CO in determining minimum thresholds for submitting past performance evaluations.

Exhibit 1 - Past Performance Reporting Thresholds

Contracting Action	Minimum Threshold
Architect and Engineering (A&E) contracts and individual task orders	Total contract or task order value is \$30,000 or more (FAR Subpart 42.1502(f))
Construction contracts and individual task orders	Total contract or task order value is \$550,000 or more
Definitive Contracts (excluding A&E and construction)	Total contract value is \$100,000 or more
Indefinite-Delivery Vehicle (IDV) (excluding A&E and construction)	Total cumulative dollar value of the IDV is \$1,000,000 or more
Orders issued against: <ul style="list-style-type: none"> • Federal supply schedules • Government-wide acquisition contracts • Multiple award contracts • Blanket purchase agreements 	Order value is \$100,000 or more
Interagency Agreements (any type)	Same as Definitive Contracts
Termination for Default	Any contract or task order, regardless of dollar value

D. Frequency of reporting

1. A decision on how often to document contractor performance shall be made on a contract-by-contract basis, in accordance with policies contained herein and at the discretion of the CO.
2. At a minimum, a final evaluation shall be prepared at the time the work under the contract or order is completed. This is not sufficient when the contract period exceeds 1 year, or the contract requires extensive government involvement. Interim evaluations shall be submitted in these cases. The opportunities to evaluate performance will dictate whether to complete interim reports (on an annual or semi-annual basis) or only a final report. For example:
 - a. Contracts for non-complex commercial items may not present any opportunity to review a contractor's performance during the period of performance. In this case, a final report is sufficient.

- b. Long term complicated contracts requiring government intervention either for review, testing, or progress approvals, lends itself to establishing scheduled interim reports. Interim reports are required on an annual basis for any contract exceeding 12 months. Information learned about the contractor's performance is invaluable to source selections taking place before the end of the contract term. Regularly scheduled reviews allow for identification of performance problems early on and allow the contractor an opportunity to correct and succeed while the government reaps the benefit of the improved performance.
3. The CO shall use the following as guidance (see Exhibit 2) in determining submission timeframes:

Exhibit 2 - Performance Information Submission Timeframes

If	Submission Timeframe
Short-term Single Deliverable	At the conclusion of performance
Multiple Deliverables	At the time of each delivery or in summary for all deliveries at least annually
Multiple Year	Annually
Contract with Options	Annually
Contract with Progress Payments	Semi-annually or with each progress payment review
Termination for Default	Within 1 business day of issuance

- E. Evaluating and validating submission of contractor performance information..
 1. Performance plans for all COs should include an element on the accurate, timely, and complete submission of high quality past performance information.
 2. Each HCA shall establish an ongoing review program to determine if contracting offices are submitting accurate, timely, and complete evaluations as required by the FAR and this IL. Instances of non-compliance will be documented and corrective action taken.
 3. The Director, Risk Management, Office of Acquisition and Logistics, Programs and Policy (001AL-P3) will establish an assessment mechanism to ensure HCA past performance review programs are effective. Quarterly reports will be submitted to the Senior Procurement Council.

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V. References

- A. FAR Subpart 42.15, Contractor Performance Information
- B. OMB Memorandum for Chief Acquisition Officers and Senior Procurement Executives, *Improving the Use of Contractor Past Performance Information* (July 29, 2009)
- C. Office of Federal Procurement Policy, *Best Practices for Collecting and Using Current and Past Performance Information* (May 2000)

VI. Rescission

This IL rescinds IL 049-03-9, *Evaluating the Contractor's Past Performance*, dated March 28, 2003.

VII. Point of Contact

Questions regarding this IL should be directed to the Office of Acquisition and Logistics Programs and Policy (001AL-P) at (202) 461-6868.

/S/

Maurice Stewart
Associate Deputy Assistant Secretary for
Acquisition and Logistics Programs and Policy