

APD ALERT

Contractor Performance Information and Contractor Performance System (CPS) Evaluations



Background

Federal Acquisition Regulation (FAR) 42.1502 and 42.1503 require past performance evaluations to be prepared and reported in accordance with USDA requirements. Please refer to FAR 42.1502 for specific thresholds for reporting past performance for construction, architect-engineer services, and all other procurements that exceed the simplified acquisition threshold. Effective October 1, 1998, USDA designated the National Institute of Health Contractor Performance System (CPS) as the mandatory USDA-wide system for collecting and maintaining contractor performance evaluation information.

New emphasis is being placed on collecting and reporting past performance information. The Office of Federal Procurement Policy (OFPP) issued a memorandum, titled "Improving the Use of the Contractor Performance Information," dated July 29, 2009, that requires all agencies verify their procedures for collecting and reporting past performance information. As a result, USDA issued AGAR Advisory 88c, Contractor Performance Information and Contractor Performance System Evaluations, dated February 5, 2010, to identify USDA's procedures and timelines for entering past performance information in CPS. AGAR Advisory 88c also identifies acquisition workforce members' responsibilities in CPS. **Please read the attached AGAR Advisory 88c to fully understand your responsibilities and the timeline for reporting past performance in CPS.**

Who needs access to CPS?

All Acquisition Workforce members who are GS 1102s, GS 1105s with a Level IC (\$100,000) warrant or greater, and Contracting Officers Technical Representatives (COTRs) who have a Federal Acquisition Certification for COTRs (FAC-COTR) will receive a CPS account, if they do not already have one. If you do not already have a CPS account, the REE Acquisition Systems Program Manager (ASPM) will contact you with your account information within 2 weeks of this Alert, or within 2 weeks from when you are identified to the REE ASPM as a member of the Acquisition Workforce that requires access to CPS.

Training for CPS

The USDA Office of Procurement and Property Management will provide CPS Webinar training during FY 2010. All CPS account holders will be required to complete the CPS training within 30 days of being contacted by REE ASPM with your CPS account information. This includes current CPS account holders. Once you have completed the Webinar, you will be required to report back to the REE ASPM that you have completed the required training. You will receive continuous learning points (CLPs) towards your maintenance period for completing CPS Webinar training.

Who do I contact for assistance with my CPS account?

If you have any questions about your CPS account, please contact the REE ASPM. The REE ASPM is the CPS Organizational Administrator for CPS and is responsible for setting up and maintaining user accounts, as well as ensuring users are trained to use CPS. The REE ASPM will also be responsible for the compliance assessment review and will monitor CPS to ensure all procurements that require past performance evaluations are reported in CPS.

If you have any questions about CPS, please contact the REE ASPM, Angelia Fleming Loggie on 301-504-1730, or via e-mail at angelia.flemingloggie@ars.usda.gov.

Enclosure

ISSUE DATE: February 2010

APD ALERT 2010-06

AGAR ADVISORY

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF PROCUREMENT AND PROPERTY MANAGEMENT
AGAR ADVISORY NUMBER (NO.) 88c

CONTRACTOR PERFORMANCE INFORMATION and CONTRACTOR PERFORMANCE SYSTEM (CPS) EVALUATIONS

1. **PURPOSE:** This Agriculture Acquisition Regulation (AGAR) Advisory supersedes AGAR Advisory 88b, dated January 6th, 2010 and updates guidance concerning the use of the National Institutes of Health (NIH) Contractor Performance System (CPS).
2. **AUTHORITY:** Federal Acquisition Regulation (FAR) at 48 CFR 42.1502 (Policy) and 42.1503 (Procedures), and Agriculture Acquisition Regulation (AGAR) 48 CFR 442.1502.
3. **SUMMARY:** The CPS is the single USDA-wide system used to collect, maintain, and disseminate contractor performance evaluations to the Past Performance Information Retrieval System (PPIRS). Past performance reporting is required by FAR 42.1502 and 42.1503. USDA has renewed a financial arrangement with NIH to allow USDA access to CPS. Use of the CPS is mandatory for USDA. Records must be established for contract actions, including orders placed under indefinite delivery, indefinite quantity contracts (i.e. Federal Supply Schedule contracts, government-wide acquisition contracts or multi-agency contracts), single-agency task order and delivery order contracts, construction contracts, and architect and engineer services contracts. The Office of Federal Procurement Policy (OFPP) issued a memorandum, titled *Improving the Use of Contractor Performance Information*, dated July 29, 2009, that requires USDA and other agencies to submit their internal procedures for collecting and reporting past performance information.
4. **DEFINITION:** “Day” means a calendar day.
5. **PROCEDURES:** The following procedures shall be used when submitting contractor information into the CPS. These procedures go into effect at the date of issuance of this advisory. All applicable personnel shall establish an account in CPS **within 30 days** following the issuance of OPPM training guidance. This guidance is expected to be issued by February 28, 2010.
 - a) **FINAL EVALUATIONS:**
 - 1) Each HCAD will designate an individual to serve as the CPS Organizational Administrator (OA) for the contracting activity.
 - 2) To create agency OA accounts, send an email to procurement.policy@usda.gov

- 3) **CPS Agency Contracting Activity Organization Administrator (OA) Responsibilities:**
 - i. Registers Contracting Officers (CO) and Project Officer/Contracting Office Technical Representative (PO/COTR) users and adds Contract Offices for their Organization.
 - ii. Provides system access and addresses questions regarding CPS.
 - iii. Refers issues to the USDA System Administrator as necessary by emailing procurement.policy@usda.gov.
 - iv. Once individuals receive access into the CPS, the HCAD will notify Donna Calacone by email at Donna.Calacone@usda.gov to update the CPS Organization Administrator List on the USDA Procurement homepage at <http://www.da.usda.gov/procurement/toolkit/purchasingtools.htm>.

- 4) **Contracting Officer (CO) responsibilities:**
 - i. Initiate the evaluation process **within 14 days** after completion of the contract, task order or delivery order expiration date.
 - ii. Initiate the evaluation by entering contract information into the CPS (e.g., contract number, contractor name and point of contact, period of performance, etc.) through use of the “Add New Evaluation” button.
 - iii. Indicate the contracting officer technical representative (COTR)/program official, as assigned, in CPS. (CPS will notify the COTR via email).

- 5) **Primary COTR or program official assigned to the acquisition responsibilities:**
 - i. Complete the ratings and comment sections of the evaluation.
 - ii. Submit ratings and comments into CPS **within 14 days** from the date of the email message request generated by the CPS.

- 6) **Ratings review process:**
 - i. The CO shall review the COTR evaluation ratings and comments **within 14 days** after posting by the COTR.
 - ii. The CO will discuss the ratings and comments with the COTR, if needed for clarification or in the event of discrepancies.
 - iii. The system will notify the contractor via email to review the evaluation information. However, the CO shall follow up with an email message or phone call to confirm that the contractor received the evaluation information.

- 7) **Contractor’s Review:**
 - i. **Concurrence:**
 - A. The contractor has **30 days** to submit comments, rebutting statements, or additional information to the CO.
 - B. Where a contractor gives no response, the evaluation will be automatically considered final by the system.

ii. **Comments or Rebutting Statements:**

- A. If the contractor provides a rebutting statement, the CO will discuss the contractor's comments with the COTR within **14 days** after receipt from the contractor.
- B. The CO will notify the COTR of any changes made or information added to the evaluation.
- C. Disagreements in the evaluation between the parties shall be resolved at a level above the CO in accordance with FAR 42.1503(b).
- D. The CO will submit the final evaluation into CPS within **30 days** of receipt of the contractor's statements.

b) **INTERIM EVALUATIONS:**

If the performance period of the contract/order exceeds 18 months, then the CO shall conduct interim assessments at least **once every 12 months**. The same timeframes and procedure for final evaluations, above, shall be followed for interim evaluations.

c) **CONTRACT OPTIONS:**

The CO shall conduct an interim evaluation no later than **30 days** prior to the exercise of any contract or order option. The same timeframes and procedure for final evaluations, above, shall be followed for contract options.

d) **CONTRACT FILE:**

Copies of all evaluations (final, interim evaluations and evaluations for contract options) shall be maintained in the contract file.

e) **TRAINING:**

In order to maintain a high level of quality in contractor performance information and evaluations, OPPM will provide training guidance during the 2nd quarter of Fiscal Year (FY) 2010. Agencies shall identify and notify all personnel requiring training. Individuals shall complete the required training within **30 days** of receiving a CPS account. Agencies shall maintain training certifications in an agency file.

f) **COMPLIANCE ASSESSMENT REVIEW:**

- 1) OPPM PPD will run an annual report in the Federal Procurement Data System (FPDS) of the list of applicable expiring contracts and orders for each contracting activity.
- 2) The lists will be sent to the respective contracting activity organization administrator (OA) for each contracting activity.
- 3) For expiring contracts, or for contracts exceeding 18 months, each activity will be responsible for confirming which contractor performance reviews have been, or are in the process of being, entered into CPS. Each contracting activity shall report back to OPPM PPD **within 30 days** of receipt of the list. The OA will follow-up with a status update when all contractor evaluations are completed for the year or within **6 months**, whichever is sooner.
- 4) **Corrective Action:** If there are applicable contracts or orders in the assessment list which have not been evaluated within the above timeframes, the contracting activity shall provide an explanation and an updated report on those items within **3 months**.

- 5) The Head of the Contracting Activity Designee (HCAD) will be responsible for approving and submitting assessment reports to the Chief of PPD for review by the Senior Procurement Executive.

7. ADDITIONAL INFORMATION:

a) CPS Website, Report and Guides:

- i. CPS Website: <https://cpscontractor.nih.gov/>
- ii. Access to the CPS website is also available through the USDA Acquisition Toolkit: <http://www.usda.gov/procurement/toolkit>. (Under “Contracting and Purchasing E-Tools,” go to “Past Performance Systems” and select “NIH CPS.”)
- iii. CPS User Manuals: <http://cps.od.nih.gov/UserManual.html>.
- iv. CPS Frequently Asked Questions (FAQs): <http://cps.od.nih.gov/CPSFAQ.html>.
- v. Government Accountability Office (GAO) report, *Federal Contractors: Better Performance Information Needed to Support Agency Contract Award Decisions (GAO-09-374)*, April 2009: <http://www.gao.gov/new.items/d09374.pdf>.
- vi. Best Practices for Collecting and Using Current and Past Performance Information: http://www.whitehouse.gov/omb/procurement/contract_perf/best_practice_re_past_perf.html.

b) **Non-Disclosure Agreements.** If contracting activities rely on third party contractor personnel to access CPS, non-disclosure agreements must be completed by any non-government individuals having access to the system. Non-disclosure agreements are available through agency OAs and the CPS website help desk.

AGAR Advisories are posted on the USDA World Wide Web site at the following URL:

<http://www.usda.gov/procurement/policy/advisories.html>. If you have questions or comments on this Advisory, please contact Donna Calacone by telephone (202-205-4036) or email (Donna.Calacone@usda.gov) or John McCain by telephone (202-401-2225) or email (John.McCain@usda.gov) or contact procurement.policy@usda.gov.

EXPIRATION DATE: This advisory will remain in effect until canceled.

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