# AGAR ADVISORY

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

## CONTRACTOR PERFORMANCE INFORMATION and CONTRACTOR PERFORMANCE SYSTEM (CPS) EVALUATIONS

1. **PURPOSE:** This Agriculture Acquisition Regulation (AGAR) Advisory 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. 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) **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).

   2) **Responsibilities of the primary COTR or program official assigned to the acquisition:**

      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.

3) **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.

4) **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 **60 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 by February 28, 2010. Agencies shall identify and notify all personnel requiring training. Individuals shall complete the required training within **30 days** of the notification and shall certify the completion in writing. 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.

## 6. CPS AGENCY CONTRACTING ACTIVITY ORGANIZATION ADMINISTRATOR (OA):

a) Each HCAD will designate an individual to serve as the CPS Organizational Administrator (OA) for the contracting activity.
b) To create agency OA accounts, send an email to procurement.policy@usda.gov.
c) For government access and additional questions regarding CPS contact your Agency Contracting Activity OA. OAs will refer issues to the USDA System Administrator as necessary.
d) 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.

## 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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