

## CPARS – HOW DOES IT AFFECT YOUR COMPANY?

### THE CONTRACTOR PERFORMANCE ASSESSMENT REPORTING SYSTEM

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#### INTRODUCTION

The Contractor Performance Assessment Reporting system ([CPARS](#)) was initially developed to provide evaluations for all government contractors. The intention was to ensure that **performance rating information is available** to Government Procurement officials to prevent awarding a contract to a contractor that has performed poorly on past projects.

This note lays out the fundamentals of CPARS and corresponding evaluation ratings, provides a caution relating to an unfavorable rating, and discusses the options a contractor has when facing a potential unfavorable rating.

#### RATINGS

There are **different levels of ratings** that a contractor can receive on the reports. Those levels include Outstanding, Above Average, Satisfactory, Marginal, and Unsatisfactory. Each level is dependent upon the execution of duties of operations on the project.

Examples of the duties reviewed by the Government include the Quality Control (QC) efforts, which covers performance of QC duties with direction from the Government; Project Management (PM) reflecting proper and effective management of the project without direction from the Government; Administrative portions of the project such as necessary documentation is handled without direction from the Government; and how well the contractor complies with labor and safety standards. If direction from the Government is required, the rating will reflect the quantity of direction that was given to the contractor, thus resulting in ratings that are less than desirable.

The CPARS evaluations allow for narrative sections that include descriptions of the work, project difficulty, and any other additional information that is considered a necessary part of the evaluation determination provided.

#### OUTCOME

What the **ultimate result** means for a contractor can literally be the difference between receiving awards for government projects and not receiving awards for at least a six (6) year period for construction contracts (See [FAR 42.1503\(g\)](#)). A rating below Satisfactory (i.e. Marginal or Unsatisfactory) can certainly have a negative effect on a contractor seeking work with Government entities.

The Government administrators who are responsible for submitting contractor evaluations are subject to **certain requirements**. Examples of these requirements include providing an interim report, which is mandatory on any Government contracts that exceed two (2) years or more. The interim report, however, can also be used at any time during the project if a contractor's performance on the project has become "unsatisfactory".

There is also a final report that should be submitted within 60 calendar days of project completion. This allows a contractor to have 60 days to review the report and provide any comments or disprove any

negative statements. The Government Agencies “...shall provide for review at a level above the Contracting Officer to consider disagreements between the parties regarding the evaluation. However, the ultimate conclusion on the performance evaluation is a decision of the contracting agency.” (See [FAR 42.1503\(b\)](#)).

## WHAT OPTIONS DOES A CONTRACTOR HAVE?

A **contractor can appeal** an adverse performance evaluation, provided that a contractor follows the Contract Disputes Act provisions in the same manner as filing a claim. This means that the claim must be submitted in writing and must have:

1. A written demand seeking other contract relief as a matter of right (i.e. revise the performance rating from unsatisfactory to satisfactory), and;
2. A request for the contracting officer’s final decision.

As mentioned in FAR 42.1503, the agencies must provide a contractor with a copy of the evaluation “*as soon as practicable*” to afford a contractor the ability to respond to the evaluation. The purpose is so that a contractor has time (30 days) to respond to the performance rating, as mentioned earlier.

After the July 2014 CPARS Merge, the PPIRS compliance metrics calculation continues to require an evaluation to be completed [485 days after](#) the Contract Award Date. However, the contractor now has 60 days to review/comment on the evaluation. This means that if the Assessing Official does not initiate the evaluation until 426 days after the Contract Award Date (i.e., 1 year plus 61 days after the Contract Award Date), there is the potential that the entire evaluation process will not be completed by day 485 and thus the contract/order will be listed as non-compliant on the PPIRS compliance metrics.

The possible result mentioned above provide the evaluation to agencies even before a contractor has the full opportunity to respond, **essentially making it possible for contracting officers to use performance evaluations as a weapon.**

## CONCLUSION

Contractors should be aware of the ramifications concerning a rating of less than satisfactory can have on its ability to be awarded a Government Contract. **Government agencies have adopted the use of past performance evaluations in their determination of contractor selection for award of contracts.** If, over the prior six (6) years, a contractor has had vastly differing performance evaluations, it could hinder or even prevent an award for Government work.

Thus, retaining the assistance of a professional consultant should be seriously considered to protect a contractor’s interests properly and thoroughly. The experts at Excell Consulting International, Inc. have experience with contract provisions; express and implied, and stand ready to assist and evaluate your company’s position and provide valuable and cost-effective guidance for your business.

**In the end, you will be glad you made the call; by the way, it’s a FREE CALL.**

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