



Department of Transportation
Office of the Senior Procurement Executive

No. APL-2015-01
Date 10/30/2014

DOT ACQUISITION POLICY LETTER

This Acquisition Policy Letter is issued under the authority of the Senior Procurement Executive of the Department of Transportation

Subject: Making Better Use of Contractor Performance Information

References:

Federal Acquisition Regulation, Parts 42 and 15

OMB memorandum, *Making Better Use of Contractor Performance Information* (July 10, 2014)

OFPP memorandum, *Improving the Collection and Use of Information about Contractor Performance and Integrity* (March 6, 2013)

When is this Acquisition Policy Letter Effective?

This APL is effective immediately.

When does this APL Expire?

This APL remains in effect until the resulting policy is incorporated into the TAR or TAM and/or superseded by the FAR guidance or otherwise cancelled.

Who is the Point of Contact?

Contact Diane Morrison at diane.morrison@dot.gov, 202 366-4960.

What is the Purpose of this APL?

The purpose of this APL is to advise all Operating Administrations to take additional steps to evaluate contractor performance information where the risk is greatest on high risk programs, major acquisitions, and other complex contract actions that are critical to the agency's mission. To address this risk and ensure we make awards to contractors with good performance records, as well as to encourage the use of new and innovative companies with little or no Federal experience, Operating Administrations need to undertake additional outreach and research to make more informed decisions. Timely and relevant information about how a contractor performs is critical to the Government's ability to deliver results effectively and efficiently.

What is the Background?

Over the past several years, the Office of Federal Procurement Policy (OFPP) has asked agencies to improve their reporting of contractor performance and integrity information so contracting officers (COs) can make better informed award decisions. OFPP (memorandum dated March 6, 2013) set past performance reporting compliance goals, and shared best practices and training opportunities to help agencies make progress in collecting and using this important information. These efforts and related changes to the Federal Acquisition Regulation (FAR) are designed to help agencies improve the collection and use of this important information.

What is the Guidance?

1. **Additional Steps on High Risk Contracts.** Operating administrations should take the additional steps, described below, on certain high risk acquisitions (contracts or orders) in order to make more informed award decisions. For purposes of this policy, high risk acquisitions are defined as:

- Acquisitions for complex information technology (IT) development, systems, and services over \$500,000.
- High risk type contracts and covered orders with an estimated value over the life of the contract, including all options periods, over \$10 million. High risk contract types include all cost type contracts, labor hour/time materials, and all incentive type acquisitions.
- Contracts or covered actions that are identified by the HOA, HCA, SPE, Deputy CAO or CAO as significant because of cross-agency impact, their critical roles in mission accomplishment or to ensure compliance with Presidential initiatives.

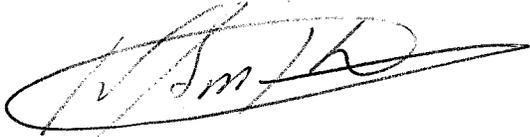
Additional Steps on High Risk Contracts

- a. ***Broadening the Sources of Performance Information.*** The FAR allows the Government to consider information from additional sources of information beyond the Past Performance Information Retrieval System (PPIRS), including information found from conducting this additional research and outreach, when evaluating a contractor's performance history. In order to have the most relevant, recent, and meaningful information about potential business partners considered, contracting officers and and/or appropriate agency program officials, in the pre-award phase of the acquisition process for high-risk actions described above, are to perform the research and outreach steps described in Attachment 1.

- b. ***Evaluating Performance Information*** –The source selection authority (SSA) is responsible for determining the relevance of similar past performance information. This input must be evaluated and carefully balanced with available PPIRS information, and documented in the contract file to show how it was considered during the source selection process and in the award decision. When soliciting and reviewing past performance information, the SSA must describe the methodology for evaluating past performance information in solicitations - including the evaluation of similar work for State, local, and foreign governments, commercial contracts, and subcontracts of similar size, scope, and complexity. Also, the SSA should provide offerors an opportunity to respond to adverse past performance information – especially if they were not previously afforded an opportunity – and consider how the company successfully resolved a problem.
- c. ***Regularly Share Contractor Performance Information with Senior Leaders*** - Monitoring a contractor’s performance frequently and at regular intervals after award is critical to keeping a contractor’s performance on schedule and within budget, and this is especially important for the agency’s highest risk, complex acquisitions (contracts or orders). Therefore, the Head of the Contracting Activity in each operating administration shall prepare a list of the Annual Past Performance assessments in PPIRS for the contractors performing on the agencies’ high risk contracts (described above). The Annual Past Performance Assessment List shall be provided to the Senior Procurement Executive (SPE) no later than December 1 for the preceding year’s performance period. The format and required data elements for the APPAL are included as Attachment 2. The SPE will share the list with the Deputy Secretary, Chief Information Officer, and Chief Financial Officer, and other appropriate agency officials for their awareness and management of agency high risk acquisitions. As contractor performance information must be regularly reviewed, shared, and entered into PPIRS, operating administrations should consider establishing strategies to incentivize acquisition professionals. This will also enforce management oversight and accountability for source selection and award decisions.
2. **Improving Training and Workforce Support.** Operating Administrations should encourage their acquisition workforce to take past performance courses such as the Department of Defense (DOD) *Past Performance Information* course, CLC 028 and *Contracting Officer's Representative with a Mission Focus* course, CLC 106. In addition, the Federal Acquisition Institute (FAI) and the Defense Acquisition University have developed a number of classes on using past performance systems, which are available at www.cpars.gov and www.ppirs.gov. OFPP worked with FAI to develop a Past Performance Acquisition Learning Seminar (ALS) emphasizing the importance of past

performance information and agency leadership in improving timely and quality reporting compliance. This ALS was presented on June 18th and is available on FAI's website for continuous viewing. Operating Administrations should also make certain that their staff combine this training with appropriate on-the-job experience to effectively fulfill their roles and responsibilities in the pre-and post-award evaluation of contractor performance.

Your continued attention to improving this acquisition management practice is critical to the acquisition workforce being able to make informed source selection and award decisions that positively impact agency missions.

A handwritten signature in black ink, appearing to read 'W. Smith', written in a cursive style with a long horizontal flourish extending to the right.

Willie H. Smith
Senior Procurement Executive

Attachment 1

REQUIREMENT FOR AGENCIES - ADDITIONAL RESEARCH AND OUTREACH STEPS

Steps	Actions	Benefits
1. Request information on recent Federal contracts.	Contact the CO, Contracting Officer Representative (COR), or Program or Project Manager (P/PM) of the contractor's two largest, most recently awarded Federal contracts or orders so the history of a contractor's work can be reviewed. ¹⁷ If this information is not readily available, request the contractor to provide points of contact.	Discussions with previous COs, CORs, and P/PMs that worked with the contractor on a regular basis may provide more visibility into contractor performance on recent work.
2. Search for recent news about the company's performance (as appropriate).	Review articles and other publications and for timely and relevant news about a contractor's performance or business integrity. ¹⁸ If warranted, search for pertinent contractor performance information in Government Accountability Office Reports available at www.gao.gov , and agency Inspector General (IG) Reports available on agency websites. ¹⁹ Also, if necessary, review the company's past suspension and debarment record concerning incidents with other agencies and your own agency that are germane to your acquisition.	This information may help uncover new information and recent performance or integrity issues that haven't yet been reported in PPIRS, or may raise awareness about a performance risk that may need further explanation from the vendor.
3. Review reliable commercial sources of performance information (as appropriate).	In addition to PPIRS, agencies can also use public and commercial databases, or related services, to gain a fuller understanding of a contractor's performance. Some of these companies provide business reviews, past performance reports, consumer evaluations, contractor management reports, and other information that might be helpful in assessing a contractor's ability to perform the contract successfully.	This information may be helpful in evaluating the capabilities of small or new businesses that might otherwise not have had the opportunity to demonstrate their performance record on Federal contracts.
4. Ask for a wide variety of references	Request that offerors provide at least three to five references of recently completed contracts or orders (within the last three to five years) from Federal, State, local or foreign government, and by commercial firms, business partners, subcontractors, etc. of similar size, scope, and complexity.	Learning about a vendor's performance on a wide variety of contracts may be useful in determining if an experienced contractor's performance is consistent, and will help provide small and new businesses with little or no Federal experience a fair opportunity to compete.
5. Ask for information about sub-contractors and contractor team arrangements	Request that prime contractors provide past performance information on subcontractors and contractor team arrangements using the guidance above for sources of information. ²⁰	This will give the source selection official a complete view and better understanding of the prime contractor, subcontractors and contractor team arrangement's

¹⁷ Use available contact information in government-wide and agency-wide acquisition systems, such as the Federal Procurement Data System (FPDS), internal agency database, or other systems.

¹⁸ Use other publications similar to the sources used when making a responsibility determination (see FAR 9.105-1).

¹⁹ The Council of the Inspector General on Integrity and Efficiency website includes links to agency IG offices, see <https://www.ignet.gov/igs/homepage1.html#a>.

²⁰ See FAR 15.304(c)(3)(4) and (5) for information on solicitations involving bundling that offer a significant opportunity for subcontracting participation and FAR 9.604 for the prime contractor's performance responsibility under contractor team arrangements.

