42.1503 Procedures.

(a)

(1) Agencies *shall* assign responsibility and management accountability for the completeness of *past performance* submissions. Agency procedures for the *past performance* evaluation system *shall*-

(i) Generally provide for input to the evaluations from the technical office, *contracting office*, program management office, and where appropriate, quality assurance and end users of the product or service;

(ii) Identify and assign *past performance* evaluation roles and responsibilities to those individuals responsible for preparing and reviewing interim evaluations, if prepared, and final evaluations (*e.g.*, *contracting officers*, *contracting officer* representatives, project managers, and program managers). Those individuals identified *may* obtain information for the evaluation of performance from the program office, administrative *contracting office*, audit office, end users of the product or service, and any other technical or business advisor, as appropriate; and

(iii) Address management controls and appropriate management reviews of *past performance* evaluations, to include accountability for documenting *past performance* on CPARS.

(2) If agency procedures do not specify the individuals responsible for *past performance* evaluation duties, the *contracting officer* is responsible for this function.

(3) Interim evaluations *may* be prepared as required, in accordance with agency procedures.

(b)

(1) The evaluation *should* include a clear, non-technical description of the principal purpose of the contract or order. The evaluation *should* reflect how the contractor performed. The evaluation *should* include clear relevant information that accurately depicts the contractor's performance, and be based on objective facts supported by program and contract or order performance data. The evaluations *should* be tailored to the contract type, size, content, and complexity of the contractual requirements.

(2) Evaluation factors for each assessment *shall* include, at a minimum, the following:

(i) Technical (quality of product or service).

(ii) Cost control (not applicable for firm-fixed-price or fixed-price with economic price adjustment arrangements).

(iii) Schedule/timeliness.

(iv) Management or business relations.

(v) Small business subcontracting, including reduced or untimely payments to *small business subcontractors* when 19.702(a) requires a subcontracting plan (as applicable, see Table 42-2).

(vi) Other (as applicable) (e.g., trafficking violations, tax delinquency, failure to report in accordance

with contract terms and conditions, defective *cost or pricing data*, terminations, *suspension* and *debarments*, and failure to comply with limitations on subcontracting).

(3) Evaluation factors *may* include subfactors.

(4) Each factor and subfactor used *shall* be evaluated and a supporting narrative provided. Each evaluation factor, as listed in paragraph (b)(2) of this section, *shall* be rated in accordance with a five scale rating system (*i.e.*, exceptional, very good, satisfactory, marginal, and unsatisfactory). The ratings and narratives *must* reflect the definitions in the tables Table 42-1 or Table 42-2 of this section.

(c)

(1) When the contract provides for incentive fees, the incentive-fee contract performance evaluation *shall* be entered into CPARS.

(2) When the contract provides for award fee, the award fee-contract performance adjectival rating as described in 16.401(e)(3) *shall* be entered into CPARS.

(d) Agency evaluations of contractor performance, including both negative and positive evaluations, prepared under this subpart *shall* be provided to the contractor as soon as practicable after completion of the evaluation. The contractor will receive a CPARS-system generated notification when an evaluation is ready for comment. Contractors *shall* be afforded up to 14 calendar days from the date of notification of availability of the *past performance* evaluation to submit comments, rebutting statements, or additional information. Agencies *shall* provide for review at a level above the *contracting officer* to consider disagreements between the parties regarding the evaluation. The ultimate conclusion on the performance evaluation is a decision of the *contracting* agency. Copies of the evaluation, contractor response, and review comments, if any, *shall* be retained as part of the evaluation. These evaluations *may* be used to support future award decisions, and *should* therefore be marked "*Source Selection Information*". Evaluation of Federal Prison Industries (FPI) performance *may* be used to support a waiver request (see 8.604) when FPI is a mandatory source in accordance with subpart 8.6. The completed evaluation *shall* not be released to other than Government personnel and the contractor whose performance is being evaluated during the period the information *may* be used to provide *source selection information*. Disclosure of such information could cause harm both to the commercial interest of the Government and to the competitive position of the contractor being evaluated as well as impede the efficiency of Government operations. Evaluations used in determining award or incentive fee payments *may* also be used to satisfy the requirements of this subpart. A copy of the annual or final *past performance* evaluation *shall* be provided to the contractor as soon as it is finalized.

(e) Agencies *shall* require frequent evaluation (*e.g.*, monthly, quarterly) of agency compliance with the reporting requirements in 42.1502, so agencies can readily identify delinquent *past performance* reports and monitor their reports for quality control.

(f) Agencies *shall* prepare and submit all *past performance* evaluations electronically in CPARS at https://www.cpars.gov. These evaluations, including any contractor-submitted information (with indication whether agency review is pending), become available for source selection officials not later than 14 days after the date on which the contractor is notified of the evaluation's availability for comment. The Government *shall* update CPARS with any contractor comments provided after 14 days, as well as any subsequent agency review of comments received. *Past performance* evaluations for *classified contracts* and special access programs *shall* not be reported in CPARS, but will be

reported as stated in this subpart and in accordance with agency procedures. Agencies *shall* ensure that appropriate management and technical controls are in place to ensure that only authorized personnel have access to the data and the information safeguarded in accordance with 42.1503(d).

(g) Agencies *shall* use the *past performance* information in CPARS. that is within three years (six for *construction* and architect-engineer contracts) of the completion of performance of the evaluated contract or order, and information contained in the Federal Awardee Performance and Integrity Information System (FAPIIS), *e.g.*, terminations for default or cause.

(h) Other contractor performance information.

(1) Agencies *shall* ensure information is accurately reported in the FAPIIS module of CPARS within 3 calendar days after a *contracting officer*-

(i) Issues a final determination that a contractor has submitted defective *cost or pricing data*;

(ii) Makes a subsequent change to the final determination concerning defective *cost or pricing data* pursuant to 15.407-1(d);

(iii) Issues a final termination for cause or default notice;

(iv) Makes a subsequent withdrawal or a conversion of a *termination for default* to a *termination for convenience*;

(v) Receives a final determination after an administrative proceeding, in accordance with 22.1704(d)(1), that substantiates an allegation of a violation of the trafficking in persons prohibitions in 22.1703(a) and 52.222-50(b); or

(vi) Determines that a contractor has a history of three or more unjustified reduced or untimely payments to *small business subcontractors* under a single contract within a 12-month period (see 42.1502(g)(2)).

(2) The information to be posted in accordance with this paragraph (h) is information relating to contractor performance, but does not constitute a "*past performance* review," which would be exempted from public availability in accordance with section 3010 of the Supplemental Appropriations Act, 2010 (Pub. L. 111-212). Therefore, all such information posted in FAPIIS will be publicly available, unless covered by a disclosure exemption under the Freedom of Information Act (see 9.105-2(b)(2)).

(3) Agencies *shall* establish CPARS focal points who will register users to report data into the FAPIIS module of CPARS (available at https://www.cpars.gov/).

(4) With regard to information that *may* be covered by a disclosure exemption under the Freedom of Information Act, the *contracting officer shall* follow the procedures at 9.105-2(b)(2)(iv).

Table 42-1 -Evaluation Rating Definitions

Rating	Definition	Note
(a) Exceptional	Performance meets contractual requirements and exceeds many to the Government's benefit. The contractual performance of the element or sub-element being evaluated was accomplished with few minor problems for which corrective actions taken by the contractor were highly effective.	To justify an Exceptional rating, identify multiple significant events and state how they were of benefit to the Government. A singular benefit, however, could be of such magnitude that it alone constitutes an Exceptional rating. Also, there *should* have been NO significant weaknesses identified.
(b) Very Good	Performance meets contractual requirements and exceeds some to the Government's benefit. The contractual performance of the element or sub-element being evaluated was accomplished with some minor problems for which corrective actions taken by the contractor were effective.	To justify a Very Good rating, identify a significant event and state how it was a benefit to the Government. There *should* have been no significant weaknesses identified.
(c) Satisfactory	Performance meets contractual requirements. The contractual performance of the element or sub-element contains some minor problems for which corrective actions taken by the contractor appear or were satisfactory.	To justify a Satisfactory rating, there *should* have been only minor problems, or major problems the contractor recovered from without impact to the contract/order. There *should* have been NO significant weaknesses identified. A fundamental principle of assigning ratings is that contractors will not be evaluated with a rating lower than Satisfactory solely for not performing beyond the requirements of the contract/order.
(d) Marginal	Performance does not meet some contractual requirements. The contractual performance of the element or sub-element being evaluated reflects a serious problem for which the contractor has not yet identified corrective actions. The contractor's proposed actions appear only marginally effective or were not fully implemented.	To justify Marginal performance, identify a significant event in each category that the contractor had trouble overcoming and state how it impacted the Government. A Marginal rating *should* be supported by referencing the management tool that notified the contractor of the contractual deficiency (e.g., management, quality, safety, or environmental deficiency report or letter).

Rating	Definition	Note
(e) Unsatisfactory	Performance does not meet most contractual requirements and recovery is not likely in a timely manner. The contractual performance of the element or sub-element contains a serious problem(s) for which the contractor's corrective actions appear or were ineffective.	To justify an Unsatisfactory rating, identify multiple significant events in each category that the contractor had trouble overcoming and state how it impacted the Government. A singular problem, however, could be of such serious magnitude that it alone constitutes an unsatisfactory rating. An Unsatisfactory rating *should* be supported by referencing the management tools used to notify the contractor of the contractual deficiencies (e.g., management, quality, safety, or environmental deficiency reports, or letters).

NOTE 1: Plus or minus signs *may* be used to indicate an improving (+) or worsening (-) trend insufficient to change the evaluation status.

NOTE 2: N/A (not applicable) *should* be used if the ratings are not going to be applied to a particular area for evaluation.

Table 42-2 -Evaluation Rating Definitions [For the small business subcontracting evaluation factor, when 52.219-9 is used]

Rating	Definition	Note
(a) Exceptional	Exceeded all statutory goals or goals as negotiated. Had exceptional success with initiatives to assist, promote, and utilize small business (SB), small disadvantaged business (SDB), women-owned small business (WOSB), *HUBZone* small business, veteran-owned small business (VOSB) and service disabled veteran owned small business (SDVOSB). Complied with FAR 52.219-8, Utilization of Small Business Concerns. Exceeded any other small business participation requirements incorporated in the contract/order, including the use of small businesses in mission critical aspects of the program. Went above and beyond the required elements of the subcontracting plan and other small business requirements of the contract/order. Completed and submitted Individual Subcontract Reports and/or Summary Subcontract Reports in an accurate and timely manner. Did not have a history of three or more unjustified reduced or untimely payments to *small business subcontractors* within a 12-month period.	To justify an Exceptional rating, identify multiple significant events and state how they were a benefit to small business utilization. A singular benefit, however, could be of such magnitude that it constitutes an Exceptional rating. Small businesses *should* be given meaningful and innovative work directly related to the contract, and opportunities *should* not be limited to indirect work such as cleaning offices, *supplies*, landscaping, etc. Also, there *should* have been no significant weaknesses identified.

Rating	Definition	Note
(b) Very Good	Met all of the statutory goals or goals as negotiated. Had significant success with initiatives to assist, promote and utilize SB, SDB, WOSB, *HUBZone*, VOSB, and SDVOSB. Complied with FAR 52.219-8, Utilization of Small Business Concerns. Met or exceeded any other small business participation requirements incorporated in the contract/order, including the use of small businesses in mission critical aspects of the program. Endeavored to go above and beyond the required elements of the subcontracting plan. Completed and submitted Individual Subcontract Reports and/or Summary Subcontract Reports in an accurate and timely manner. Did not have a history of three or more unjustified reduced or untimely payments to *small business subcontractors* within a 12-month period.	To justify a Very Good rating, identify a significant event and state how it was a benefit to small business utilization. Small businesses *should* be given meaningful and innovative opportunities to participate as subcontractors for work directly related to the contract, and opportunities *should* not be limited to indirect work such as cleaning offices, *supplies*, landscaping, etc. There *should* be no significant weaknesses identified.
(c) Satisfactory	Demonstrated a good faith effort to meet all of the negotiated subcontracting goals in the various socio-economic categories for the current period. Complied with FAR 52.219-8, Utilization of Small Business Concerns. Met any other small business participation requirements included in the contract/order. Fulfilled the requirements of the subcontracting plan included in the contract/order. Completed and submitted Individual Subcontract Reports and/or Summary Subcontract Reports in an accurate and timely manner. Did not have a history of three or more unjustified reduced or untimely payments to *small business subcontractors* within a 12-month period.	To justify a Satisfactory rating, there *should* have been only minor problems, or major problems the contractor has addressed or taken corrective action. There *should* have been no significant weaknesses identified. A fundamental principle of assigning ratings is that contractors will not be assessed a rating lower than Satisfactory solely for not performing beyond the requirements of the contract/order.

Rating	Definition	Note
(d) Marginal	Deficient in meeting key subcontracting plan elements. Deficient in complying with FAR 52.219-8, Utilization of Small Business Concerns, and any other small business participation requirements in the contract/order. Did not submit Individual Subcontract Reports and/or Summary Subcontract Reports in an accurate or timely manner. Failed to satisfy one or more requirements of a corrective action plan currently in place; however, does show an interest in bringing performance to a satisfactory level and has demonstrated a commitment to apply the necessary resources to do so. Required a corrective action plan. Did not have a history of three or more unjustified reduced or untimely payments to *small business subcontractors* within a 12-month period.	To justify a Marginal rating, identify a significant event that the contractor had trouble overcoming and how it impacted small business utilization. A Marginal rating *should* be supported by referencing the actions taken by the Government that notified the contractor of the contractual deficiency.
(e) Unsatisfactory	Noncompliant with FAR 52.219-8 and 52.219-9, and any other small business participation requirements in the contract/order. Did not submit Individual Subcontract Reports and/or Summary Subcontract Reports in an accurate or timely manner. Showed little interest in bringing performance to a satisfactory level or is generally uncooperative. Required a corrective action plan. Had a history of three or more unjustified reduced or untimely payments to *small business subcontractors* within a 12-month period.	To justify an Unsatisfactory rating, identify multiple significant events that the contractor had trouble overcoming and state how it impacted small business utilization. A singular problem, however, could be of such serious magnitude that it alone constitutes an Unsatisfactory rating. An Unsatisfactory rating *should* be supported by referencing the actions taken by the Government to notify the contractor of the deficiencies. When an Unsatisfactory rating is justified, the *contracting officer must* consider whether the contractor made a good faith effort to comply with the requirements of the subcontracting plan required by FAR 52.219-9 and follow the procedures outlined in 52.219-16, Liquidated Damages-Subcontracting Plan.

NOTE 1: Plus or minus signs *may* be used to indicate an improving (+) or worsening (-) trend insufficient to change evaluation status.

NOTE 2: Generally, zero percent is not a goal unless the *contracting officer* determined when negotiating the subcontracting plan that no subcontracting opportunities exist in a particular socio-economic category. In such cases, the contractor *shall* be considered to have met the goal for any socio-economic category where the goal negotiated in the plan was zero.

Parent topic: Subpart 42.15 - Contractor Performance Information