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CECW-EC

Construction Construction Contractor Performance Evaluations

FOR THE COMMANDER:

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Chief of Staff

Purpose. This engineer regulation provides general policy and guidance and establishes procedures for evaluating construction contractor performance. It also defines the related roles and responsibilities of the contractor and the government in the construction contractor performance evaluations.

Applicability. This regulation applies to all Headquarters, U.S. Army Corps of Engineers/Office of the Chief of Engineers elements, major subordinate commands, Districts, laboratories, and field operating activities responsible for construction contracts.

Distribution Statement. Approved for public release; distribution is unlimited.

Proponent and Exception Authority. The proponent of this regulation is the Headquarters, U.S. Army Corps of Engineers, Directorate of Engineering and Construction. The proponent has the authority to approve exceptions or waivers to this regulation that are consistent with controlling law and regulations. Only the proponent of a publication or form may modify it by officially revising or rescinding it.

*This regulation supersedes ER 415-1-17, dated 24 January 2012.

Summary of Change

ER 415-1-17

Construction Contractor Performance Evaluations

This major revision, dated 24 January 2025:

- Updates all sections of the regulation to incorporate current policy on construction quality management including changing from Construction Contractor Appraisal Support System to Contractor Performance Assessment Reporting System.
- Updates verbiage to clarify that the Reviewing Official is no longer delegable and must be the Procuring Contracting Officer.
- Updates the references in Appendix A.
- Removes the appendixes found in the superseded regulation per publications guidance and provides links to new templates and supplemental information previously contained in those appendixes.

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Glossary of Terms

1. Purpose

This engineer regulation provides general policy and guidance and establishes procedures for evaluating construction contractor performance. It also defines the related roles and responsibilities of the contractor and the government in the construction contractor performance evaluations.

2. Distribution statement

Approved for public release; distribution is unlimited.

3. References

See Appendix A.

4. Records management (recordkeeping) requirements

a. The records management requirement for all record numbers, associated forms, and reports required by this publication are addressed in the Army Records Retention Schedule. Detailed information for all related record numbers is located on the U.S. Army Corps of Engineers (USACE) Records Management Site <https://usace.dps.mil/sites/INTRA-CIOG6/SitePages/Records-Management.aspx>. If any record numbers, forms, and reports are not current, addressed, and/or published correctly, see DA Pam 25-403 for guidance.

b. Enter construction contractor past performance information into the Contractor Performance Assessment Reporting System (CPARS) per Guidance for the CPARS instructions at <https://www.cpars.gov/cparsweb/home>. Include copies of all interim and final evaluations in the Construction Management (CM) system of record (currently the Resident Management System (RMS) as of the date of this publication). The Procuring Contracting Officer (PCO) or their designee includes past performance information in the contract file per Federal Acquisition Regulation (FAR) 4.8.

5. Associated publications

This section contains no entries.

6. Policy

a. *General.* The PCO, or a designated representative of the construction office responsible for monitoring contractor performance, will evaluate a construction contractor's performance and prepare a performance evaluation report in the CPARS or designated performance reporting system as required by FAR 42.15, Defense Federal Acquisition Regulation Supplement (DFARS) 242.15, and Army Federal Acquisition Regulation Supplement (AFARS) 5142.15.

b. Contract thresholds. Submission of a construction contractor performance evaluation must be in line with the contract thresholds required per FAR 42.15. PCOs or their designated representative will also prepare performance evaluations for all construction contracts terminated for default regardless of dollar value. It is recommended that contractor performance evaluations be completed for all construction contracts regardless of dollar value.

c. Individual orders. Performance evaluations will be prepared for individual orders with contract thresholds required per FAR 42.15 under USACE indefinite-delivery contracts (IDC) and below the thresholds required per FAR 42.15 under IDC as required by the PCO. The PCO determines whether to prepare performance evaluations on the IDC-base contract. Offices must prepare an evaluation if a modification to the order causes the dollar amount to exceed the threshold.

d. Frequency. The Assessing Official (AO) must prepare performance evaluations annually and when the work under a contract or order is complete. Out-of-cycle and addendum performance evaluations can be prepared at other times, as appropriate, at the AO's discretion.

e. Evaluation areas.

(1) Each organization administering construction contracts will complete ratings for the required evaluation areas of quality, schedule, cost control, management, small business subcontracting, and regulatory compliance.

(2) In the optional evaluation area titled "other areas," the AO will add safety as a mandatory evaluation area.

(3) AOs will use the not applicable (N/A) rating if a required evaluation area does not apply to the contract or order.

f. Evaluation area applicability exceptions.

(1) Small business subcontracting is not applicable for contracts awarded to small businesses.

(2) Cost control is not applicable for fixed price type contracts.

g. Small business set aside contracts. The AO must prepare performance evaluations annually and when the work under a contract or order is complete. Out-of-cycle and addendum performance evaluations can be prepared at other times, as appropriate, at the AO's discretion. For small business set aside contracts, the regulatory compliance section must consider whether the contractor has demonstrated compliance with the limitations on subcontracting requirements. If the contractor has not demonstrated compliance nor provided reasonable extenuating or mitigating circumstances, this section must be rated Unsatisfactory. The PCO or their designated representative will coordinate compliance with the District Small Business office.

h. Final evaluations. Final evaluations will not be delayed because of outstanding claims or warranty requirements. Allowable exceptions are described in paragraph 7.n(1). Final evaluations may be amended if justified.

i. Completion timeframe. The entire evaluation process for all types of evaluations must be completed within 120 calendar days following the end of the period of performance being evaluated, as indicated on the performance evaluation.

j. Evaluation period of performance. Both interim and final performance evaluations, as well as any out-of-cycle and addendum evaluations, are limited to the period of contractor performance occurring after the preceding evaluation. The final evaluation does not include cumulative information.

k. Roles and responsibilities for CPARS. USACE Acquisition Instruction 5142.15 sets for the USACE business process for roles and responsibilities.

7. Implementation

a. General. To assist users with implementation of this policy, the following tools are available on the USACE Construction Management Administration Application (CMA²) at: [https://usace.dps.mil/sites/TDL-CECW-EC-CMA/SitePages/Contractor-Performance-Evaluations-\(CPARS\)_kb.aspx](https://usace.dps.mil/sites/TDL-CECW-EC-CMA/SitePages/Contractor-Performance-Evaluations-(CPARS)_kb.aspx):

- (1) Construction Factor Considerations in Writing CPARS;
- (2) Sample CPARS goals;
- (3) Sample memorandum for record (MFR);
- (4) Post-award and pre-construction conference agendas; and
- (5) Contractor Performance Evaluation Best Practices.

b. Delegation. The PCO will delegate the role of Assessing Official Representative (AOR) and AO to the Construction Division (or its equivalent) responsible for construction.

- (1) Typically, the AOR is the Contracting Officer's Representative (COR).
- (2) Typically, the AO is the Administrative Contracting Officer (ACO).
- (3) The PCO is the Reviewing Official (RO).
- (4) Districts and Centers may determine local variations to these AO and RO roles, within the guidelines of the FAR, AFARS, and DFARS, if it is documented in an MFR and acknowledged by Contracting and Construction divisions.
- (5) If there is a disagreement between the government and the contractor regarding the evaluation, a review will be conducted at a level above the Contracting

Officer (CO) and in the Contracting chain of command. The CO is the ACO (if designated for the contract) or the PCO (if the ACO role is not applicable). In cases where the ACO is the AO, the PCO is considered to be one level above the ACO and responsible for conducting the review.

c. Focal Points. Each District and Center administering construction contracts will establish appropriate Focal Points (FPs) to ensure effective and timely administration of contractor performance assessment activities within their assigned organization. Up to five Alternate FPs may be authorized to help ensure continuous coverage of the FP role.

d. Post award and/or pre-construction conference.

(1) The Resident Engineer/Administrative Contracting Officer (or their designee) will discuss the contractor performance expectations at the post-award and/or pre-construction conferences or in a mutual understanding meeting, in addition to documenting the expectations in the contract file. See paragraph 7.a to obtain sample agendas.

(2) At this conference, the government will identify the AO and RO for the contract to the contractor and review the contractor's requirement to provide the name and email address of the contractor representative responsible for providing contractor comments in CPARS.

(3) USACE contract administration personnel should explain and discuss what constitutes exceptional, very good, satisfactory, marginal, and unsatisfactory performance. Reference table 42-1 "Evaluation Rating Definitions" and table 42-2 "Evaluation Rating Definitions for the Small Business Subcontracting Evaluation Factor" in FAR 42.15 for definitions of these ratings.

(4) It is recommended that CPARS goals be created for each evaluation area, communicated with the contractor during the conference, and tailored to each contract with buy-in/agreement from the contractor. The AO will use the CPARS goals to evaluate the contractor for each evaluation period and help create the necessary narratives for each evaluation area. The list of Construction Factor Considerations in Writing CPARS (see paragraph 7.a), Sample CPARS goals and Worksheet (see paragraph 7.a), or other District evaluation procedures may be used. The government will collect documentation throughout the contract regarding the contractor's performance to support the government evaluations of the contractor's performance.

e. Narratives and ratings. FAR 9.104-6 requires the CO to review available contractor performance records before awarding a contract in excess of the simplified acquisition threshold. The AO or AOR must enter narrative comments in CPARS for every evaluation area rated (citing objective documentation of the contractor's performance wherever possible) that provide relevant performance information to Source Selection Panels for future acquisitions. The narratives should include justification for the rating given, identifying significant events, benefits to the

government, significant weaknesses, descriptions of specific requirements not met and impacts to the government, and references to any supported management tools used in communicating these issues with the contractor. Examples of management tools include serial letters, deficiency logs, meeting minutes, etc.

f. Assessor. The Assessor section of CPARS includes an area where the AO may enter additional general comments to discuss performance not previously addressed elsewhere in the evaluation. These general comments are optional.

g. Recommend/do not recommend. The AO must answer the question, “Given what I know today about the contractor’s ability to perform per this contract or order’s most significant requirements, would I or would I not recommend them for similar requirements in the future?” The answer to this question should be consistent with the ratings and narratives provided elsewhere on the evaluation.

h. Validation. After completing all areas of the performance evaluation, the AO then reviews the performance evaluation in its entirety and performs any additional coordination required by local policy, completes the signature blocks, and sends the evaluation to the contractor’s representative. At this point, the evaluation is validated and no longer available to the AO as it has now moved to the contractor representative in CPARS.

i. Contractor notice.

(1) CPARS notifies the contractor representative with an electronic message when a draft or completed performance evaluation is available to retrieve from CPARS (or the Federal Awardee Performance and Integrity Information System (FAPIIS) for finalized evaluations). The contractor representative reviews the evaluation, provides comments if desired, indicates whether they concur with the evaluation, signs the evaluation, and then returns it to the AO.

(2) The contractor representative has 60 calendar days to complete these action items in CPARS. If the contractor does not respond within the 60-day review period, the evaluation moves back to the AO in CPARS.

(3) If a contractor wants to meet to discuss the performance evaluation, they must submit a written request to the AO within 7 calendar days of being notified of the pending evaluation.

j. Performance evaluation completion. If the contractor representative concurs with the evaluation, no RO review is required and the AO may close the evaluation. If the contractor representative does not concur with the evaluation, the RO must be the one to close the evaluation. In the case of non-concurrence, the AO must forward the evaluation to the RO in CPARS for closure after review, final comments, and signature. RO comments are required when the contractor representative does not concur with the evaluation.

k. Interim performance evaluation reports. AOs must prepare interim performance evaluations annually for construction contracts/orders with performance periods greater than 365 calendar days. The initial period of performance should cover at least 6 months of actual performance. Exceptions to the required annual maximum period are allowable for special circumstances, such as a period of performance that ends 1 month before the contract or order is complete, or in those instances (up to 6 months beyond the annual period) where performance has been extended. The AO must obtain PCO approval for any of these exceptions. An out-of-cycle performance evaluation can be prepared at other times, as appropriate, at the AO's discretion.

l. Special circumstances.

(1) If there are delayed starts or protests, the initial period of performance may cover more than 365 calendar days since contract or order award, but no more than 365 calendar days of actual contract or order performance. Initial period reporting performance greater than 365 calendar days must be approved by the PCO, entered in CPARS by the AO, and coordinated with the contractor.

(2) An interim evaluation may be done upon significant personnel changes within the agency (AOR, AO, RO), provided that a minimum of 180 calendar days of performance have occurred. To provide continuity and timely evaluation, an interim evaluation should be started prior to transferring duties from one individual to another.

(3) If there is no contract/order performance during an annual evaluation period due to special circumstances (for example, a contractor under a suspension of work or base contract against which no order has been placed), the AO must complete an administrative evaluation, to include the rationale for issuing the administrative evaluation in the AO narrative, and then route the administrative evaluation through the normal workflow.

m. Performance evaluations with less than satisfactory ratings for evaluation areas.

(1) An out-of-cycle performance evaluation is initiated when a contractor's overall performance in one or more evaluation areas is unsatisfactory.

(a) An interim performance evaluation with an unsatisfactory rating of an individual evaluation area usually occurs after a significant period of documented unsatisfactory performance in that evaluation area.

(b) The COR should indicate unsatisfactory performance in each monthly COR report to the CO for all periods where less than satisfactory performance occurs. Acceptable documentation includes, but is not limited to, serial letters, MFRs, deficiency logs, meeting minutes, and quality assurance reports.

(c) An unsatisfactory rating for poor performance on an individual evaluation factor may be issued in an expedited manner when a critical feature of the work or a serious safety issue is involved, when the project has a short duration, or in other time-sensitive situations.

(d) Strong consideration should be given to aligning unsatisfactory evaluation area ratings and “do not recommend” within CPARS.

(2) If the AO contemplates an interim performance evaluation with a marginal or unsatisfactory rating for any evaluation area, the AO will develop the draft interim performance evaluation and notify the RO.

(a) The PCO should notify Office of Counsel.

(b) The contractor’s representatives must be called to a conference with the government representatives to discuss the documented problem areas and proposed resolution. During this conference, the government must clearly define goals and objectives that, when met, will lead to a satisfactory rating. The government will inform the contractor that following the meeting the Government will promptly issue a draft interim performance evaluation to the contractor via the CPARS system indicating marginal or unsatisfactory performance on one or more evaluation area.

(c) The AO will prepare an MFR of the meeting and place it in the contract file. See paragraph 7.a to obtain a sample MFR.

(d) After the conference, the government will send the MFR to the contractor by serial letter with the notice that the contractor may meet with the PCO during the 60-calendar day CPARS contractor review period. If the contractor wants to meet during this period, they should request the meeting with the PCO within the first 7 calendar days of the 60-calendar day period. A copy of this serial letter may also be sent to the bonding company and/or Small Business Administration, as appropriate.

(3) During the 60-calendar day CPARS contractor review period, the AO and field office staff will closely monitor and document the contractor’s performance.

(4) At the end of the 60-calendar day period, the AO may revise the existing evaluation after considering the contractor’s performance during the performance evaluation period being rated, the contractor’s comments in CPARS, and/or discussions at any meetings. The AO will discuss the evaluation with the RO, PCO, Counsel, and appropriate construction office officials.

(5) The AO will then complete the interim evaluation (whether remaining with marginal or unsatisfactory rating(s) or not) and send it to the RO.

(6) The RO will finalize the interim evaluation. If the interim evaluation remains with an unsatisfactory rating on one or more evaluation areas, the PCO will sign as RO and the government will notify the bonding company of the unsatisfactory rating by letter. The government will not provide the bonding company a copy of the evaluation.

(7) Interim evaluations with unsatisfactory ratings on evaluation areas are remedial rather than punitive. They alert contractors of their contract performance shortcomings and serve as a valuable tool in influencing improved performance. They also provide source selection officials with current performance information. The AO and field office

staff must continue monitoring the contractor's performance after issuing an interim performance evaluation with any unsatisfactory rating. If the contractor's performance improves sufficiently, the AO should issue a new interim evaluation. New evaluations do not overwrite previous interim performance evaluations.

(8) An interim evaluation with unsatisfactory ratings on evaluation areas is not a prerequisite for issuing a final evaluation with unsatisfactory ratings in evaluation areas.

n. Final performance evaluation reports.

(1) The final performance evaluation report must be completed in CPARS within 120 calendar days of the contract completion date (CCD), which includes a contractor comment period (currently 60 calendar days). Exceptions may be allowed when major contract issues and extenuating circumstances occur (for example, when the contractor's actual completion is significantly after the CCD). However, plan accordingly and start the evaluation writing process early enough to ensure it is completed within the required timeframe. The 120-calendar day requirement applies regardless of the evaluation rating (whether the evaluation rating is: recommend, do not recommend, exceptional, unsatisfactory, or another rating in between).

(2) The AO should transmit the initial final performance evaluation submission to the contractor via the CPARS within 30 calendar days after the CCD.

(a) Before transmitting the initial final performance evaluation to the contractor, the AO must discuss the evaluation results with the CO and RO for all final evaluations with less than satisfactory ratings in any rating area.

(b) After the RO approves the final performance evaluation in CPARS, it is transmitted to the FAPIIS where it is retained per current guidance. Each District or Center FP or designee will regularly communicate their District's/Center's CPARS registration and evaluation timeliness status to their District's contracting and construction leadership. The objective is to maintain situational awareness of the District's/Center's status on registering/submitting performance evaluations within established timeframes.

(3) Addendum evaluations may be prepared after the final performance evaluation to record the contractor's performance relative to contract/order closeout, resolution of contractor claims, and compliance with warranty requirements, occurring after the final performance evaluation completion. Addendum evaluations go through the same workflow process as the final performance evaluation.

o. Subcontractor performance evaluations. Performance evaluations are not prepared for subcontractors (including Architect-Engineer subcontractors on Design-Build construction contracts). The government's contract is with the prime contractor and the prime contractor is responsible for effectively managing its subcontractors.

Appendix A References

Section I

Required Publications

Unless otherwise indicated, Army and USACE publications are available at <https://armypubs.army.mil/> and <https://www.publications.usace.army.mil/>. Federal Acquisition Regulations (FAR), Army Federal Acquisition Regulation Supplements (AFARS), and Defense Federal Acquisition Regulation Supplement (DFARS) are available at <https://www.acquisition.gov>.

AFARS 5136.201

Evaluation of Contractor Performance

AFARS 5142.15

Contractor Performance Information

DA Pam 25-403

Army Guide to Recordkeeping

DFARS 242.15

Contractor Performance Information

FAR 4.8

Government Contract Files

FAR 9.104-6

Federal Awardee Performance and Integrity Information Systems

FAR 42.15

Contractor Performance Information

Guidance for the Contractor Performance Assessment Reporting System (CPARS) (<https://www.cpars.gov/cparsweb/home>)

USACE Acquisition Instruction (UAI) 5142.15

Contractor Performance Information (<https://www.usace.army.mil/Business-With-U/Contracting/Resources/>)

Section II

Prescribed Forms

The following suggested USACE-derived outlines can be found at :

[https://usace.dps.mil/sites/TDL-CECW-EC-CMA/SitePages/Contractor-Performance-Evaluations-\(CPARS\)_kb.aspx](https://usace.dps.mil/sites/TDL-CECW-EC-CMA/SitePages/Contractor-Performance-Evaluations-(CPARS)_kb.aspx).

Construction Factor Considerations in Writing CPARS

Contractor Performance Evaluation Best Practices

Sample CPARS Goals

Glossary of Terms

Section I

Acronym List

Term	Definition
ACO	Administrative Contracting Officer
AFARS	Army Federal Acquisition Regulation Supplement
AO	Assessing Official
AOR	Assessing Official Representative
CCD	Contract Completion Date
CM	Construction Management
CMA2	Construction Management Administration Application
CO	Contracting Officer
COR	Contracting Officer's Representative
CPARS	Contractor Performance Assessment Reporting System
DA	Department of the Army
DFARS	Defense Federal Acquisition Regulation Supplement
ER	Engineer Regulation
FAPIIS	Federal Awardee Performance and Integrity Information System
FAR	Federal Acquisition Regulation
FP	Focal Point
IDC	Indefinite-Delivery Contract
MFR	Memorandum for Record
N/A	Not Applicable
PCO	Procuring Contracting Officer
RMS	Resident Management System
RO	Reviewing Official
UAI	USACE Acquisition Instruction
USACE	U.S. Army Corps of Engineers

Section II

Terms

Addendum Evaluation

Performance assessment completed after the “final” performance evaluation to record the contractor’s performance relative to contract/order closeout, warranty performance, and other administrative requirements.

Administrative Evaluation

Performance assessment completed if there is no contract/order performance during an annual evaluation period due to circumstances such as not placing any orders against an indefinite-delivery vehicle.

Assessing Official

Government employee who has responsibility for contracting or overall program, project, or order execution and is responsible for preparing, reviewing, signing, and processing the evaluation in CPARS.

Assessing Official Representative

Government employee, typically from the technical, functional, quality assurance, specialty, program management or contracting offices, with the capability of inputting and reviewing information input by the other AORs in CPARS.

Contractor Performance Assessment Reporting System

Online web application that is used to collect and manage Contractor Performance Assessment reports, which are also known as contractor evaluations.

Contractor Representative

The Contractor designated representative in CPARS to whom the evaluations will be sent automatically and electronically.

Evaluation Rating

See FAR 42.1503 Tables 42-1 and 42-2.

Final Evaluation

Assessment of performance that is completed upon contract/order completion or delivery of the final major end item on the contract/order.

Focal Point

Government employee who provides overall support for the CPARS process for a particular organization, to include registering contracts, set up and maintenance of user accounts, and general user assistance.

Interim Evaluations

All annual evaluations, except for the evaluations completed at the end of the contract/order *Note:* Interim evaluations are limited to contractor performance occurring after the preceding evaluation.

Reviewing Official

Government employee who provides the check-and-balance when there is disagreement between the AO and the contractor and reviews and signs the evaluation in CPARS when the contractor indicates non-concurrence with the evaluation.