

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 9, 13, 15, 25, and 42**

[FAC 2019–06; FAR Case 2019–005; Item III; Docket No. FAR–2019–0005, Sequence No. 1]

RIN 9000–AN88

**Federal Acquisition Regulation:
Update to Contractor Performance
Assessment Reporting System
(CPARS)**

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement changes regarding the retirement of the Past Performance Information Retrieval System and establishment of the Contractor Performance Assessment Reporting System as the official system for past performance information.

DATES: *Effective* October 10, 2019.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, at 202–501–1448 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAC 2019–06, FAR Case 2019–005.

SUPPLEMENTARY INFORMATION:

I. Background

Effective January 15, 2019, the Past Performance Information Retrieval System (PPIRS) was retired, concluding its merger with the Contractor Performance Assessment Reporting System (CPARS). All data from PPIRS has been merged into CPARS.gov. The transition to a single system provides one location and one account to perform functions such as creating and editing performance and integrity records, changes to administering users, running reports, generating performance records, and viewing/managing performance records.

II. Discussion and Analysis

This final rule amends FAR 42.1501 and 42.1503, to establish CPARS as the official system for contractor past

performance information. Conforming changes are also made in parts 9, 13, 15, and 25 to remove all references to PPIRS and add CPARS.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-the-Shelf (COTS) Items

This final rule does not create any new provisions or clauses, nor does it change the applicability or burden of any existing provisions or clauses included in solicitations and contracts valued at or below the SAT, or for commercial items, including COTS items.

IV. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the FAR is the Office of Federal Procurement Policy statute (codified at title 41 of the United States Code). Specifically, 41 U.S.C. 1707(a)(1) requires that a procurement policy, regulation, procedure, or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. While this final rule relates to the expenditure of appropriated funds, it is not required to be published for public comment because it does not have a significant effect on contractors or offerors (*i.e.*, this action is administrative—it does not require contractors to take any action, affect the way in which contractors retrieve or provide information regarding their performance, or otherwise change policies addressing the assessment or recording of contractor performance). The rule merely reflects the merger of PPIRS into an existing system, CPARS, which now serves as the single official repository for recording and maintaining contractor performance information.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the

importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

VI. Executive Order 13771

This rule is not subject to E.O. 13771, because this rule is not a significant regulatory action under E.O. 12866.

VII. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section IV of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

VIII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does apply; however, these changes to the FAR do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 9000–0142, Past Performance Information.

List of Subjects in 48 CFR Parts 9, 13, 15, 25, and 42

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 9, 13, 15, 25, and 42 as set forth below:

■ 1. The authority citation for parts 9, 13, 15, 25, and 42 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

**PART 9—CONTRACTOR
QUALIFICATIONS**

9.104–6 [Amended]

■ 2. Amend section 9.104–6, in paragraph (a)(1), by removing “*www.ppirs.gov*, then select FAPIIS” and “Past Performance Information Retrieval System (PPIRS)” and adding “*https://www.cpars.gov*” and “Contractor Performance Assessment Reporting System (CPARS)” in their places, respectively.

9.105-1 [Amended]

■ 3. Amend section 9.105-1, in paragraph (c) introductory text, by removing "PPIRS" and adding "CPARS" in its place.

9.105-2 [Amended]

■ 4. Amend section 9.105-2, in paragraph (b)(2)(i) introductory text, by removing "www.cpars.gov, then select FAPIIS" and adding "https://www.cpars.gov" in its place.

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

13.106-2 [Amended]

■ 5. Amend section 13.106-2, in paragraph (b)(3)(ii)(C) by removing "Governmentwide Past Performance Information Retrieval System (PPIRS) at www.ppirs.gov" and adding "Contractor Performance Assessment Reporting System (CPARS) at https://www.cpars.gov" in its place.

PART 15—CONTRACTING BY NEGOTIATION

15.407-1 [Amended]

■ 6. Amend section 15.407-1, in paragraph (d) introductory text, by removing "PPIRS" and adding "Contractor Performance Assessment Reporting System (CPARS)" in its place.

PART 25—FOREIGN ACQUISITION

25.702-4 [Amended]

■ 7. Amend section 25.702-4, in paragraph (c)(3)(vi), by removing "Past Performance Information Retrieval System" and "www.ppirs.gov" and adding "Contractor Performance Assessment Reporting System (CPARS)" and "https://www.cpars.gov" in their places, respectively.

25.703-4 [Amended]

■ 8. Amend section 25.703-4, in paragraph (c)(6), by removing "Past Performance Information Retrieval System" and "www.ppirs.gov" and adding "Contractor Performance Assessment Reporting System (CPARS)" and "https://www.cpars.gov" in their places, respectively.

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

■ 9. Amend section 42.1501 by revising paragraph (b) to read as follows:

42.1501 General.

* * * * *

(b) Agencies shall monitor their compliance with the past performance evaluation requirements (see 42.1502),

and use the Contractor Performance Assessment Reporting System (CPARS) metric tools to measure the quality and timely reporting of past performance information. CPARS is the official source for past performance information.

■ 10. Amend section 42.1503 by—

■ a. Removing from paragraph (a)(1)(iii) "PPIRS" and adding "CPARS" in its place;

■ b. Revising paragraph (f);

■ c. Removing from paragraph (g) "PPIRS" and adding "CPARS" in its place; and

■ d. Removing from paragraph (h)(3) "http://www.cpars.gov/, then select FAPIIS" and adding "https://www.cpars.gov" in its place.

The revision reads as follows:

42.1503 Procedures.

* * * * *

(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).

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 22, 25, and 52

[FAC 2019-06; FAR Case 2019-011; Item IV; Docket No. FAR-2019-0011; Sequence No. 1]

RIN 9000-AN93

Federal Acquisition Regulation: New World Trade Organization Government Procurement Agreement Country—Australia

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to add Australia as a World Trade Organization Government Procurement Agreement (WTO GPA) country.

DATES: Effective: October 10, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia L. Davis, Procurement Analyst, at 202-219-0202 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755. Please cite FAC 2019-06, FAR Case 2019-011.

SUPPLEMENTARY INFORMATION:

I. Background

On May 5, 2019, Australia became a party to the World Trade Organization Government Procurement Agreement (WTO GPA). The Trade Agreements Act (19 U.S.C. 2501 et seq.) provides the authority for the President to waive the Buy American Act and other discriminatory provisions for eligible products from countries that have signed an international trade agreement with the United States (such as the WTO GPA). The President has delegated this authority to the U.S. Trade Representative.

The U.S. Trade Representative has determined that Australia will provide appropriate reciprocal competitive Government procurement opportunities to United States products and services. The U.S. Trade Representative published a notice in the Federal Register (84 FR 18110, April 29, 2019) waiving the Buy American Act and other discriminatory provisions for eligible products from Australia.