

**ENVIRONMENTAL PROTECTION  
AGENCY****48 CFR Part 1509 and 1552**

[FRL-631-3]

**Acquisition Regulation: Contractor  
Performance Evaluations****AGENCY:** Environmental Protection  
Agency.**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is amending the EPA Acquisition Regulation (48 CFR Chapter 15) to revise its policy and procedures regarding the evaluation of contractor performance on EPA contracts and to establish an EPA Acquisition Regulation clause to be used in solicitations and contracts with an estimated dollar value in excess of \$100,000. This final rule applies to all large and small entities who perform or are interested in performing under EPA contracts.

**DATES:** This rule is effective on May 26, 1999.

**FOR FURTHER INFORMATION CONTACT:** Frances Smith, U.S. Environmental Protection Agency, Office of Acquisition Management, (3802R), 401 M Street, SW, Washington, D.C. 20460, Telephone: (202) 564-4368.

**SUPPLEMENTARY INFORMATION:****A. Background**

This final rule implements the Office of Federal Procurement Policy Policy Letter 92-5, Past Performance Information. The Office of Federal Procurement Policy Policy Letter requires Federal agencies to evaluate contractor performance on contracts over \$100,000, to use past performance information in making responsibility determinations in both sealed bid and competitively negotiated procurements, and to specify past performance as an evaluation factor in solicitations for competitively negotiated contracts expected to exceed \$100,000.

The comment period for the proposed rule extended from September 16, 1998, to November 16, 1998. The Agency received a total of 33 comments and has reviewed them all. A detailed Summary and Analysis of Comments document detailing the comments and the responses regarding the proposed rule is available in the docket for this rule by contacting Frances Smith at (202) 564-4368 (E-mail: smith.frances@epamail.epa.gov).

The Agency has made minor changes to the proposed rule as a result of the comments received. This final rule reflects the following changes: (1)

Deleted the word "rare" under each rationale for the numerical rating score of 5; (2) Added a statement in the Contractor Performance Report Instructions to include the following under number 10.: Identify the title of the contract and the dollar amount managed under the period for review; (3) Revised the definition for Summary Ratings in the Contractor Performance Report Instructions to coincide with the definition in the rule at 1509.170-4(e) as follows: Summary ratings refer to the ratings determined by one level above the contracting officer regarding disagreements between the contractor and the contracting officer. Summary ratings reflect the Agency's ultimate conclusion for the performance period being evaluated; (4) Revisions made throughout the rule to include "business days" in lieu of "calendar days"; (5) Revisions made to 1509.170-5, Policy and 1552.209-76, Contractor Performance Evaluations to reflect that past performance evaluations are to be completed after each 12 months of contract performance; and (6) Deleted paragraphs (c) and (d) of 1509.170-7, Release of Ratings and replaced paragraph (c) with the following: Freedom of Information Act requests shall be processed by the EPA Freedom of Information Act office where the contract is located. Requests for past performance evaluations during the period the information may be used to provide source selection information shall be rejected if the requests are made by other than Government personnel and the contractor whose performance is being evaluated.

**B. Executive Order 12866**

The final rule is not a significant regulatory action for the purposes of Executive Order 12866; therefore, no review was required by the Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB). The word "not" was inadvertently omitted in the proposed rule to indicate that this rule is not a significant regulatory action. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) applies to this final rule, and the information collection request in this final rule has been evaluated by the Office of Management and Budget. The Office of Information and Regulatory Affairs within the Office of Management and Budget has issued OMB Clearance No. 9000-0142 for the collection of

contractor performance information. Comments regarding Paperwork Reduction Act concerns should be sent to the Office of Management and Budget (Attn: EPA Desk Officer). The Office of Management and Budget is required to make a decision concerning the collection of information contained in the final rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to the Office of Management and Budget is best assured of having its full effect if the Office of Management and Budget receives it within 30 days of publication.

**D. Regulatory Flexibility Act**

The EPA certifies that this final rule does not exert a significant economic impact on a substantial number of small entities.

This final rule formalizes EPA's contractor performance evaluation process, as an expansion of the government-wide requirements already established in the Federal Acquisition Regulation, 48 CFR 42.15. The final rule explains that EPA contracting officers will be recording the evaluations on simple and easy-to-understand report forms generated by the National Institutes of Health's Contractor Performance System. Likewise, the evaluation rating system that the contracting officers will be using is based on straightforward numerical scores with a narrative explanation to be provided by the contracting officers. An adverse economic impact upon a contractor (i.e., in the form of less future Federal business) as a result of a rating assessed by an EPA contracting officer would be attributable to the contractor's past performance itself, not to the rating system prescribed herein.

Further, the final rule requires no reporting or record-keeping by contractors. Rather, the final rule provides contractors with a formal opportunity, generally one time a year per contract, to review and comment on their specific performance evaluations as conducted by the cognizant EPA contracting officers. EPA estimates that the contractor's review and comment process will require a minimal amount of time to complete; therefore, to the extent that this does result in some contractor-incurred costs, EPA anticipates that these will be de minimus. In any event, any reasonable costs incurred by the contractor in connection with the process will be allowable and allocable to the contract under evaluation and thereby borne by EPA.

### **E. The National Technology Transfer and Advancement Act**

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through the Office of Management and Budget, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

### **F. Executive Order 12875: Enhancing the Intergovernmental Partnership**

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities because this rule pertains to contractors who have been awarded EPA contracts. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

### **G. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments**

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments because this rule pertains to contractors who have been awarded EPA contracts. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

### **H. Unfunded Mandates**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess their regulatory actions on State, local, and tribal governments, and the private sector. This final rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in aggregate, or the private sector in one year. The rule is not subject to the requirements of sections 202 and 205 of the UMRA.

### **I. Executive Order 13045**

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that

EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not an economically significant rule as defined by E.O. 12866, and because it does not involve decisions on environmental health or safety.

### **J. Submission to Congress and the General Accounting Office**

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804 (2).

### **List of Subjects in 48 CFR Parts 1509 and 1552**

Environmental protection,  
Government procurement.

Therefore, 48 CFR Chapter 15 is amended as set forth below:

1. The authority citation for Parts 1509 and 1552 continues to read as follows:

**Authority:** The provisions of this regulation are issued under 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended.

2. Section 1509.170-1 is amended by adding the following after the first sentence:

#### **1509.170-1 Scope of subpart.**

\* \* \* Contracting officers shall insert the contract clause at 1552.209-76 in all solicitations and contracts with an estimated dollar value in excess of \$100,000. For acquisitions involving options, the total estimated value of the acquisition shall include the estimated base amount plus the option(s) amount(s).

3. Sections 1509.170-2, 1509.170-3, and 1509.170-4 are revised to read as follows:

**1509.170-2 Purpose.**

This subpart provides guidance to program and contracting personnel regarding the evaluation of contractor performance. It establishes a uniform method for determining and recording the effectiveness of contractors in meeting contractual obligations. Additionally, this subpart details a systematic approach for identifying and maintaining records of contractors' performance histories.

**1509.170-3 Applicability.**

(a) This subpart applies to all EPA acquisitions in excess of \$100,000, except for construction acquisitions, architect-engineer acquisitions, acquisitions awarded under the Federal Acquisition Regulation (FAR) Subpart 8.6, Acquisitions from Federal Prison Industries, Incorporated, FAR Subpart 8.7, Acquisitions from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled, and FAR 13.5, Test Program for Certain Commercial Items. FAR 36.201 and 36.604 provide detailed instructions for construction and architect-engineer contractor performance evaluations.

(b) The acquisition of commercial items in accordance with FAR 13.106 is not applicable to this subpart because simplified acquisition procedures do not require the creation or existence of a formal database for past performance evaluations. In cases where simplified acquisition procedures are not used to acquire commercial items (see FAR 12.203), this subpart is applicable to acquiring commercial items in excess of \$100,000.

(c) EPA Form 1900-26, Contracting Officer's Evaluation of Contractor Performance, and EPA Form 1900-27, Project Officer's Evaluation of Contractor Performance, shall apply to all performance evaluations completed prior to the effective date of this subpart. However, on the effective date of this rule, EPA Forms 1900-26 and 1900-27 are obsolete, and contracting officers shall complete all contractor performance evaluations by use of the National Institutes of Health's Contractor Performance System.

**1509.170-4 Definitions.**

(a) *Contractor Performance Report* is an evaluation of a contractor's performance for a specified period of time.

(b) *Interim Report* refers to a Contractor Performance Report that covers each 12 month period after contract award.

(c) *Final Report* refers to a Contractor Performance Report that covers the last

12 months (or less) of contract performance.

(d) *Ratings* refer to the numerical scores for each performance category. Ratings are defined as follows: 0 = unsatisfactory, 1 = poor, 2 = fair, 3 = good, 4 = excellent, and 5 = outstanding.

(e) *Summary ratings* refer to the ratings determined by one level above the contracting officer regarding disagreements between the contractor and the contracting officer. Summary ratings reflect the Agency's ultimate conclusion for the performance period being evaluated.

(f) *Performance Categories* refer to the measures used to evaluate a contractor's performance. Performance categories are defined as quality, cost control, timeliness of performance, and business relations.

4. Section 1509.170 is also amended by adding 1509.170-5, 1509.170-6, 1509.170-7, and 1509.170-8 to read as follows:

**1509.170-5 Policy.**

(a) Contracting officers are responsible for the timely completion of contractors' performance evaluations. The National Institutes of Health Contractor Performance System shall be used to record individual contractor performance histories on EPA contracts and to obtain contractor past performance information for use in EPA's source selection process.

(b) Contracting officers are required to use the National Institutes of Health Contractor Performance System to record evaluations for all contract performance periods expiring after the effective date of this subpart.

(c) Contractor evaluation information shall be recorded in Contractor Performance Reports (Report) which are generated by the National Institutes of Health system. Reports shall cover individual contractor evaluations at the contract level, which includes all work assignments, task orders, or delivery orders associated with the 12 month period being evaluated (interim Report) or the last 12 months (or less) of contract performance (final Report).

(d) The contracting officer must complete interim Reports covering each 12 month period after contract award for all contracts in excess of \$100,000, except those acquisitions identified in 1509.170-3, Applicability. In addition to interim Reports, the contracting officer must complete a final Report which covers the last 12 months (or less) of contract performance.

(e) The contracting officer shall initiate the process for completing interim Reports within five (5) business days after the end of each 12 months of

contract performance. The contracting officer shall initiate the process for completing a final Report within five (5) business days after the end of the last 12 months (or less) of contract performance. Final Reports must be completed prior to contract closeout.

(f) The contracting officer must complete interim and final Reports, including the project officer's evaluation of contractor performance, receipt of any contractor input, and resolution of summary ratings (if any) within 90 business days from the date the contracting officer initiates the evaluation.

(g) Reports shall be used to inform other agencies and departments (upon request) about a contractor's performance on an EPA contract, and to assist the contracting officer and the Technical Evaluation Panel with evaluating past performance for future EPA acquisitions.

(h) When evaluating proposals, contracting officers shall use the National Institutes of Health system to access Reports from other agencies or departments that are available in the National Institutes of Health database. Contracting Officers may need to access past performance information from other than the National Institutes of Health system if the National Institutes of Health system does not include applicable information.

(i) In accordance with FAR 42.1503(b), the ultimate conclusion on the performance evaluation is the decision of the Agency. The contracting officer must ensure the accuracy of ratings for each performance category by verifying that information in the contract file corresponds with the project officer's designated ratings. A contractor's performance evaluation should closely parallel award fee determinations made under the contract.

(j) In cases of novations involving successors-in-interest, a final evaluation of the predecessor contractor must be completed within five (5) business days after the end of the predecessor contractor's performance, and an interim evaluation of the successor contractor must be completed within five (5) business days after the end of each 12 months of contract performance after the successor began performing. In cases of change-of-name agreements, the system shall be changed to reflect the new contractor's name.

(k) Contracting officers must inform the Office of Debarment and Suspension of any repetitive unsatisfactory or poor (a score of 0 or 1) ratings encountered by the contractor.

**1509.170-6 Filing of forms.**

The original copy of completed Contractor Performance Reports (interim and final) shall be filed in each individual contractor's official contract file. The National Institutes of Health Contractor Performance System will retain all reports for three (3) years after contract completion.

**1509.170-7 Release of ratings.**

(a) Agencies and departments who subscribe to the National Institutes of Health's Contractor Performance System will have direct access to all Reports, including those of EPA, in the National Institutes of Health's database. Information on EPA contractors' performance ratings may also be obtained by contacting the EPA contracting officer responsible for the evaluation.

(b) Contractors' performance ratings may be released to other Federal, State, and local Governments upon written request. The release to other Federal, State, and local Governments must stipulate that the information provided shall not be released outside of the requesting Government agency. In cases where the Federal agency is part of the National Institutes of Health Contract Performance System, a written request is not applicable.

(c) Freedom of Information Act requests shall be processed by the EPA Freedom of Information Act office where the contract is located. Requests for past performance evaluations during the period the information may be used to provide source selection information shall be rejected if the requests are made by other than the Government personnel and the contractor whose performance is being evaluated.

**1509.170-8 Contractor Performance Report.**

(a) Contractor Performance Reports (interim and final) must be prepared electronically by use of the National Institutes of Health's Contractor Performance System. Hard copy preparation of Reports shall not be used unless specifically instructed by the National Institutes of Health. The National Institutes of Health will provide EPA's Office of Acquisition Management Internal Oversight Service Center with specific instructions if hard copy use becomes necessary.

(b) A copy of the National Institutes of Health Contractor Performance Report (including instructions) shall be included in each solicitation and contract with an estimated value in excess of \$100,000.

5. Section 1552.2 is amended by adding 1552.209-76 as follows:

**1552.209-76 Contractor performance evaluations.**

As prescribed in section 1509.170-1, insert the following clause in all applicable solicitations and contracts.

**Contractor Performance Evaluations**

(MAY 1999)

The contracting officer shall complete a Contractor Performance Report (Report) within ninety (90) business days after the end of each 12 months of contract performance (interim Report) or after the last 12 months (or less) of contract performance (final Report) in accordance with EPAAR 1509.170-5. The contractor shall be evaluated based on the following ratings and performance categories:

*Ratings:* 0 = unsatisfactory, 1 = poor, 2 = fair, 3 = good, 4 = excellent, 5 = outstanding.

*Performance Categories:*

*Quality:* Compliance with contract requirements; accuracy of reports; effectiveness of personnel; and technical excellence.

**Rating**

- 0—Contractor is not in compliance and is jeopardizing achievement of contract objectives
- 1—Major problems have been encountered
- 2—Some problems have been encountered
- 3—Minor inefficiencies/errors have been identified
- 4—Contractor is in compliance with contract requirements and/or delivers quality products/services
- 5—The contractor has demonstrated an outstanding performance level that justifies adding a point to the score. It is expected that this rating will be used in those circumstances when contractor performance clearly exceeds the performance level described as "Excellent."

*Cost Control:* Record of forecasting and controlling target costs; current, accurate and complete billings; relationship of negotiated costs to actuals; cost efficiencies.

**Rating**

- 0—Contractor is unable to manage costs effectively
- 1—Contractor is having major difficulty managing costs effectively
- 2—Contractor is having some problems managing costs effectively
- 3—Contractor is usually effective in managing costs
- 4—Contractor is effective in managing costs and submits current, accurate, and complete billings
- 5—The contractor has demonstrated an outstanding performance level that justifies adding a point to the score. It is expected that this rating will be used in those circumstances when contractor performance clearly exceeds the performance level described as "Excellent."

*Timeliness of Performance:* Met interim milestones; reliability; responsive to technical direction; completed on time, including wrap-up and contract administration; met delivery schedules; no liquidated damages assessed.

**Rating**

- 0—Contractor delays are jeopardizing performance of contract objectives
- 1—Contractor is having major difficulty meeting milestones and delivery schedule
- 2—Contractor is having some problems meeting milestones and delivery schedule
- 3—Contractor is usually effective in meeting milestones and delivery schedule
- 4—Contractor is effective in meeting milestones and delivery schedule
- 5—The contractor has demonstrated an outstanding performance level that justifies adding a point to the score. It is expected that this rating will be used in those circumstances when contractor performance clearly exceeds the performance level described as "Excellent."

*Business Relations:* Effective management, including subcontracts; reasonable/cooperative behavior; responsive to contract requirements; notification of problems; flexibility; pro-active versus reactive; effective small/small disadvantage business subcontracting program.

**Rating**

- 0—Response to inquiries, technical/service/administrative issues is not effective
- 1—Response to inquiries, technical/service/administrative issues is marginally effective
- 2—Response to inquiries, technical/service/administrative issues is somewhat effective
- 3—Response to inquiries, technical/service/administrative issues is usually effective
- 4—Response to inquiries, technical/service/administrative issues is effective
- 5—The contractor has demonstrated an outstanding performance level that justifies adding a point to the score. It is expected that this rating will be used in those circumstances when contractor performance clearly exceeds the performance level described as "Excellent."

(a) The contracting officer shall initiate the process for completing interim Reports within five (5) business days after the end of each 12 months of contract performance by requesting the project officer to evaluate contractor performance for the interim Report. In addition, the contracting officer shall initiate the process for completing final Reports within five (5) business days after the last 12 months (or less) of contract performance by requesting the project officer to evaluate contractor performance for the final Report. The final Report shall cover the last 12 months (or less) of contract performance. Within thirty (30) business days after the project officer receives a request from the contracting officer to complete an evaluation, the project officer shall:

- (1) Complete a description of the contract requirements;
- (2) Evaluate contractor performance and assign a rating for quality, cost control, and timeliness of performance categories (including a narrative for each rating);
- (3) Provide any information regarding subcontracts, key personnel, and customer satisfaction;

(4) Assign a recommended rating for the business relations performance category (including a narrative for the rating); and

(5) Provide additional information appropriate for the evaluation or future evaluations.

(b) The contracting officer shall:

(1) Ensure the accuracy of the project officer's evaluation by verifying that the information in the contract file corresponds with the designated project officer's ratings;

(2) Assign a rating for the business relations performance category (including a narrative for the rating);

(3) Concur with or revise the project officer's ratings after consultation with the project officer;

(4) Provide any additional information concerning the quality, cost control, and timeliness of performance categories if deemed appropriate for the evaluation or future evaluations (if any), and provide any information regarding subcontracts, key personnel, and customer satisfaction; and

(5) Forward the Report to the contractor within ten (10) business days after the contracting officer receives the project officer's evaluation.

(c) The contractor shall be granted thirty (30) business days from the date of the contractor's receipt of the Report to review and provide a response to the contracting officer regarding the contents of the Report. The contractor shall:

(1) Review the Report;

(2) Provide a response (if any) to the contracting officer on company letter head or electronically;

(3) Complete contractor representation information; and

(4) Forward the Report to the contracting officer within the designated thirty (30) business days.

(d) The contractor's response to the Report may include written comments, rebuttals (disagreements), or additional information. If the contractor does not respond to the Report within the designated thirty (30) business days, the specified ratings in the Report are deemed appropriate for the evaluation period. In this instance, the contracting officer shall complete the Agency review and sign the Report within three (3) business days after expiration of the specified 30 business days.

(e) If the contractor submits comments, rebuttals (disagreements), or additional information to the contracting officer which contests the ratings, the contracting officer, in consultation with the project officer, shall initially try to resolve the disagreement(s) with the contractor.

(f) If the disagreement(s) is (are) not resolved between the contractor and the contracting officer, the contracting officer shall provide a written recommendation to one level above the contracting officer for resolution as promptly as possible, but no later than five (5) business days after the contracting officer is made aware that the

disagreement(s) has (have) not been resolved with the contractor. The individual who is one level above the contracting officer shall:

(1) Review the contracting officer's written recommendation; and

(2) Provide a written determination to the contracting officer for summary ratings (ultimate conclusion for ratings pertaining to the performance period being evaluated) within five (5) business days after the individual one level above the contracting officer receives the contracting officer's written recommendation.

(g) If the disagreement is resolved, the contracting officer shall complete the Agency review and sign the Report within three (3) business days after consultation.

(h) The contracting officer shall complete the Agency review and sign the Report within three (3) business days after the contracting officer receives a written determination for summary ratings from one level above the contracting officer.

(i) An interim or final Report is considered completed after the contracting officer signs the Report. The contracting officer must provide a copy of completed Reports (interim and final) to the contractor within two (2) business days after completion.

**Note:** Appendix to Preamble will not appear in the Code of Federal Regulations:

BILLING CODE 6560-50-P

**APPENDIX TO PREAMBLE  
COPY OF THE NIH CONTRACTOR PERFORMANCE REPORT**

**National Institutes of Health  
CONTRACTOR PERFORMANCE REPORT**

FINAL REPORT \_\_\_\_\_ INTERIM REPORT \_\_\_\_\_ (Check one)

REPORTING PERIOD: (from) \_\_\_\_\_ (to) \_\_\_\_\_

CONTRACTING OFFICE (Location): \_\_\_\_\_

CONTRACT NUMBER: \_\_\_\_\_

TASK NO: \_\_\_\_\_

CONTRACTOR NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

CONTRACT AWARD DATE: \_\_\_\_\_

CONTRACT EXPIRATION DATE: \_\_\_\_\_

TIN: \_\_\_\_\_

CONTRACT VALUE: \$ \_\_\_\_\_

SIC: \_\_\_\_\_

CONTRACT TYPE: \_\_\_\_\_

DESCRIPTION OF REQUIREMENT (Title and dollar amount managed under the  
period for review): \_\_\_\_\_

**RATINGS**

Summarize contractor performance and circle the number which corresponds to the rating for each rating category. (See attached Rating Guidelines) At this time comments are limited to 2000 characters.

QUALITY OF PRODUCT OR SERVICE Rating: 0 1 2 3 4 5

Comments: \_\_\_\_\_

COST CONTROL

Rating: 0 1 2 3 4 5

Comments: \_\_\_\_\_

TIMELINESS OF PERFORMANCE

Rating: 0 1 2 3 4 5

Comments: \_\_\_\_\_

BUSINESS RELATIONS

Rating: 0 1 2 3 4 5

Comments: \_\_\_\_\_

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**SUBCONTRACTS**

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**Are subcontracts involved?** Yes No *(Circle one)*

**Comments** *(Please comment on those subcontractors that have provided a significant contribution to overall contract performance.)*

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**KEY PERSONNEL**

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**PROJECT MANAGER/PRINCIPAL INVESTIGATOR** *(name):*

**Comments:**

**KEY PERSON** *(name):*

**Comments:**

**KEY PERSON** *(name):*

**Comments:**

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**CUSTOMER SATISFACTION**

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**Is/was the contractor committed to customer satisfaction?** Yes No *(Circle one)*

**If this is the Final Report:**

**Would you recommend selection of this firm again?** Yes No *(Circle one)*

**Comments:**

**PROJECT OFFICER** *(name):*

**SIGNATURE:** \_\_\_\_\_

**Phone:**

**FAX:**

**Internet Address:**

**Date:**

**CONTRACTING OFFICER CONCURRENCE:** *(Initial)* \_\_\_\_\_

**Date:**

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**CONTRACTOR'S REPRESENTATIVE** *(name):*

**Phone:**

**FAX:**

**Internet Address:**

**SIGNATURE:** \_\_\_\_\_

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**SUMMARY RATINGS:**

QUALITY: \_\_\_\_\_

COST CONTROL: \_\_\_\_\_

TIMELINESS OF PERFORMANCE: \_\_\_\_\_

BUSINESS RELATIONS: \_\_\_\_\_

CONTRACTING OFFICER (name): \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

Phone: \_\_\_\_\_

FAX: \_\_\_\_\_

Internet Address: \_\_\_\_\_

Date: \_\_\_\_\_

**CONTRACTOR'S REVIEW:**

Were comments, rebuttal, or additional information provided? Yes No (Circle one)

(If yes: They are: \_\_\_\_\_)

On file in: \_\_\_\_\_

(Location)

(Phone))

**Attached** \_\_\_\_\_ (Check if attached)**AGENCY REVIEW:**

Were contractor comments reviewed at a level above the contracting officer?

Yes No (Circle one)

(If yes: They are: \_\_\_\_\_)

On file in: \_\_\_\_\_

(Location)

(Phone))

**Attached** \_\_\_\_\_ (Check if attached)



## Contractor Performance Report Instructions

### Top Section

1. Check the appropriate block to indicate the type of report (Interim, Final).
2. Indicate the period covered by the report.
3. List the name of the contracting officer and the location of the contracting office.
4. Identify the contract number of the contract being evaluated. Enter Task No. if applicable.
5. List the name and address of the contractor.
6. Enter TIN and SIC.
7. Enter Type of Contract (A—Fixed price re-determination; J—Firm fixed price; K—Fixed price with economic price adjustment; L—Fixed price incentive; R—Cost plus award fee; S—Cost no fee; T—Cost sharing; U—Cost plus fixed fee; V—Cost plus incentive fee; Y—Time and materials; Z—Labor hours).
8. Indicate the contract award date and contract expiration date.
9. State the contract value, including any option amounts.
10. Provide a brief description of the work being performed under the contract (the title of the contract and the dollar amount managed under the period for review).

### Ratings

Using the rating guideline, assign each area a rating of 0 (unsatisfactory), 1 (poor), 2 (fair), 3 (good), 4 (excellent), or 5 (outstanding). Provide a brief narrative (2000 characters or less) for each of the categories to support the rating assigned. The categories are: quality of product or service, cost control, timeliness of performance, and business relations.

### Subcontractors

Indicate whether subcontracts are/were involved. Briefly summarize (2000 characters or less) the performance of any subcontractors that have major responsibilities under the contract or are required to perform a significant part of the contract requirement. This space may also be used to evaluate a prime contractor's management of a subcontractor.

### Key Personnel

List the name of the project manager/principal investigator (required) and the names of two other key personnel (optional). Briefly describe the performance of the key personnel listed. (2000 characters or less)

## Customer Satisfaction

Circle the appropriate answer to indicate whether the contractor was committed to customer satisfaction. For the final report, indicate whether you would recommend selection of the firm again.

### Project Officer Signature

The project officer signs this block.

### Contracting Officer Concurrence

The contracting officer initials this block, indicating concurrence with the initial rating.

### Contractor's Representative

The contractor signs this next block, indicating review of the rating.

### Summary Ratings

Summary ratings refer to the ratings determined by one level above the contracting officer regarding disagreements between the contractor and the contracting officer. Summary ratings reflect the Agency's ultimate conclusion for the performance period being evaluated.

### Contracting Officer Signature

The contracting officer signs the report when all actions are completed. If changes were made to the ratings or the narrative during the rebuttal process, a copy of the report, as revised, shall be promptly furnished to the contractor.

### Contractor's Review

Indicate whether the contractor submitted a rebuttal or comments. Attach a copy of the contractor's rebuttal to this report, or indicate its location, if filed separately.

### Agency Review

If the contracting officer and the contractor are unable to agree on a final rating, the matter is to be referred to an individual one level above the contracting officer. Attach a copy of the agency's decision to this report, or indicate its location, if filed separately.

Dated: March 19, 1999.

**Betty L. Bailey,**

*Director, Office of Acquisition Management.*  
[FR Doc. 99-10096 Filed 4-23-99; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### 49 CFR Parts 571 and 575

[Docket No. NHTSA-98-3381, Notice 3]

RIN 2127-AG53

### Consumer Information Regulations; Utility Vehicle Label

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Clarification of compliance date.

**SUMMARY:** This document relates to a final rule that amended the rollover warning currently required for small and mid-sized utility vehicles, to require a new label that uses graphics, bright colors, and short bulleted text messages. The final rule also required the inclusion in the owners' manuals of these vehicles of additional information related to rollover risks. The effective date for the final rule is September 1, 1999. The mandatory compliance date for the rule (i.e., the date on which manufacturers must begin complying with the amendments) is also September 1, 1999.

We typically include language in our regulations, when appropriate, to permit manufacturers the option of complying with new requirements before the compliance date of those requirements. However, we inadvertently omitted such language from the above-mentioned rulemaking document. Today's document corrects this oversight and announces the date on which it is permissible for manufacturers to begin voluntarily producing warning labels and owner's manuals that comply with the new requirements.

**DATES:** The effective date of the final rule published March 9, 1999 (64 FR 11724) remains September 1, 1999. The mandatory compliance date of that final rule is also September 1, 1999, however, voluntary compliance with the final rule is allowed as of April 26, 1999.

**FOR FURTHER INFORMATION CONTACT:** The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590:

*For labeling issues:* Mary Versailles, Office of Planning and Consumer Programs, NPS-31, telephone (202) 366-2057, facsimile (202) 366-4329

*For legal issues:* Nicole Fradette, Office of Chief Counsel, NCC-20, telephone (202) 366-2992, facsimile (202) 366-3820