

Creating Powerful Past Performance

Webinar Topics

- Theory and lessons learned from commercial and government sectors
- Differences and similarities between past performance (PP) and prior/corporate experience
- What is considered PP and how it is evaluated
- The magic 5 letters: “CPARS”
- How to make the most of customer-provided forms/templates (i.e., PPQs)
- How to store/reuse your PP data
- How to respond to negative performance feedback
- How to prepare for debriefs/discussions about PP
- How to mitigate poor PP in future proposals

PP as Evaluation Criterion

- Government Sector (*Pre-award Evaluation**)
 - Evaluates how well the offeror performed the same or similar effort on past or current contracts or (task) orders and how that PP is likely to affect the current effort.
 - Considers the currency and relevance of an offeror's PP, the source and validity of the PP information received, the context of the data, and the general trend of the offeror's PP.
- Commercial and Government Sectors
 - PP is useful as an evaluation factor for the repetitive acquisition of standard supplies or services where there are many competing offerors and a significant performance history.
 - Often provided as case studies or other documents proving the offeror's successful history of performing the work and/or providing the goods/services/technology and how they satisfied their customers and met or exceeded their requirements.

**As opposed to Post-Award evaluation (determining how well you are performing during the execution of the contract)*

How Gov't Determines PP As an Evaluation Factor

- The Federal Acquisition Regulations (FAR) identifies 7 areas of consideration in source selection decisions: cost/price, PP, compliance with solicitation requirements, technical excellence, management capability, personnel qualifications and prior experience.
- Using PP as an evaluation factor depends on the significance of the PP as a discriminator in the current procurement.
 - PP used as primary or secondary eval factor

Source Selection = Gov't evaluation

Solicitation = request for bid/proposal/quote

FAR = Gov't Rulebook

Discriminator = distinguishing characteristic

Prior/Corporate Experience

- Use prior/corporate experience to showcase your knowledge based on your work on past and current contracts of the same or similar nature.
- **Indicates you have done this work before, not how well you performed.**
- Identify specific past or current contracts demonstrating your involvement with work relevant to the current procurement.
 - # of years of general or specialized experience
 - # of comparable or relevant contracts
 - Relevant experience of your senior technical or management personnel, subcontractors, or other members of a Joint Venture (JV)

Prior/Corporate Exp. continued...

- Provides assurance to Gov't that the offeror has performed the required work. Indicates offeror's knowledge of subject matter.
- The level of importance of prior/corporate experience as an evaluation factor depends on size/complexity of required work effort:
 - Indicates offeror's ability to complete a complex effort involving many personnel and multiple work units and requiring interface with people inside and outside the offeror's organization.
 - Larger efforts usually result in retention of corporate memory by key personnel who are still on the contract/with the company
 - *Smaller efforts may result in loss of corporate memory due to loss of key personnel who left the company*

Performance of Key Personnel

- The FAR permits evaluation of key personnel. Evaluation involves how well they performed under the referenced contract, not simply that they had worked under the contract.



Attribute successful performance to key personnel

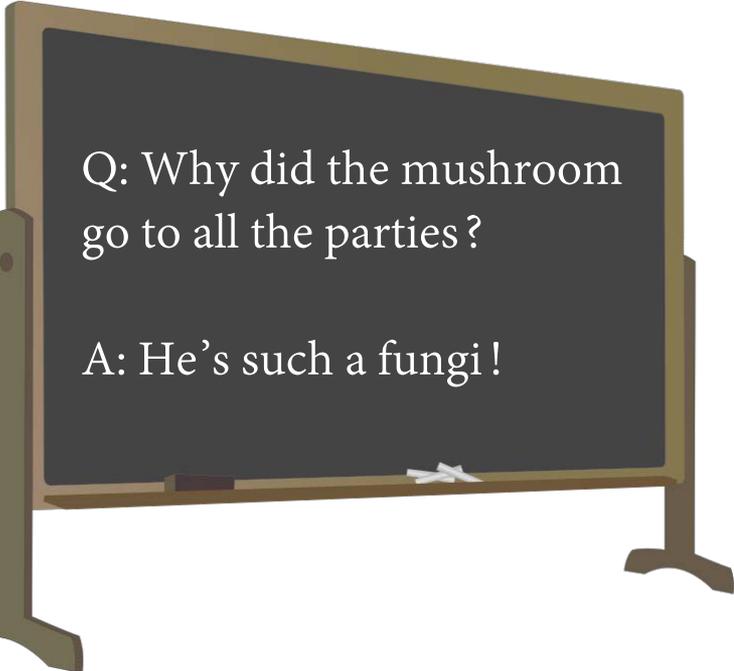


Provide evidence that key personnel are not responsible for past problems or unsuccessful performance

- If required by RFP, obtain letters of commitment from key personnel who are not currently employed. At a minimum, the letter should be signed by the individual and should show a firm commitment to be employed by the firm.

PP Evaluation for Performance Risk

- The risk of successful performance is evaluated through assessing risk and determining the likelihood that instances of poor PP (or superior PP) will be repeated.
- Performance risk evaluation is based on information such as the results of customer surveys, PP questionnaire (PPQ) responses, and reports in the Government's Past Performance Information Retrieval System (PPIRS).



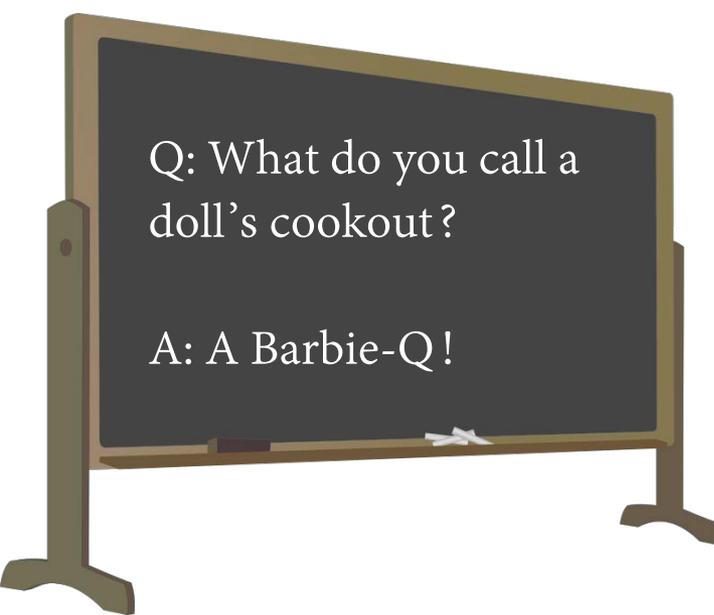
Q: Why did the mushroom go to all the parties?

A: He's such a fungi!

**In May 2010, PPIRS was designated as the government-wide single repository of PP data. Government access is restricted to those individuals who are working on source selections, to include contractor responsibility determinations. Contractors may view only their own data. Effective July 1, 2009, the FAR requires federal agencies to post all contractor performance evaluations in PPIRS.*

Relative Importance of PP within Evaluation Criteria

- If PP = primary evaluation factor, 25+% or = in significance to other non-cost eval factors. (*Gov't*)
 - If <25%, it might reduce the offeror's perception of how important good contract performance is as a consideration during source selection.
- In commercial procurements, technical and mgmt. approaches are usually very similar among offerors; therefore, using PP instead of technical excellence or mgmt. capability as an evaluation factor makes evaluation more effective, especially when considered with price. (*Commercial & Gov't*)

A cartoon-style illustration of a chalkboard on a stand. The board is dark grey with a light-colored border and contains two lines of white text. A small white eraser and a piece of chalk are visible at the bottom of the board.

Q: What do you call a doll's cookout?

A: A Barbie-Q!

Distinguishing Between PP and Prior/Corporate Experience

- Evaluation of PP and prior exp is similar:
 - ✓ PPIRS database of previous contracts for the same or similar effort
- Different in terms of previous contracts:
 - Prior experience evaluates whether you have performed similar/relevant work in the past.
 - PP evaluate how well you have performed the same or similar past or current contracts.

Which is a better determinant of the future?



Relevancy = Same or Similar Efforts

- **Relevancy** – evaluates size, scope, complexity, or type of contract (i.e., FFP).
- **Currency** – evaluates recency. *Unless solicitation sets a specific time limit, contracts completed within the last three years are generally considered current (see OFPP guidance.)*

↑ Relevant ↑ Weight

↑ Current ↑ Same Capacity

Currency  Time

Q: What do you call a convertible in the rain?

A: A carpool !

- **Context** relates to the circumstances in which an event occurs. The narrative in the PP must substantiate the context.
- **Trends** are evaluated to determine how an offeror performs over time or across a number of other contracts.

PP as Responsibility Factor vs. Evaluation Factor

WARNING:
FAR
Language

- FAR 9.104-3(b) requires the use of PP in making determinations of responsibility:
 - *“A prospective contractor that is or recently has been seriously deficient in contract performance shall be presumed to be non-responsible, unless the contracting officer determines that the circumstances were properly beyond the contractor’s control, or that the contractor has taken appropriate corrective action. Past failure to apply sufficient tenacity and perseverance to perform acceptably is strong evidence of non-responsibility. Failure to meet the quality requirements of the contract is a significant factor to consider in determining satisfactory performance.”*
- PP is evaluated for purposes of source selection in competitively negotiated acquisitions.
 1. Establish competitive range
 2. Determine best value
- When PP is used to determine responsibility, after completion of the final evaluation and immediately before award, the Contracting Officer performs an assessment to determine if the offeror is a responsible business able to perform the contract.



PP as Responsibility Factor continued...

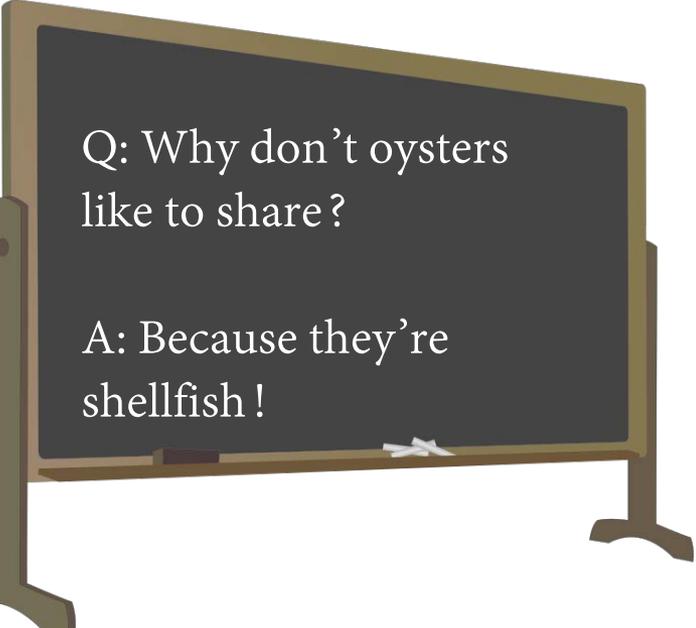
- To be determined responsible, a prospective contractor must—
 - (a) Have adequate financial resources to perform the contract, or the ability to obtain them
 - (b) Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments;
 - (c) **Have a satisfactory performance record**. A prospective contractor shall not be determined responsible or non-responsible solely on the basis of a lack of relevant performance history;
 - (d) Have a satisfactory record of integrity and business ethics.
 - (e) Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them (including, as appropriate, such elements as production control procedures, property control systems, quality assurance measures, and safety programs applicable to materials to be produced or services to be performed by the prospective contractor and subcontractors).
 - (f) Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them; and
 - (g) Be otherwise qualified and eligible to receive an award under applicable laws and regulations.



If a small business fails to meet the responsibility standards and is determined to be not responsible, the SBA may issue a Certificate of Competency (COC) declaring that the firm is not a responsible business concern.

What is Evaluated as PP?

- Quality of Product or Service
 - Timeliness
 - Cost Control
 - Business Relations
-
- Whether PP is used as one evaluation factor or as one or more significant subfactors, it *“must (1) represent the key performance criteria of the statement of work and (2) support meaningful comparisons and discrimination between and among competing proposals.”*



Q: Why don't oysters like to share?

A: Because they're shellfish!

PP Evaluation Procedures

- RFP Section L explains how PP is evaluated based on based on current and PP information furnished by the offeror as well as info from other Gov't agencies, suppliers, subcontractors, or customers of the offeror.
- Remember, these can also be evaluated:
 - ✓ predecessor companies
 - ✓ key personnel with relevant experience
 - ✓ subcontractors

– *Neutral rating given those offerors without PP*
- ✓ Identify any performance difficulties and discuss corrective actions
- ✓ Identify the cause of the problems and describe problem resolution
 - ✓ *If past problems are not fully addressed, it is assumed that they still exist and the proposal will be evaluated accordingly.*
- ✓ Provide info on awards or commendations received to boost your score.



that will perform major or critical aspects of the requirement

Rating Quality of PP

- Two ways to rate PP info: (1) with respect to quality of performance in meeting past contractual requirements and (2) with respect to the degree of performance risk.
- The Office of Federal Procurement Policy (OFPP) has defined five adjectival ratings: Excellent, Very Good, Satisfactory, Marginal, and Unsatisfactory.
 - Evaluators sometimes assign a color code or numerical value

Color	Rating	Description
Blue	Outstanding	Proposal indicates an exceptional approach and understanding of the requirements and contains multiple strengths, and risk of unsuccessful performance is low.
Purple	Good	Proposal indicates a thorough approach and understanding the requirements and contains at least one strength, and risk of unsuccessful performance is low to moderate.
Green	Acceptable	Proposal meets requirements and indicates an adequate approach and understanding of the requirements, and risk of unsuccessful performance is no worse than moderate.
Yellow	Marginal	Proposal has not demonstrated an adequate approach and understanding of the requirements, and/or risk of unsuccessful performance is high.
Red	Unacceptable	Proposal does not meet requirements of the solicitation, and thus, contains one or more deficiencies, and/or risk of unsuccessful performance is unacceptable. Proposal is unawardable.

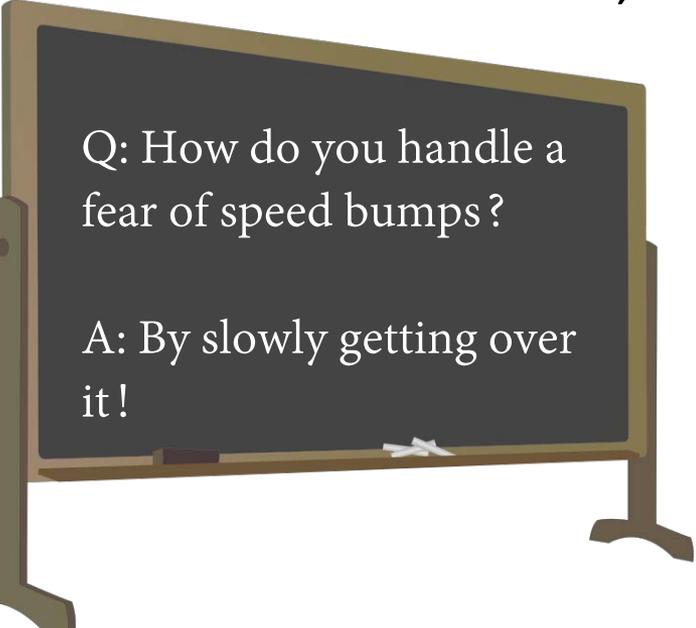
Rating Degree of Performance Risk

- Relates strengths and weaknesses of PP to the likelihood of successful performance on the prospective contract.
 - From a Comptroller General decision: PP *“instills confidence that a company will probably do well but does not, in and of itself, guarantee that a company will do well, whereas, poor performance is a good indicator of performance risk.”*

		B		
		Minor	Moderate	Major
A	Unlikely	Low	Low	Medium
	Possible	Low	Medium	High
	Likely	Medium	High	High

Obtaining PP Info and References

- OFPP guidance suggests offerors be required to provide references for five to 10 relevant contracts, not more than three years old, to establish PP qualifications.
- Reference checks are done by Gov't only for listed contracts that meet the relevancy and currency test. Under FAR Subpart 42.15, there is no need to contact the reference; instead, Gov't will access report card from PPIRS.

A cartoon-style illustration of a chalkboard on a stand. The board is dark grey with a wooden frame and a white chalk line at the bottom. It contains two lines of white text: a question and an answer.

Q: How do you handle a fear of speed bumps?

A: By slowly getting over it!

- References must explain any poor performance, and not simply provide yes/no answers to questions.
- *Remember, Gov't may also use other sources of info such as contacting suppliers or other business contacts not listed in references, so not referencing a problem contract does not ensure that the contract problems will not come up!*

Questions for References

- Gov't should ask references questions relevant to the four areas of PP being evaluated: Quality, Timeliness, Cost Control, Business Relations.
 - If you had a choice, would you contract with this contractor again? If no, why not? If yes, does the contractor's performance have any particular performance strong points?
 - Did the products or services meet contractual requirements, particularly with respect to the quality provided?
 - Did the contractor make contractual and administrative deliveries on time? If not, why not, and what specific delivery dates were not met?
 - Did the contractor complete the effort within the budget? If not, were the cost growth or other cost control problems due to contractor inefficiency or lack of expertise?
 - Was the award amount or delivery schedule changed? If so, was the contractor cooperative and responsive in carrying out the changes?
 - Did the contractor demonstrate business-like concern for the customer?
 - If there were problems, did the contractor act promptly to resolve them? How effective was the contractor's corrective action?

N/A for fixed price contracts

Strategy for Preparing PP

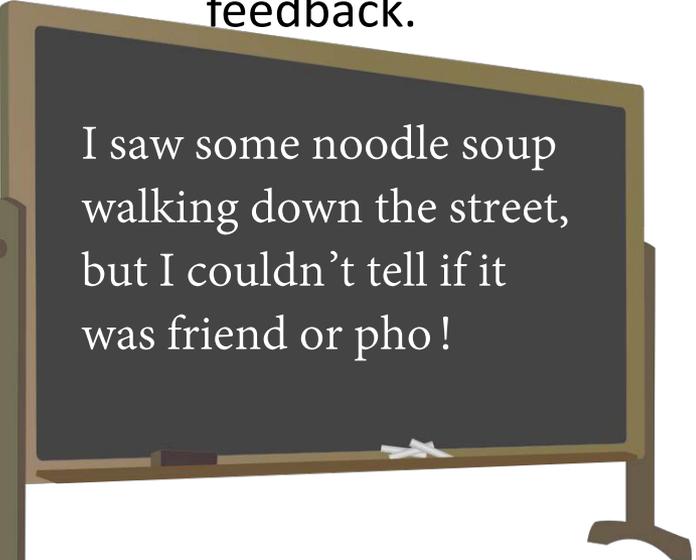
- In the proposal: Also include letters of commendation/kudos, awards, relevant industry or Gov't papers or newsletters (*not marketing or sales related and not deliverables owned by the customer!*)
- During proposal evaluation: Award with or without discussion? Gov't should allow opportunity for offeror to clarify "*adverse PP info to which it has not previously had an opportunity to respond.*"
 - If Gov't finds negative info in PPIRS, discuss your adverse performance before the evaluation report is finalized. Demonstrate that you learned from the experience and you know how to handle the problem using corrective actions to prevent future unsatisfactory performance.
- During contract performance:
 - Document any communication with Gov't about unsatisfactory performance.
- During annual and final PP evaluations throughout contract, i.e., CPARs
 - All federal agencies are required to complete a contractor performance report at end of contract performance and provide a copy to the contractor.



Remind the
Gov't to do
this!

Storing and Using PP Info

- During contract performance, track any event or activity that the Gov't may view unfavorably.
 - Include record of all contract activity: delays, conformance problems, contract changes, and any disagreements with Gov't reps. Record the event, the participants, the problem, and what action was or will be taken. Update record with prospective actions and final results.
 - Take note of any verbal performance feedback from Gov't and save all written feedback. Resolve any problems discussed in negative feedback.
- Keep any PPQ's from previous proposals or other documentation provided by the Gov't used to ask questions. If no PPQ's are used, develop one of your own and request the contracting agency complete it at the end of contract performance. Use copies of this document in future proposals to provide contemporaneous PP info that might counter different info provided by the agency in response to a later PPQ by a different procuring agency.



I saw some noodle soup
walking down the street,
but I couldn't tell if it
was friend or pho !

Contractor Performance Evaluations

(i.e, CPARs)

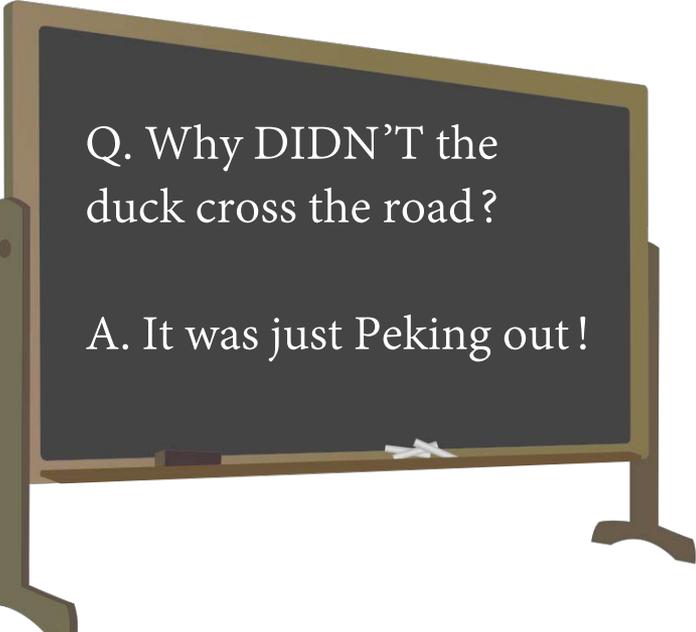
- Conducted on contracts or orders upon completion of activities.
- Purpose is to provide current info that can be used in future source selection on a contract where the period of performance = >1 year.
- Not meant to correct current performance, not contractually required. Required for the agency but not for contractors. Do not affect payments to contractors.
- Do not affect the contract directly, but can affect future contracts if the award of those contracts is based on PP.
 - Effective as tools of contract administration to motivate contractor to optimum performance, however, they are not used during contract execution to evaluate contract performance.
 - Only one contractor performance evaluation needs to be conducted in a year on any single contract or order.
- Not used to evaluate end user satisfaction, performance of key personnel, or the performance of subcontractors.

Evaluation Guidance and Review

- Gov't should provide evaluation guidance in the RFP:
 - Basis on which the evaluation is made
 - Rating procedures
 - Process for contractor review and resolution of disagreements
 - Final ratings and evaluation reports
- Review each rating in your evaluation report/debrief:
 - Did the agency assess our performance on all major requirements? If not, what was left out?
 - Did the agency interpret requirements the same way we did? If not, what are the differences?
 - Are the narrative statements supporting the ratings factually correct? If not, what should be corrected?
 - Do the narratives support the rating, i.e., justify a higher rating than satisfactory or explain a rating lower than satisfactory?
 - Do we agree with the ratings? If not, what evidence would support a higher rating?

Responding to Evaluation

- Gov't must provide a response to contractors who bring up the following with supporting evidence:
 - Contracting Officers (CO's) must correct factual errors
 - CO's must consider additional info from contractors but do not have to incorporate it into the evaluation.
 - If contractor disagrees with Gov't assessment, contractor must convince CO that the agency's rating is incorrect. Provide any info that wasn't taken into consideration in making the initial rating or showing that the initial rating was based on inaccurate or false info or on a misinterpretation of what transpired.



Q. Why DIDN'T the duck cross the road?

A. It was just Peking out!

- Informally discuss unsatisfactory ratings with Gov't for clarification before responding in writing. Discuss with the CO or with other members of acquisition team with whom the CO works.
- If there is a disagreement post-award, the FAR requires the Gov't to give the contractor an opportunity not only to rebut the CO's performance assessment, but also to provide a review after CO denies contractor's rebuttal. This review can be handed at a level above the CO.

Commenting on Contractor Performance Evaluations (i.e., CPARs)

- The FAR requires agencies to allow contractors to review performance evaluations and gives them 30 days to submit comments and rebuttals.
 - Use this time to change the ratings or wording of the supporting narratives in the evaluation report.
 - Provide detailed explanations of such factors as:
 - The Gov'ts role in contributing to any perceived performance problems
 - How the problem was beyond the your control
 - Efforts you took at the time to address the issue
 - Corrective action you took to prevent future occurrences of the problems
 - The uncharacteristic nature of the problem in light of your overall performance record



This is one time when an excuse works!



Show you have learned from your mistakes!

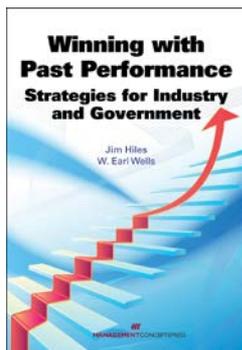
Poor Performance and Bidding on Future Contracts

- In instances of poor performance on a contract, closely examine all aspects of the contract to determine how to best distinguish it from the effort being solicited. Avoid including the problematic contract in the proposal as a relevant contract.
 - Consider distinguishing factors such as: technical similarities, dollar amount, age, contract type (i.e., FFP or Cost-Plus), performance period, and nature of customer
- If the contract must be included in the proposal as a relevant contract, thoroughly explain any performance problems.
 - Emphasize these areas: the Gov't's role in contributing to any perceived performance problems, how the problem was beyond the contractor's control, efforts taken at the time to address the issue, and any corrective actions taken to prevent future occurrences of the problems.
- Indicate that you regard any poor performance on a previous contract as “lessons learned” and assure the Gov't that no similar problems will occur in the future because of changes you have already made.

Past Performance Books

Source: www.ManagementConcepts.com

- *Winning with Past Performance: Strategies for Industry and Government* - Jim Hiles, W. Earl Wells \$62 hardcover, \$37.60 ebook
- *Past Performance Handbook, Second Edition* - Joseph Beausoleil \$95 hardcover, \$67 ebook



Presenter:

Alyssa Simpson Feliho, Membership Chair
APMP Florida Sunshine Chapter
asfeliho@gmail.com

