



**OFFICE OF INSPECTOR GENERAL**

U.S. Department of Energy

# INSPECTION REPORT

DOE-OIG-22-01

October 2021

**ALLEGATION REGARDING  
CONTRACTOR PERFORMANCE  
ASSESSMENT ALTERATION**



**Department of Energy**  
Washington, DC 20585

October 13, 2021

MEMORANDUM FOR THE DIRECTOR, OFFICE OF MANAGEMENT

SUBJECT: Inspection Report on “Allegation Regarding Contractor Performance Assessment Alteration”

The attached report discusses our review of the allegation regarding contractor performance assessment alteration. This report contains one recommendation that, if fully implemented, should help ensure that the issue identified during this inspection is corrected. Management fully concurred with our recommendation.

We conducted this inspection from February 2021 through September 2021 in accordance with the Council of the Inspectors General on Integrity and Efficiency’s *Quality Standards for Inspection and Evaluation*. We appreciated the cooperation and assistance received during this evaluation.

A handwritten signature in black ink, appearing to read "Anthony Cruz", is written over a light gray rectangular background.

Anthony Cruz  
Assistant Inspector General  
for Inspections, Intelligence Oversight,  
and Special Projects  
Office of Inspector General

cc: Deputy Secretary  
Chief of Staff



## Department of Energy Office of Inspector General

### Allegation Regarding Contractor Performance Assessment Alteration (DOE-OIG-22-01)

#### WHY THE OIG PERFORMED THIS REVIEW

The Office of Inspector General received an allegation regarding the Contractor Performance Assessment Reporting System (CPARS) rating entered for a contractor for the period of March 2019 through March 2020. The complaint alleged that the rating had been altered and was inconsistent with the input adjudicated by the Assessing Official (AO) that was provided to the Reviewing Official for comment.

We initiated this inspection to determine the facts and circumstances regarding the allegation concerning the alteration of the contractor's performance assessment.

#### What Did the OIG Find?

We substantiated the allegation that the contractor's CPARS rating for the period of March 2019 through March 2020 had been altered and was inconsistent with the rating entered by the AO that was provided to the Reviewing Official for comment.

According to *Guidance for the Contractor Performance Assessment Reporting System*, the AO evaluates, signs, and releases the rating, while the Reviewing Official reviews, comments on, signs, and closes the AO's evaluation. We found that the Contracting Officer (CO) altered the AO's rating in CPARS, even though the CO had no authority to do so. Further, the CO kept the AO's name on the altered rating. As such, the rating alteration was not made in accordance with guidance and was misleading because it appeared to CPARS users that the AO had made the rating.

#### What Is the Impact?

Past performance systems ensure that current, complete, and accurate information on contractor performance is available for use in procurement source selections to allow for informed business decisions when awarding Government contracts and orders. If a lack of timely performance ratings and resulting concerns lead the Office of Management to act outside of established guidelines and alter a rating, there is no assurance that the information in CPARS is accurate or credible.

#### What Is the Path Forward?

To address the issue identified in this report, we have made one recommendation that, if fully implemented, should help ensure that the issue identified during our inspection is corrected.

## BACKGROUND

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In March 2015, the Department of Energy's Office of Environment, Health, Safety and Security (Health and Safety) entered into a contract to acquire specialized services at its facilities in Washington, DC, and Germantown, Maryland. The contract was assigned a Contracting Officer (CO) to ensure the performance of all necessary actions for effective contracting, ensure compliance with the terms of the contract, and to safeguard the interests of the United States in its contractual relationships. Also, a Contracting Officer's Representative (COR) was appointed to monitor and coordinate the technical requirements of the contract and provide technical direction to the contractor.

According to Federal Acquisition Regulation (FAR) 42, *Contract Administration and Audit Services*, subpart 15, *Contractor Performance Information*, (FAR 42.15), for applicable contracts, the Department must prepare past performance evaluations at least annually and use the Contractor Performance Assessment Reporting System (CPARS) — the official United States Government website for those who make, receive, and manage Federal awards to measure the quality and timely reporting of past performance information. The Department of Energy Acquisition Guide further states that *Guidance for the Contractor Performance Assessment Reporting System* (CPARS Guide) is based on the authorities prescribed by FAR and provides guidance and procedures for assessing contractor performance, as required by FAR 42.15. The CPARS Guide also defines roles for preparing performance evaluations. The primary role defined in the CPARS Guide is that of the Assessing Official (AO), who is responsible for completing performance evaluations in a timely manner. According to the CPARS Guide, the AO may be a CO, contract specialist, administrative CO, purchasing agent, or program manager, or the equivalent individual responsible for program, project, or task/job/delivery order execution. In some agencies, the AO may also mean the performance evaluator, quality assurance evaluator, requirements indicator, COR, or alternate COR. The AO's duties include preparing, reviewing, signing, and processing the evaluation. A second CPARS role, the Reviewing Official (RO), must be one level above the AO and is responsible for reviewing, providing comments, signing, and closing the evaluation in CPARS. According to FAR 42.15, this role should be within the contracting office at a level above the CO. The RO's comments supplement those provided by the AO; however, they do not replace the AO's ratings or narratives. AOs and ROs will normally be designated from within the contracting activity or the organization, office, or program that identifies the requirement and are in the best position to evaluate contractor performance.

On November 18, 2020, the Office of Inspector General received an allegation regarding the CPARS rating entered for the contractor for the period of March 2019 through March 2020. The complaint alleged that the rating had been altered and was inconsistent with the input adjudicated by the AO that was provided to the RO for comment. We initiated this inspection to determine the facts and circumstances regarding the allegation concerning the alteration of the contractor's performance assessment.

## RATING ALTERATION

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We substantiated the allegation that the contractor's CPARS rating for the period of March 2019 through March 2020 had been altered and was inconsistent with the rating entered by the AO that was provided to the RO for comment. Specifically, we found that the CO altered the AO's rating, even though the CO had no authority to make a change in CPARS. Also, the CO kept the AO's name on the altered rating. As such, the rating alteration was not made in accordance with guidance and was misleading because it appeared to CPARS users that the AO had entered the altered rating.

In August 2020, a Health and Safety official held both the role of COR and AO in CPARS. An Office of Management (MA) official served as CO and had no role in CPARS, while the CO's supervisor, also an MA official, was assigned the role of RO in CPARS. At that time, in accordance with the CPARS Guide, the AO entered and signed the initial rating of performance in CPARS for the period of March 2019 through March 2020. Specifically, the AO rated the contractor in five areas as follows: Quality — Unsatisfactory; Schedule — Marginal; Cost Control — Satisfactory; Management — Satisfactory; and Regulatory Compliance — Satisfactory.

The contractor responded that the rating was not accurate or supported by objective evidence, so Health and Safety provided additional support for its rating. The MA determined that the documentation provided was still insufficient and was concerned about the following factors: while annual performance evaluations in CPARS have been required since the contract started in 2015, the performance rating for the period of March 2019 through March 2020 was the only one entered in CPARS; Health and Safety neglected to inform the CO of the performance issues and at no time during the CPARS rating period in question did the CO notify the contractor that the contractor's performance was unsatisfactory; and, as of February 14, 2020, the contractor had been awarded a 12-month contract extension through March 17, 2021, which the contractor thought indicated that its performance was satisfactory enough to warrant such an extension. As a result of these factors and the MA's view that there was limited documentation to support the initial rating, in October 2020, with the RO's knowledge, the CO revised the rating in CPARS so that all five areas were Satisfactory, and the RO signed this rating as final. Despite the CO's alteration, CPARS still showed that the AO and the RO signed the final rating with a note that states, "This evaluation has been modified by the Assessing Official." On October 21, 2020, the finalized CPARS rating was sent from the CO to Health and Safety, which realized that the rating was inconsistent with the review entered by the AO. In November 2020, Health and Safety asked that the rating be reopened and edited to reflect the AO's ratings. Later, Health and Safety asked that the rating be reopened to annotate that the AO had not made the changes to the rating. The MA denied both requests.

According to the MA, it had the authority to alter the rating without the Health and Safety agreement based on FAR 42, *Contract Administration and Audit Services*, subpart 1503, *Contractor Performance Information*, (d), which states that "agencies shall provide for review at a level above the contracting officer to consider disagreements between the parties regarding the evaluation. The ultimate conclusion on the performance evaluation is a decision of the

contracting agency.” The MA also told us that it kept the AO’s name in CPARS because it was unsure whether CPARS would allow that change. Finally, in a subsequent discussion, MA officials told us that this issue would have been prevented if the CO served as the AO.

However, we found that neither FAR nor the CPARS Guide allow the MA to change the AO’s rating. According to Department procedures, the Department relies upon the CPARS Guide to identify the roles and responsibilities for performance evaluations, and it identifies two primary roles: the AO, who is responsible for completing quality evaluations to include preparing, reviewing, signing, and processing the evaluation; and the RO, who reviews any disagreements that the contractor has with the evaluation and provides additional comments. We found no guidance, including the CPARS Guide, Department procedures, or FAR that authorizes the CO or the RO to change or amend the evaluation entered by the AO. Also, while communication with the contractor during the evaluation period is strongly encouraged, this is not documented as a parameter upon which the evaluation must be based. Rather, the evaluation is supposed to accurately reflect the contractor’s performance regardless of a lack of communication or prior evaluations. Further, a CPARS representative told us that even though the rating is final, the rating could be reopened by the CPARS Help Desk at any time and edited. As such, the AO’s name could still be removed from the altered rating in CPARS. Finally, neither FAR nor the CPARS Guide require the CO to serve as the AO, but the CPARS Guide specifically states that the COR can serve as the AO.

We attributed the inappropriate rating alteration to a lack of timely performance ratings. When questioned, Health and Safety did not know why timely performance ratings were not entered in CPARS. We were unable to question the AO on this contract because this individual no longer works for the Department.

## **PROCUREMENT SOURCE SELECTIONS**

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Past performance systems ensure that current, complete, and accurate information on contractor performance is available for use in procurement source selections to allow for informed business decisions when awarding Government contracts and orders. If a lack of timely performance ratings and the resulting concerns lead the MA to act outside of established guidelines and alter a rating, there is no assurance that the information in CPARS is accurate or credible. Therefore, when the information is used by source selection officials, there is less assurance that the Federal Government only does business with companies that provide quality products and services in support of the agency’s missions.

## **RECOMMENDATION**

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We recommend that the Director, MA, direct the Office of Acquisition Management to:

1. Conduct performance evaluations of contractors in accordance with the CPARS Guide and include timeliness of ratings and adherence to assigned roles and responsibilities.

## **MANAGEMENT RESPONSE**

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Management fully concurred with our recommendation and stated that since the CPARS rating reviewed under this draft report was finalized, the MA conducted a subsequent CPARS rating with the CO as AO based on input from the Health and Safety AO's Representative. The MA also stated that the roles on the subsequent CPARS were clearly identified for the period ending in 2021, and the record was finalized in May 2021 with no issue. The MA considers this recommendation completed as of May 19, 2021, and it will continue to make timely CPARS ratings in accordance with the CPARS Guide and adhere to assigned roles and responsibilities.

However, the MA disagreed with the report's statement, "Specifically, we found that the CO altered the AO's rating, even though the CO had no authority to make a change in CPARS." The MA explained that FAR 42.1503(d), *Procedures*, states that "agencies shall provide for review at a level above the contracting officer to consider disagreements between the parties regarding the evaluation. The ultimate conclusion on the performance evaluation is a decision of the contracting agency." The MA stated that in this instance, the MA was the contracting authority for the contract under review, and the ultimate decision on any final ratings rested squarely within the MA's purview. Due to conflicting views in the assigned ratings within the Department, a RO above the CO considered feedback from the Health and Safety program office and technical monitors, the CO, the contractor, and available performance documentation to assign a final rating that was supported by the record.

Management comments are included in Appendix 2.

## **INSPECTOR COMMENTS**

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Management's comments and corrective action are responsive to our recommendation. Regarding the MA's disagreement with the report's statement, we did not identify any guidance that allows the CO to make modifications to CPARS ratings without input from the AO. Further, the term "contracting agency" in the context of FAR 42.1503(d) refers to the Department, not MA, which is an office within the Department. Finally, the CPARS Guide, provides specific guidance on evaluating contractor performance and explains that the assigned AO, who might work in numerous different agency offices, is responsible for assigning the rating.

## **Appendix 1: Objective, Scope, and Methodology**

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### **OBJECTIVE**

We initiated this inspection to determine the facts and circumstances regarding the allegation concerning the alteration of the contractor's performance assessment.

### **SCOPE**

The inspection was performed from February 2021 through September 2021. The parties in the allegation were located at the Department of Energy Headquarters in Washington, DC. The scope was limited to the facts and circumstances surrounding the allegation concerning the alteration of the contractor's performance assessment. The inspection was conducted under Office of Inspector General project number S21OR011.

### **METHODOLOGY**

To accomplish our inspection objective, we:

- Reviewed Federal and Department regulations, policies, procedures, and guidance;
- Held discussions with Department and Contractor Performance Assessment Reporting System personnel with subject matter expertise in the inspection areas;
- Reviewed the Contractor Performance Assessment Reporting System rating in question and associated documentation; and
- Reviewed the Department's contract with the specialized services provider.

We conducted our inspection in accordance with the *Quality Standards for Inspection and Evaluation* (December 2020) as put forth by the Council of the Inspectors General on Integrity and Efficiency. We believe that the work performed provides a reasonable basis for our conclusions.

Management officials waived an exit conference on September 28, 2021.

## Appendix 2: Management Comments

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Department of Energy  
Washington, DC 20585

September 23, 2021

MEMORANDUM FOR ANTHONY CRUZ  
ASSISTANT INSPECTOR GENERAL  
FOR INSPECTIONS, INTELLIGENCE OVERSIGHT,  
AND SPECIAL PROJECTS

FROM: INGRID KOLB  
DIRECTOR  
OFFICE OF MANAGEMENT

Ingrid Kolb  
Digitally signed by Ingrid  
Kolb  
Date: 2021.09.23  
12:55:57 -04'00'

SUBJECT: Response to Draft Inspection Report on “Allegation  
Regarding Contractor Performance Assessment Alteration”  
(Project Number S21OR011)

The Office of Management (MA) appreciates the work performed by the Department of Energy’s (DOE) Office of Inspector General (OIG) in conducting the subject review and for the opportunity to respond to the issues and recommendation in the subject draft report. MA remains focused on conducting timely, meaningful past performance ratings to hold contractors accountable and inform future source selection decisions.

The attachment includes MA’s response to the recommendation and a statement made in the report. OIG should direct any questions to Mr. John Harris, Chief of Staff, Office of Acquisition Management at (202) 287-1471 or [john.harris@hq.doe.gov](mailto:john.harris@hq.doe.gov).

Attachment

## Appendix 2: Management Comments

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### Management Response

Draft Inspection Report on  
“Allegation Regarding Contractor Performance Assessment Alteration”  
(Project Number S21OR011)

#### Recommendation 1:

Conduct performance evaluations of contractors in accordance with the CPARS Guide and include timeliness of ratings and adherence to assigned roles and responsibilities.

#### Management Response to Recommendation 1:

Concur, but disagree with a statement made in the draft report. See the Management Response to an OIG statement below.

**Corrective Action:** Since the CPARS record reviewed under this draft report was finalized, the Office of Management (MA) conducted a subsequent CPARS rating with the Contracting Officer as Assessing Official based on input from the AU Assessing Official’s Representative. The roles on the subsequent CPARS were clearly identified and the record for the period March 17, 2020 through March 16, 2021 was finalized in May 2021 with no issue. MA will continue to make timely CPARS ratings in accordance with the CPARS Guide and adhere to assigned roles and responsibilities.

**Date Completed:** May19, 2021

#### Management Response to an OIG Statement:

*OIG Statement:* “Specifically, we found that the CO altered the AO’s rating, even though the CO had no authority to make a change in CPARS.” (page 2, first paragraph)

*Management Response:* Federal Acquisition Regulation (FAR) 42.1503 (d) states that “Agencies shall provide for review at a level above the contracting officer to consider disagreements between the parties regarding the evaluation. The ultimate conclusion on the performance evaluation is a decision of the contracting agency.”

In this instance, MA was the contracting authority for the contract under review and the ultimate decision on any final ratings rested squarely within MA’s purview. Due to the differences of opinion in the assigned ratings within DOE, a reviewing official above the Contracting Officer considered feedback from the AU program office and technical monitors, the Contracting Officer, the contractor, and available performance documentation to assign a final rating that was supported by the record.

## FEEDBACK

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Office of Inspector General (IG-12)  
Department of Energy  
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