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**CONTRACTOR PAST PERFORMANCE INFORMATION (PPI) IN SOURCE SELECTION: A COMPARISON STUDY OF PUBLIC AND PRIVATE SECTOR**

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**by**

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## Proceedings of the Annual Acquisition Research Program

The following article is taken as an excerpt from the proceedings of the annual Acquisition Research Program. This annual event showcases the research projects funded through the Acquisition Research Program at the Graduate School of Business and Public Policy at the Naval Postgraduate School. Featuring keynote speakers, plenary panels, multiple panel sessions, a student research poster show and social events, the Annual Acquisition Research Symposium offers a candid environment where high-ranking Department of Defense (DoD) officials, industry officials, accomplished faculty and military students are encouraged to collaborate on finding applicable solutions to the challenges facing acquisition policies and processes within the DoD today. By jointly and publicly questioning the norms of industry and academia, the resulting research benefits from myriad perspectives and collaborations which can identify better solutions and practices in acquisition, contract, financial, logistics and program management.

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# Contractor Past Performance Information (PPI) In Source Selection: A comparison Study of Public and Private Sector

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## Abstract

The following executive summary is a collection of excerpts from the Sponsored Series Report NPS-CM-04-019 which numbers 122 pages (including field interview summaries).

The Federal Acquisition Regulation (FAR) mandates the use of contractor past performance information (PPI) as an evaluation factor in all source selections involving negotiated procurements above $1,000,000. Different agencies within Federal Government have lowered the dollar threshold to as little as $100,000 depending on the type of contract action. Using PPI as a factor in all source selections was a tactic modeled after industry best practices. The Office of Federal Procurement Policy (OFPP) envisioned that industry PPI collected by Federal agencies would eventually be automated, maintained on secure databases, and available to all Government agencies for source-selection purposes. This practice would eventually lead to efficiencies similar to those in the private sector. However, along the way, Government and private-sector industry have begun to disagree about how PPI is collected and how PPI is used. Industry prefers a passive system of collecting delivery and quality data during contract performance, while Federal government uses both a passive system (similar to industry) as well as an active system of pulling PPI during contract performance. Industry uses PPI to establish and maintain a preferred vendor list from which to solicit bids, quotes or proposals, while government uses PPI to assess risk and establish vendor responsibility in a full and open competition environment. Contract award cycle-time within the Federal Acquisition process is more than double that of the private sector due to an evaluation process that is cumbersome, time-consuming, and lacking the efficiencies enjoyed by private industry. Government (the DoD in particular) has recently become more curious regarding industry best practices and how those practices can be implemented in the government—in particular, as a possibility of diminishing the Government Contracting Officer's and the Source

Selection team's added burden. This paper will explore through field research the current PPI collection and evaluation process used by the DoD and by those employed in industry. The goal behind such research is, again, industry best practices and improving the DoD's use of PPI as a tool in the acquisition processes.

## Significant Findings

The most interesting finding discovered by the researcher involved the difference between full and open competition mandated in the public sector and competition encouraged in the private sector. Although there are more similarities between public- and private-sector acquisitions than differences, the researcher has uncovered two fundamental differences which stand out as glaring departures in the typical >$1,000,000 acquisition system. These differences include 1) Right v. Privilege to bid, and 2) Use of full and open competition.

### *1. Right v. Privilege to Bid*

The public sector is mandated by the Federal Acquisition Regulation (FAR) to seek full & open competition.[1] It is the right of every vendor to submit a quote, bid or proposal for equal consideration, regardless of past performance history.[2] This right is extended to all vendors who have not been suspended or debarred in accordance with FAR Part 9—Contractor Qualifications. Conversely, private sector, too, encourages competition; however, it is only encouraged among their *approved* vendors. It is, therefore, a defacto privilege for a vendor to offer a quote, bid, or proposal within the private sector.[3]

| | Public Sector | Private Sector |
|---|---|---|
| Opportunity to offer a bid, quote, or proposal | Right | Privilege |
| Regulatory Guidance | FAR Part 6— Competition Reqt Mandates competition | UCC Article 2— Sale of Goods is silent |

**Table 1. Opportunity to Bid**

The Issue within the public sector: Disappointed offerors may elect to protest. In 1997, past performance protests constituted only 8% of all protests, and as of June 2000 that percentage had grown to 29%. An upward trend is also evident with the percentage of past performance protests as a percentage of sustained protest. In 1997, sustained past

[1] Federal Acquisition Regulation (FAR) 19.201(a) states: "It is the policy of the Government to provide maximum practical opportunities in its acquisitions to small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns."

[2] Competition in Contracting Act of 1984 (CICA) Public Law 98-369, sec. 2701, established "full and open" as a requirement in public sector procurements unless certain conditions exist.

[3] Uniform Commercial Code (UCC). Copyright 1978, 1987, 1988, 1990, 1991, 1992, 1994, 1995, 1998, 2001 by The American Law Institute and the National Conference of Commissioners on Uniform State Laws*:* contains no statute or requirement mandating full and open competition.

performance protests accounted for only 10% of the overall sustained protests, and by June of 2000 that percentage had risen to 30%.[4]

Interestingly, as government has moved to adopt industry best practices for source selections based on vendor past performance, industry has responded with increased protests. This realization that industry suspects unfair source selection practices only reinforces the need for government to maintain a robust PPI collection system for retrieving current and relevant vendor performance history and that government exercise due diligence in their responsibilities as source selection officials to apply evaluation criteria consistently across all vendor bids, quotes or proposals in accordance with evaluation criteria set forth in each solicitation. This also emphasizes the notion that government is indeed different than industry,5 further that the right to bid (public sector) versus the privilege to bid (private sector) does not lend to a smooth and seamless adoption of industry best practices under current public laws, statutes, and regulations.

The private sector is guided by the Uniform Commercial Code (UCC) in routine business practices; yet UCC Article 2, "Sale of Goods," is silent regarding competition when soliciting bid, quotes, or proposals. What is decidedly different is that *the private sector is not mandated to seek full & open competition*. Disappointed vendors have no legal recourse with GAO or the U. S. Court of Federal Claims if they are not asked by a private sector firm to provide a bid, quote, or proposal, or if their bid, quote or proposal was not selected for contract award. The only viable alternative for the disappointed vendor is to call their respective Congressman or Senator. The research data suggests that congressional inquiries are more likely to be directed to larger firms in the private sector than smaller firms. Research interviews conducted as part of this study indicate that answering congressional and senatorial inquiries is taken seriously and handled professionally within the private sector; yet, these inquiries do not have the disruptive nature that a GAO Protest has in the public sector. Hence, it is not likely that a congressional inquest will delay a contract award or halt contract performance in the private sector.[6]

### *2. Full and Open Competition: a Socioeconomic Process*

The other striking difference between public sector and private sector procurement processes deals with full and open competition. Government acquisition is a socio-economic process. Its number-one priority is supporting socioeconomic goals mandated by public law. After priority number one is met, priority number two is the acquisition of supplies, services, construction, R&D, etc. at the right time and at the right price.

#### Government

Public sector is mandated to compete all requirements using full and open competition procedures whenever feasible.[7] What is less obvious to an outside observer is the burden of proof placed on the PCO to prove competition does or does not exist OR that it is in the best interest of the government not to complete the requirement.[8] This public-sector process of bypassing full and open competition requirement is exacting and time consuming. Yet, industry, as discussed previously, has no competition requirement.

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[4] Snider, K. & Walkner, M. (2001). Best practices and protests: Toward effective use of past performance as a criterion in source selections. *Journal of Public Procurement*, 1(1), 99 – 101.

[5] See note 4. (Snider & Walkner, 2001, p. 100).

[6] Northrop Grumman, Lockheed Martin. Interviews conducted Aug and Sep 2004.

[7] Federal Acquisition Regulation (FAR) Part 6.101—Full and Open Competition Policy.

[8] Federal Acquisition Regulation (FAR) Part 6.302: 1 through 7.

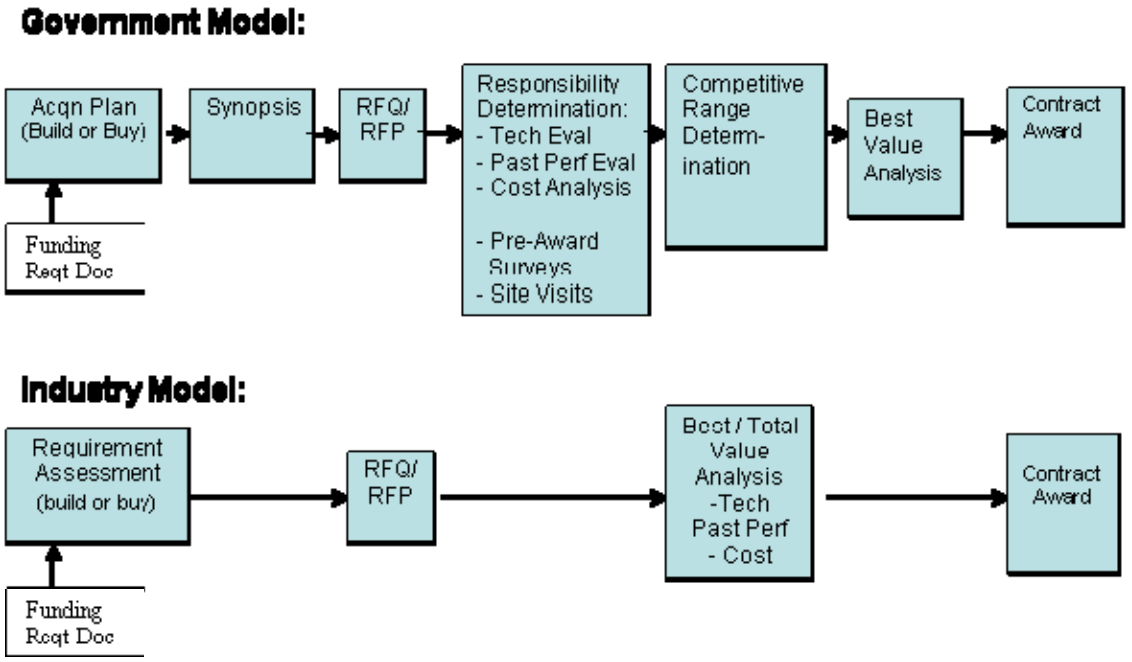
**Industry**

Similar to government, once a requirement and funding is identified by an industry, a solicitation is forwarded to interested vendors; yet, unlike government, the new requirement normally is forwarded to a pre-approved vendor list, or as some industry counterparts call it: an "A Team." A world-wide search for new vendors is not performed unless it makes sense to do so.[9] Full and open competition is not normally used.

Perhaps the government contract arrangements closest to these long-term private-sector relationships are Indefinite Delivery Type Contracts and Performance-Based Contract vehicles; these are both only typically re-competed after five years. Although government is headed in the right direction towards improved efficiency, the typical Indefinite-Delivery or Performance-Based Contract vehicle has a relatively short life-span and requires that all like requirements go only to that particular contract awardee.

In the government model, a typical requirement, based on the researcher's experience, could realistically reach a 210-day PALT, as shown in Figure 1.

In the industry procurement model, the following steps or blocks are effectively eliminated: 1) Synopsis, 2) Responsibility Determination, and 3) a separate Best-Value Analysis which is combined into one heading under Total Value or Best Value. The researcher has estimated a PALT from a similar procurement action (based on private-sector interviews) under similar urgency conditions to reach contract award in 75 days, or in about one-third the time of the government model, as shown in Figure 1 below:




**Government timeline:**

30 days 15 days 45 days 60 days 30 days 30 days = 210 days

**Industry timeline:**

[9] Northrop Grumman. Interview conducted Sep 2004.

15 days 30 days 30 days = 75 days

**Figure 1. Government v. Industry Procurement Action Lead Time (PALT) Comparison**

It should be noted that industry, similar to government, must occasionally follow the full acquisition process when a new requirement justifies the search for a new supplier(s). The search for new suppliers is seen as rare by industry acquisition specialists and only executed when it makes sense to do so.[10] If government is to continue evolving and incorporating industry best practices, improving PALT by eliminating burdensome acquisition processes is a viable area for consideration. Table 2 provides an illustrative summary of efficiencies realized in the private sector.

| **Requirement Identified** | **Market Research, Responsibility Determination** | **Competitive Range Determination** | **Best Value Contract Award** |
|---|---|---|---|
| **Government** | • Synopsis world-wide<br>• Pre-Solicitation Conference<br>• Pre-Award Survey<br>• Site visits | • Tech Approach<br>• Past Perf. Eval<br>• Cost Analysis | Contract Award |
| **Industry** (With preferred vendor support) | → | • Tech Approach<br>• Past Perf Eval<br>• Cost Analysis | Contract Award |
| **Industry** (Mature vendor relations, Lean, JIT etc.) | → | → | Contract Award |

**Table 2. Responsibility Determination Comparison: Public v. Private Sector**

## ANALYSIS OF RESEARCH QUESTIONS

The two basic research questions under study were as follows:

### 1. What are the principal issues involved in using PPI in the source-selection process?

The principle issues uncovered in using past-performance information (PPI) in the source-selection process are as follows:

a. A robust PPI infrastructure is required to justify source selections to other than the lowest-priced technically acceptable (LPTA) offeror.

b. PPI is generally used as a *risk assessment* and to separate the good proposal writers from the good vendors.

c. PPI is typically never used as a stand-alone factor for non-contract award in a full and open competition environment (Govt) or when using a preferred vendor list (Industry).

[10] Northrop Grumman. Interview conducted Sep 2004.

d. PPI can only be defendable if made quantifiable.

e. An active (or passive) PPI collection system continues to be burdensome, yet useful in the public sector.

**2. How might an assessment of industry models of past-performance evaluation assist in improving the DoD's use of past performance as an evaluation criterion?**

Although government activities fell in line with one another regarding acquisition processes and procedures, industries varied somewhat in their acquisition process methodology and their methodology for collecting and evaluating vendor past performance. Therefore, the following tables represent an aggregate list of findings and do not reflect any one particular government activity or industry firm.

| **PPI Collection:** | **Government Model** | **Industry Model** |
|---|---|---|
| | | |
| **PPI Collection Sys.** | PPIRS/CPARS (Active) | SCORECARD (Passive) |
| | - Quality | - Quality |
| | - Delivery | - Delivery |
| | - Cost Control | Manual sys for tracking Cost |
| | - Business Relations | Manual system for tracking Business relations |
| | PPIRS/RYG (Passive) | |
| | - Quality | |
| | - Delivery | |
| **Class of Collection Sys.** | Active | Passive |
| | Prgm Mgrs actively engaged in grading interim and final vendor performance | Vendor performance is monitored by a shipping/receiving system and QC personnel |
| | Passive | |
| | Vendor performance is monitored by a shipping/receiving system and QC personnel | |

**Table 3. Summary of Government v. Industry PPI Collection Systems**

| PPI Evaluation: | Government Model | Industry Model |
|---|---|---|
| **Key Elements Evaluated** | Quality | Quality |
| | Delivery | Delivery |
| | Cost Control | Cost Control (manual) |
| | Business Relations | Business Relations (manual) |
| **Priorities** | 1) Socio-economic objectives, 2) Cost, Schedule, Performance | 1) Profit & shareholder interests, 2) Reputation based on quality |
| **Competition** | - Full and Open competition (FAR Part 6 and CICA of 1984) | - No competition requirement (UCC Article 2 is silent) |
| **Invitation to provide a bid, quote, proposal** | Right | Privilege |
| **Most important source selection factor** | Technical Capability | Past Performance/Use of pre-approved vendors |
| **Best value source selection** | Responsibility Determination:<br>1. Technical Capability<br>2. Past Performance<br>3. Cost/Price<br>After a lengthy evaluation of proposals, only the offerors whose proposals are considered responsive to the solicitation and determined to be responsible (capable) are kept in the competitive range.<br>These vendors are then evaluated, similar to industry according to:<br>1. Technical Capability<br>2. Past Performance<br>3. Cost/Price | Responsibility is generally pre-determined<br>- only the best performing vendors are given opportunity to provide bids, quotes, or proposals.<br><br>These vendors are then evaluated, similar to government according to:<br>1. Technical Capability<br>2. Past Performance<br>3. Cost/Price |

**Table 4. Summary of Government v. Industry PPI Evaluation Methodology**

## RECOMMENDATIONS

Based on interviews with government and industry acquisition professionals in the field and data collected from those interviews, the researcher makes the following recommendations:

1. **Government should continue building and improving on the existing government PPI collection system.** FAR Part 15 has given the Government PCO the authority to eliminate non-responsive and non-responsible offerors from the competitive range or from final contract award. However, *a robust PPI system must be in place in order to back up the PCO when challenged.* For this reason, government must continue to move forward in its objective to provide a reliable PPI collection and evaluation system.

2. **Industry should continue with a scorecard PPI system.** The threat of senatorial or congressional inquiries for arbitrarily awarding contract requirements to "A Team" vendors is not great enough to warrant an elaborate PPI system.

3. **Competition in Contracting Act (CICA) of 1984 is in need of revision.** Industry has a decided advantage in Procurement Action Lead Time (PALT) when compared to government. Although PALT is a somewhat dated measure of procurement efficiency, it does bring to light an obvious mismatch between the public and private sectors. If government is willing to accept a 210 PALT when industry is awarding the same contract requirement in 75 days, then change is not needed. However, if government is serious about positive change, CICA and government socio-economic policies must be revisited. Major reasons for industry's decided advantage are the public sector's following issues: 1) the right to provide a quote, bid, or proposal, 2) government's mandate to use full and open competition whenever possible, and 3) socioeconomic policy.

4. **Continued compliance with established policies in reporting past-performance history is required.** As discussed briefly above, one of the main difficulties of using past performance information from a government database is the lack of data about individual vendors. Timely CPARs inputs are needed.

## CONCLUSIONS

Throughout this field study, the researcher has noted observations in both government and industry regarding how each collects and evaluates PPI for the purpose of making a valid assessment of risk. Following is a summary of these conclusions:

- Industry is probably where it needs to be regarding collection and use of vendor past-performance history. A passive "somewhat hand-off" PPI collection system centered around a closed-loop purchasing-shipping-receiving-QC system is probably sufficient given industry's volume of procurement activity and current lack of competition or socioeconomic requirements. Also, the level of PPI infrastructure should be tailored to the relative size of the industry firm.
- Government's PPI collection system is much larger, more robust, and exceedingly more man-power intensive than industry's. Yet, if allowed to evolve, researchers will probably witness an increase in the relative weighting given to past performance as a source-selection factor in individual solicitations. Although government is always on the path to re-invent itself, it is not likely that it will come much closer to adopting industry PPI procedures than where it currently stands.
- Opportunity for improvements: Acquisition cycle-time or PALT. Being afforded the opportunity to converse directly with industry acquisition professionals at their own respective sites yielded one major lasting impression on the researcher. That lasting impression centers around the *speed and efficiency in which industry operates in the acquisition-planning, proposal-evaluation, source-selection, and contract-award processes*. It is obvious that industry has the competitive advantage in acquisition cycle-time. The only way to address this shortcoming of the governmental process is to address government-mandated competition requirements and socioeconomic goals.

As the world situation continues to change, the way we fight wars must subsequently change. Key to that effort is acquisition. Government must take bold steps to evolve the acquisition process into an agile, efficient, streamlined process if it is to remain responsive to both the war fighter and the taxpayer.

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