

What To Do With A Non-Performing Contractor

By Susan J. Harvey, 2003

From time to time all managers who supervise contracts experience the marginal or poor performing contractor. Despite the best efforts to construct a bulletproof statement of work, conduct a thorough examination of the past performance of bidders, and adherence to a proven set of evaluation factors, mistakes do happen. Either the contractor did not understand the requirements for the contract or there was otherwise a big disconnect between expectations and execution. In any event there are a number of tools the manager has at his or her disposal to correct the action. The obvious first step is a sit down between the Contracting Officer's Technical Representative and the contractor program manager to straighten out any issues between government expectations and contractor execution. If, after a reasonable period of time to access improvement, the problem is not corrected, formal action is appropriate. One way to attract the attention of the contractor is for the Contracting Officer to issue a written letter citing deficiencies in contract performance. This could include explicit instructions to cure the performance problem over a defined time period with follow up performance evaluations by the government until the government is fully satisfied that contract expectations are being met. More drastic measures available to the manager to deal with non-performance are termination of the contract for the convenience of the government or, more punitively, for default under the provisions of Part 49 of the FAR.