

Issue:

Through general conversations at many SAME, AGC and DBIA events there has been an undercurrent of dissatisfaction with the Contractor Performance Assessment Reporting System (CPARS) process by construction and architectural/engineer service companies. Many of the complaints revolved around the consistency of the ratings and lack of collaboration in the process. The government benefits from a consistent and reliable performance rating system to positively incentivize performance and support future acquisition decisions.

SAME Tasking:

SAME appointed an Industry Government Engagement (IGE) team to evaluate the issues related to CPARS: The initial tasking was:

- Investigate and recommend an adjudication process of adverse interim and final CPARS ratings.
- How CPARS is currently used and identification of any gaps or inconsistencies
- Enhance Understanding of CPARS
- This project will focus on results not requiring changes to the Federal Acquisition Regulations.

Industry-Government Engagement Team:

The below team members were selected based on their involvement and engagement with the three member Professional Societies and not their opinion of the CPARS system; or in the case of the government Design and Construction Agency (DCA) representatives, they were appointed by their leadership.

<b>Name</b>	<b>Organization</b>	
Michael Blount	SAME	Professional Society
Rob Biederman	SAME	Professional Society
Jordan Howard	AGC	Professional Society
Laura Stagner	DBIA	Professional Society
Bob Schlesinger	Prime AE	Architect/Engineer Company
John Alberghini	Michael Baker	Architect/Engineer Company
Greg Bowman	Siemens Government	Architect/Engineer Company
Lee Hopson	AECOM	Architect/Engineer Company
Lacey Craven	NAVFAC	Government DCA
Kimberly Armstrong	NAVFAC	Government DCA
Darrick Godfrey	USACE	Government DCA
Judy Biddle	AFCEC	Government DCA
Shea DeLutis	Clark Construction	General Contractor
Chip Scott	Grunley Construction	General Contractor

Discussion:

The IGE Team identified five focus areas to review and discuss:

1. Drive for consistency within an Agency and across all Agencies
2. Drive for incorporation of CPARS rating [sub]factors definitions and understanding into Partnering (written into Partnering and "Kickoff" documents/direction) with periodic follow up
3. Support a dispute resolution process for low ratings prior to recording in CPARS.
4. Drive for correlation between meaning of CPARS ratings given for a project/contract and interpretation by future source selection boards.
5. Promulgate and support CPARS training for contractors.

Recommendation:

Have the IGE address the following and report back at JETC 2022:

1. Liaison with GSA regarding development of CPARS modules on Construction and Architectural Services that provide more consistent rigor and detail in the rating process. Similar to the rigor of the old CCASS and ACASS. If GSA is not amenable to a change, develop tri-service (DCAs) sub-factors for consistent application for construction and AE contracts.
2. Incorporate CPARS rating [sub]factors definitions and understanding into the DCA's Partnering Directives
3. Develop a plan to promulgate and support CPARS training for all contractors via Society/Association educational forums, DCA outreach and other vehicles.

Back up: Expanded Focus Area Discussion:

1. Drive for consistency within an Agency and across all Agencies
  - a. Option: Adopt the newly developed NAVFAC Construction and AE CPARS Matrix within all DoD DCAs; or develop new criteria/matrix for CPARS rating development.
  - b. Option: Bring back a unique module for Construction and AE Services like CCASS and ACASS. Work with GSA CPARS Leadership to determine viability/possibility.
2. Drive for incorporation of CPARS rating [sub]factors definitions and understanding into Partnering (written into Partnering and "Kickoff" documents/direction) with periodic follow up
  - a. Alignment on project / stakeholder(s) specific criteria for each of the 5 performance factors
  - b. Establish a schedule for periodic CPARS review and discussions throughout the 12-month evaluation term; and develop a process of contractor input prior to Interim and Final CPARS.
  - c. Although managed by the DCA, determine which stakeholder entities also have a contributing voice in the CPARS evaluation
  - d. Incorporate into existing DCA guidance on Partnering.
3. Support a dispute resolution process for low ratings prior to recording in CPARS.
  - a. Possible process: If 50% of the marks are Marginal or any are Unsatisfactory or marked with a "will not hire again". Establish an informal dispute resolution process with escalation ladder, and review prior to officially issuing a CPARS (which leads to the 14-day review period, possible non-concur and final issuance).
  - b. Comment: This might be a bridge too far since it ventures into the actual contract administration and known remedies; and we should focus on the consistency and collaboration (Items 1 and 2) and this type/level of resolution will not be needed.
  - c. Comment: An official appeal process exists - A contractor's letter questioning the correctness of a contracting officer's actions based upon the express and incorporated terms of the contract will constitute a claim because it seeks interpretation of contract terms and relief thereunder. For example, to the extent FAR 42.1503 is incorporated into your contract, that provision requires evaluations to be accurate and be based on objective facts. If you believe (and have evidence to show) your evaluation was inaccurate or lacks objectivity, you may assert as much in a claim, request that the contracting officer re-evaluate you in accordance with the contract terms and seek a final decision. Should the contracting officer deny this claim, you may appeal it as you would any other Contract Disputes Act claim.
4. Drive for correlation between meaning of CPARS ratings given for a project/contract and interpretation by future source selection boards.
  - a. Establish training for both source selection boards and project execution teams on the importance and impacts of CPARS evaluations
  - b. Interim (annual) versus Final
  - c. Comment: Like item 3, this could be eliminated by a focus on consistency and collaboration. Again, this might be helped with better education and training of all involved.

5. Promulgate and support CPARS training for Contractors.
  - a. Agency driven training on public facing websites
  - b. Agency training at industry events, SAME and other professional societies could incorporate into training conferences and stand-alone offerings