

FAPIS Goes Live—Or Does It?

Written by Administrator
Friday, 23 April 2010 00:00

We called it “past performance on steroids” and we see no reason to back away from that description. As we [originally posted](#), FAPIS was to be used for evaluating contractor past performance or making a determination of contractor responsibility when making a new contract award decision.

As we [told you](#), the final rule (published in March 2010) summarized FAPIS as follows—

FAPIS is intended to significantly enhance the scope of information available to contracting officers as they evaluate the integrity and performance of prospective

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contractors. ...FAPIS will also include contracting officers' non-responsibility determinations (i.e., agency assessments that prospective contractors do not meet requisite responsibility standards to perform for the Government), contract terminations for default or cause, agency defective pricing determinations, administrative agreements entered into by suspension and debarment officials to resolve a suspension or debarment, and contractor self-reporting of criminal convictions, civil liability, and adverse administrative actions. The system will collect this information ... from existing systems ... contracting officers ... suspension and debarment officials ... and contractors

FAPIS went “live” on April 22, 2010—as [this story](#) on TheHill.com reports. In the words of the article—

The Federal Awardee Performance and Integrity Information System aims to prevent less-than-ethical contractors from taking overlapping jobs, covering up past poor performances, or not being upfront about conflicts of interests. Federal procurement officers are supposed to use the information in the database when certifying a vendor.

The article quotes Senator Claire McCaskill (D-MO)—who should be known to our readers as the Senator who spearheaded the inquiries into audit quality problems at DCAA—as saying—

If we're going to get the best bang for our buck, we need to make sure the people who are awarding contracts have access to all the information they need to make smart decisions. Because we didn't have a centralized place for the information, bad actors were being awarded new contracts despite countless dollars lost to waste, fraud and abuse.

Though FAPIS has been implemented, it hasn't been *fully* implemented.

As part of implementing FAPIS, FAR 9.406-3 was revised to require that

Suspension/Debarment Officials (SDOs) enter data about administrative agreements (which are alternatives to suspension or debarment) into the FAPIIS database. It was judged to be critical that contracting officers learn which contractors have avoided suspension or debarment through executing administrative agreements. Such contractors may have avoided dire consequences, but the creators of FAPIIS still thought contracting officers ought to know—and to take into account—how close the contractors came to the “death penalty” of government contracting. But the Department of Defense (DOD) won’t be submitting its data into the system.

On April 15, 2010, Mr. Shay Assad (Director, Defense Procurement and Acquisition Policy) issued a Class Deviation to military services, DOD agencies, and DOD field activities, directing that DOD SDOs not to enter information regarding administrative agreements into FAPIIS. The Class Deviation can be found [here](#). The language is unclear regarding the rationale for not submitting the data, though it hints at the lack of a “template for storage” of the data. The Class Deviation states that the template is anticipated to be “incorporated into FAPIIS by the fall of 2010.”

How serious is this gap in the FAPIIS inputs? It’s difficult to state with any certainty. But it seems strange that FAPIIS should be ready in all respects—except for this one. One wonders which contractors have administrative agreements, and might be put at a competitive disadvantage were

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those agreements to be brought to the attention of the contracting officer overseeing a source evaluation? We'll have to wait until October or November to learn the answer to that question. In the meantime, take a stroll through the [Federal Contractor Misconduct Database](#).