**DFARS Case 2019-D009**

**Use of Supplier Performance Risk System (SPRS) Assessments**

**Final Rule**

**PART 204—ADMINISTRATIVE AND INFORMATION MATTERS**

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**[SUBPART 204.76—SUPPLIER PERFORMANCE RISK SYSTEM**

**204.7600 Scope of subpart.**

**This subpart provides policies and procedures for use of the Supplier Performance Risk System (SPRS) risk assessments in the evaluation of a quotation or offer.**

**204.7601 Definitions**.

**As used in this subpart—**

**“Item risk” means the probability that a product, based on intended use, will introduce performance risk resulting in safety issues, mission degradation, or monetary loss.**

**“Price risk” means the measure of whether a proposed price for a product or service is consistent with historical prices paid for that item or service.**

**“Supplier risk” means the probability that an award may subject the procurement to the risk of unsuccessful performance or to supply chain risk (see 239.7301).**

**204.7602 Applicability**.

**Use of SPRS risk assessments is required for the evaluation of quotations or offers in response to solicitations for supplies and services, including solicitations using FAR part 12 procedures for the acquisition of commercial products and commercial services, excluding solicitations for the procurement of supplies or services exempted by the Department of Defense Instruction (DoDI) 5000.79, Defense-wide Sharing and Use of Supplier and Product Performance Information. SPRS retrieves item, price, quality, delivery, and contractor information from contracts in Government reporting systems in order to develop risk assessments of contractors. SPRS is available at *https://piee.eb.mil/*, and the SPRS user’s guides are** **available at** ***https://www.sprs.csd.disa.mil/reference.htm*.**

**204.7603 Procedures.**

**The contracting officer shall consider price risk and supplier risk, if available in SPRS, as a part of the award decision. For procurement of an end product identified by a material identifier that is available as described at PGI 204.7603, the contracting officer shall also consider assessments of item risk, if available, as a part of the award decision. Offerors or quoters without a risk assessment in SPRS shall not be considered favorably or unfavorably. Contracting officers shall use their discretion in considering the information available in SPRS on item risk, price risk, and supplier risk as follows:**

**(a) *Item risk.***

**(1) Consider item risk to determine whether the procurement of products represents a high performance risk to the Government. If an item has a high risk rating, then the SPRS item risk report will display the reason(s) an item is identified as high risk.**

**(2) Before issuing a solicitation for the procurement of an end product identified by a material identifier that is available as described at PGI 204.7603, the contracting officer shall ensure a SPRS item risk search has been performed and shall consider any item risk warnings provided. When evaluating quotations or offers for an end product identified by a material identifier, a SPRS item risk search is required for any end product that did not have an item risk search performed prior to solicitation. If there are item risk warnings, the contracting officer shall consider strategies to mitigate risk, such as the following:**

**(i) Consulting with the program office.**

**(ii) Including mitigating requirements in the statement of work, as provided by the requiring activity.**

**(iii) Including FAR and DFARS clauses identified in the SPRS application, as appropriate.**

**(b) *Price risk*.**

**(1) When procuring a service or an end product identified by a material identifier that is available as described at PGI 204.7603, the contracting officer shall consider price risk assessment in determining if a proposed price is consistent with historical prices paid for an item or otherwise creates a risk to the Government. Contracting officers shall not rely solely on the price risk assessment when determining prices to be fair and reasonable.**

**(2) The contracting officer shall consider strategies to mitigate price risk, such as the following:**

**(i) Not awarding to offerors or quoters with high risk price ratings unless there is a way to justify the price through additional price or cost analysis.**

**(ii) Utilizing appropriate price negotiation techniques and procedures.**

**(iii) Using price reasonableness or price realism techniques at FAR 13.106 or 15.4. See also 215.403-3 when making award decisions.**

**(c) *Supplier risk*. The contracting officer shall consider supplier risk, to assess the risk of unsuccessful performance and supply chain risk, in award decisions. Supplier risk assessments in SPRS include quality, delivery, and other contractor performance information.**

**204.7604 Solicitation provision.**

**Except for supplies or services exempted by DoDI 5000.79, use the provision at 252.204-7024, Notice on the Use of the Supplier Performance Risk System, in solicitations for supplies and services, including solicitations using FAR part 12 procedures for the acquisition of commercial products and commercial services.]**

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**PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES**

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**Subpart 208.4—Federal Supply Schedules**

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**208.405 Ordering procedures for Federal Supply Schedules.**

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**[(4) See 204.7603 for procedures on the required use of the Supplier Performance Risk System (SPRS) risk assessments.**

**(i) The contracting officer shall ensure SPRS assessments of price risk and supplier risk are considered as a part of the award decision.**

**(ii) When placing an order with a schedule contractor for an end product identified by a material identifier that is available as described at PGI 204.7603, and item risk was not previously considered during award of the schedule contract, the contracting officer shall also consider SPRS assessments of item risk in the award decision.**

**(iii) Use the provision at 252.204-7024, Notice on the Use of the Supplier Performance Risk System, as prescribed in 204.7604 to the extent permitted by the Federal Supply Schedule.]**

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**PART 209—CONTRACTOR QUALIFICATIONS**

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**SUBPART 209.1--RESPONSIBLE PROSPECTIVE CONTRACTORS**

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**209.105-1 Obtaining information.**

(1) For guidance on using the Exclusion section of the System for Award Management, see PGI 209.105-1.

(2) A satisfactory performance record is a factor in determining contractor responsibility (see FAR 9.104-1(c)).

**[(i)]** One source of information relating to contractor performance is the Contractor Performance Assessment Reporting System (CPARS), available at *https://www.cpars.gov/*.

**[(ii)]** Information relating to contract terminations for cause and for default is also available through the Federal Awardee Performance and Integrity Information System (FAPIIS) module of CPARS, available at [*~~https://www.fapiis.gov~~*](https://www.fapiis.gov)**[*https://sam.gov*]**(see **[FAR]** subpart 42.15). This termination information is just one consideration in determining contractor responsibility.

**[(iii) Contracting officers shall consider the supplier risk assessment available in the Supplier Performance Risk System at *https://piee.eb.mil/* when determining responsibility. See 204.7603(c).]**

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**PART 212—ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES**

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**Subpart 212.2—Special Requirements for the Acquisition of Commercial PRODUCTS AND COMMERCIAL SERVICES.**

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**212.203 Procedures for solicitation, evaluation, and award.**

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**[ (3) See 204.7603 for procedures on the required use of Supplier Performance Risk System risk assessments as part of the award decision.]**

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**SUBPART 212.3—SOLICITATION PROVISIONS AND CONTRACT CLAUSES FOR THE ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES**

**212.301 Solicitation provisions and contract clauses for the acquisition of commercial products and commercial services.**

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(f) \* \* \*

(ii) *Part 204—Administrative and Information Matters.*

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**[(O) Use the provision at 252.204-7024, Notice on the Use of the Supplier Performance Risk System, as prescribed in 204.7604.]**

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~~(v)~~ *~~Part 213—Simplified Acquisition Procedures.~~* ~~Use the provision at 252.213-7000, Notice to Prospective Suppliers on Use of Supplier Performance Risk System in Past Performance Evaluations, as prescribed in 213.106-2-70.~~

(~~vi~~**[v]**) *Part 215—Contracting by Negotiation*. (A) Use the provision at 252.215-7003, Requirements for Submission of Data Other Than Certified Cost or Pricing Data—Canadian Commercial Corporation, as prescribed at 215.408(2)(i).

*[Redesignate paragraphs (vi) through (xx) as paragraphs (v) through (xix).]*

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**PART 213—SIMPLIFIED ACQUISITION PROCEDURES**

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**SUBPART 213.1—PROCEDURES**

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**213.106-2 Evaluation of quotations or offers.**

**[ (b)(i) See 204.7603 for procedures on the requirement for contracting officers to consider Supplier Performance Risk System risk assessments as a basis of award.]**

~~(b)(i) For competitive solicitations for supplies using FAR part 13 simplified acquisition procedures including competitive solicitations using FAR part 12 procedures for the acquisition of commercial items and acquisitions valued at less than or equal to $1 million under the authority at FAR subpart 13.5, the contracting officer shall—~~

~~(A)~~~~Consider data available in the statistical reporting module of the Supplier Performance Risk System (SPRS) regarding the supplier's past performance history for the Federal supply class (FSC) and product or service code (PSC) of the supplies being purchased. Procedures for the use of SPRS in the evaluation of quotations or offers are provided in the SPRS User's Manual available under the references section of the SPRS website at https://www.sprs.csd.disa.mil/reference.htm. supplier.~~

~~(B) Ensure the basis for award includes an evaluation of each supplier's past performance history in SPRS for the FSC and PSC of the supplies being purchased; and~~

~~(C) In the case of a supplier without a record of relevant past performance history in SPRS for the FSC or PSC of the supplies being purchased, the supplier may not be evaluated favorably or unfavorably for its past performance history.~~

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**213.106-2-70 Solicitation provision.**

**[Use the provision at 252.204-7024, Notice on the Use of the Supplier Performance Risk System, as prescribed in 204.7604.]**

~~Use the provision at 252.213-7000, Notice to Prospective Suppliers on Use of Supplier Performance Risk System in Past Performance Evaluations, in competitive solicitations for supplies when using FAR part 13 simplified acquisition procedures, including competitive solicitations using FAR part 12 procedures for the acquisition of commercial items and acquisitions valued at less than or equal to $1 million under the authority at FAR subpart 13.5.~~

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**PART 215—CONTRACTING BY NEGOTIATION**

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**Subpart 215.3—Source Selection**

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**215.304 Evaluation factors and significant subfactors.**

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**[** **(c) \* \* \***

**(viii)(A) When procuring supplies or services, the contracting officer shall ensure Supplier Performance Risk System (SPRS) assessments of price risk and supplier risk are considered as a part of the award decision. See 204.7603.**

**(B) When procuring an end product identified by a material identifier that is available as described at PGI 204.7603, the contracting officer shall also consider SPRS assessments of item risk in the award decision.]**

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**Subpart 215.4—Contract Pricing**

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**215.404**  **Proposal analysis.**

**215.404-1 Proposal analysis techniques.**

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(b) *Price analysis.*

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**[** **(viii) When procuring a service or an end product identified by a material identifier that is available as described at PGI 204.7603, the contracting officer shall consider the Supplier Performance Risk System price risk assessments in determining if a proposed price is consistent with historical prices paid for an item or otherwise creates a risk to the Government. See also 215.403-3(a)(1).]**

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**PART 216—TYPES OF CONTRACTS**

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**SUBPART 216.5—INDEFINITE-DELIVERY CONTRACTS**

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**216.505 Ordering.**

(a) *General.*

(6) \* \* \*

(S-70) \* \* \*

**[(S-71) See 204.7603 for procedures on the required use of the Supplier Performance Risk System (SPRS) risk assessments.**

**(i) The contracting officer shall ensure SPRS assessments of price risk and supplier risk are considered as a part of the award decision.**

**(ii) When placing an order for an end product identified by a material identifier that is available as described at PGI 204.7603, and item risk was not previously considered during award of the contract, the contracting officer shall also consider SPRS assessments of item risk in the award decision.**

**(iii) Use the provision at 252.204-7024, Notice on the Use of the Supplier Performance Risk System, as prescribed in 204.7604 to the extent permitted by the contract.]**

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**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

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**SUBPART 252.2—TEXT OF PROVISIONS AND CLAUSES**

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**[252.204-7024 Notice on the Use of the Supplier Performance Risk System.**

**As prescribed in 204.7604, use the following provision:**

**Notice on THE Use of THE Supplier Performance Risk System (MAR 2023)**

**(a) *Definitions.* As used in this provision—**

**“Item risk” means the probability that a product, based on intended use, will introduce performance risk resulting in safety issues, mission degradation, or monetary loss.**

**“Price risk” means a measure of whether a proposed price for a product or service is consistent with historical prices paid for that item or service.**

**“Supplier risk” means the probability that an award may subject the procurement to the risk of unsuccessful performance or to supply chain risk (see Defense Federal Acquisition Regulation Supplement 239.7301).**

**(b) The Supplier Performance Risk System (SPRS), available at *https://piee.eb.mil/,* will be used in the evaluation of the Quoter or Offeror’s performance. SPRS retrieves item, price, quality, delivery, and contractor information on contracts from Government reporting systems in order to develop risk assessments.**

**(c) The Contracting Officer will consider SPRS risk assessments during the evaluation of quotations or offers received in response to this solicitation as follows:**

**(1) Item risk will be considered to determine whether the procurement represents a high performance risk to the Government.**

**(2) Price risk will be considered in determining if a proposed price is consistent with historical prices paid for a product or a service or otherwise creates a risk to the Government.**

**(3) Supplier risk, including but not limited to quality and delivery, will be considered to assess the risk of unsuccessful performance and supply chain risk.**

**(d) SPRS risk assessments are generated daily. Quoters or Offerors are able to access their risk assessments by following the access instructions in the SPRS user's guide available at *https://www.sprs.csd.disa.mil/reference.htm*. Quoters and Offerors are granted access to SPRS for their own risk assessment classifications only. SPRS reporting procedures and risk assessment methodology are detailed in the SPRS user's guide. The method to challenge a rating generated by SPRS is also provided in the user's guide. SPRS evaluation criteria are available at** ***<https://www.sprs.csd.disa.mil/pdf/SPRS_DataEvaluationCriteria.pdf>*.**

**(e) The Contracting Officer may consider any other available and relevant information when evaluating a quotation or an offer.**

**(End of provision)]**

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**252.213-7000 [Reserved.]~~Notice to Prospective Suppliers on Use of Supplier Performance Risk System in Past Performance Evaluations.~~**

~~As prescribed in~~ [~~213.106-2-70~~](https://www.acq.osd.mil/dpap/dars/dfars/html/current/213_1.htm#213.106-2-70)~~, use the following provision:~~

**~~NOTICE TO PROSPECTIVE SUPPLIERS ON USE OF SUPPLIER PERFORMANCE RISK SYSTEM IN PAST PERFORMANCE EVALUATIONS (SEP 2019)~~**

~~(a) The Supplier Performance Risk System (SPSR) application (~~[~~https://www.sprs.csd.disa.mil~~](https://www.sprs.csd.disa.mil/reference.htm)~~) will be used in the evaluation of suppliers’ past performance in accordance with DFARS~~ [~~213.106-2~~](https://www.acq.osd.mil/dpap/dars/dfars/html/current/213_1.htm#213.106-2)~~(b)(i).~~

~~(b) SPRS collects quality and delivery data on previously awarded contracts and orders from existing Department of Defense reporting systems to classify each supplier’s performance history by Federal supply class (FSC) and product or service code (PSC). The SPRS application provides the contracting officer quantifiable past performance information regarding a supplier's quality and delivery performance for the FSC and PSC of the supplies being purchased.~~

~~(c) The quality and delivery classifications identified for a supplier in SPRS will be used by the contracting officer to evaluate a supplier’s past performance in conjunction with the supplier’s references (if requested) and other provisions of this solicitation under the past performance evaluation factor. The Government reserves the right to award to the supplier whose quotation or offer represents the best value to the Government.~~

~~(d) SPRS classifications are generated monthly for each contractor and can be reviewed by following the access instructions in the SPRS User’s Manual found at~~ [~~https://www.sprs.csd.disa.mil/reference.htm~~](https://www.sprs.csd.disa.mil/reference.htm)~~. Contractors are granted access to SPRS for their own classifications only. Suppliers are encouraged to review their own classifications, the SPRS reporting procedures and classification methodology detailed in the SPRS User's Manual, and SPRS Evaluation Criteria available from the references at~~ [~~https://www.sprs.csd.disa.mil/pdf/SPRS\_DataEvaluationCriteria.pdf~~](https://www.sprs.csd.disa.mil/pdf/SPRS_DataEvaluationCriteria.pdf)~~. The method to challenge a rating generated by SPRS is provided in the User’s Manual.~~

~~(End of provision)~~