



United States Department of Agriculture

# COR Webinar Series 8

## Final Inspection, Acceptance and Payment

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Good afternoon (Introduce myself), this is the final COR webinar in the series of 8 conducted over that past approximately 1-1/2 years which covered the subject matter from the “Contract Administration for Construction Contracts” Course. The previous 7 webinars in this series are archived and can be viewed, the post test taken and certificates received for credit. With all 8 webinars now complete, someone can get all necessary initial training credits for COR Level 1.

Since this is the final webinar we will discuss “Final Inspection, Acceptance, and Payment” of a Construction Contract. We will also cover a two additional items needed to close out a contract; the Contractor Performance Assessment Reporting System or CPARS and Records Retention Policy of the NRCS.

We have a lot to cover today so I will get right to it by starting with “Cleaning Up” the work site.

## Cleaning Up

- FAR 52.236-12, Cleaning Up
- Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials.
- Before completing work, contractor shall remove any rubbish, tools, scaffolding, equipment, and material not property of the government.
- Upon completing work, contractor shall leave work area in clean, neat, orderly condition.

Before we can make final acceptance of the work, the contractor shall clean up the site in accordance with FAR 52.236-12, Cleaning Up. This clause also applies during construction in which the contractor shall keep the work area free of accumulation of waste materials.

As the contractor moves toward completion of the work the site shall be cleaned up, all contractor equipment shall be removed, and access routes, fences, gates, waterways, etc. shall be restored to pre-construction conditions.

These are items that may be noted during the Pre-Final and/or Final Inspections so the contractor can be made aware of any items needing to be corrected.

So we then move toward the Final Inspection and Acceptance phase of the contract.

## Final Inspection & Acceptance



As the work progresses to a point where a completion date can be projected then the Final Inspection and Acceptance process can begin.

As a COR it is very important to track the contractor's progress according to his schedule and the end of the contract performance time. If the contractor will not finish within the contract performance time then more detailed documentation will need to occur and the CO kept abreast of the progress or lack of progress. Liquidated Damages can be assessed for any time beyond the end of the contract performance time. Of course modifications, weather or other changes may affect the performance time which will need to be accounted for.

Whether the contractor will finish within or beyond the contract performance time, the process for Final Inspection and Acceptance will be the same.

## Final Inspection & Acceptance

There are two inspections:

① 'Check-prior-to final inspection' is attended by the Contractor, QA Inspector, COR and a representative from the SCE staff. A local FO employee should attend. Sponsors may also attend.

② 'Final inspection' is attended by the Contractor, QA Inspector, COR and CO. FO and sponsors may also be represented.

The “Final Inspection and Acceptance” process consist of two parts; The “Pre-Final Inspection” or “Checklist-Prior-To-Final-Inspection” and the actual “Final Inspection”. We will discuss both events and timing required to schedule and complete these.

**Pre-Final Inspection** - This inspection needs to be projected well ahead of the anticipated completion of the work so the contractor has sufficient time to complete any items needing correction. The COR should coordinate with the CO at least two weeks prior to the Pre-Final Inspection so it can be scheduled for attendance by the CO, COR, QA Inspector, State Conservation Engineer or someone on their staff, the District Conservationist or local FO staff, and Sponsors. You may also invite the State Resource Conservationist or other members from your state staff as needed. Also, it may be optional if you invite the Contractor to this inspection and I will discuss this more in a minute. The COR may need to make arrangements for a meeting location and transportation, access, or other logistics to conduct the inspection. The personnel invited to the Pre-Final Inspection will view the work to determine that the work was completed within the terms of the contract and any deficiencies or outstanding items or a “Punch List” shall be developed. The COR will retain the original Punch List and provide a copy to the Contractor and all attendees.

As a note, Some states refer to this as the Semi-Final inspection and do it with a little more formality. Some may do it during the vegetation phase and have the local District Conservationist sign off on it. That way the DC has a little “buy-in” to the way the site is being left at the end of the contract. The DC is going to have to work with the sponsors at some point when the site is turned over to the sponsors.

**Final Inspection** – This inspection is usually scheduled a minimum of 5 working days prior to the contractor being ready for final inspection, which it is the Contractors responsibility to notify the CO of the date the work will be ready for Final Inspection. Again the same members need to be invited as for the Pre-Final Inspection and the Contractor will need to attend this inspection. The COR will need to coordinate the meeting location and logistics of the inspection.

Both of these inspections need to be documented in the Inspector’s Diary and COR Diary (if one is completed by COR). A sign-in list needs to be obtained of all attending both inspections. Sometimes it may be difficult to get everyone to attend both inspections so documentation of who attends is important to have for the records. It is a good idea to photograph the inspections as further documentation for the contract files.

We will now go into detail what is included on the “Punchlist” and “Final Inspection” forms.

## NRCS-AS-805 Punch List

**Suggestion:** Reference the relevant contract clause, bid item or specification when making the punch lists. Do this on both the NRCS-AS-805 and NRCS-AS-45.

- CS 2 - Remove piled brush
- CS 9 - Remove all temporary signage
- CS 5 - Mulch campsite area
- CS 64 - Clean up loose rock from RIPRAP stockpile
- CS 92 - Install gates on fence
- FAR 52.236-12 Cleaning Up



The items identified during the “Pre-Final” Inspection shall be documented on the NRCS-AS-805 or “Check List Prior to Final Inspection”. Prior to the “Pre-Final” Inspection, I would suggest that the COR and Inspector develop a list of items that are known deficiencies or outstanding items that will be used as a guide during the inspection since these two individuals have the most in-depth knowledge of what is required by the contract. This will facilitate the logistics of the inspection and help move through the work in a logical sequence. This list should be discussed with the CO prior to the date of the “Pre-Final” Inspection. Additional items can be noted during the inspection and a final list developed prior to providing to the contractor.

It is recommended that all items on the “Punch List” be referenced to the technical specifications or other parts of the contract. This will provide the details of what is to be done as specified in the contract and will guard against asking the contractor to do something that is not required by the contract.



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# NRCS-AS-805

This punch list should list all of the technical deficiencies at the time of the inspection

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SCS-AS-805  
Rev. 1-79

U. S. Department of Agriculture  
Soil Conservation Service

Check List Prior to Final Inspection

Watershed Bear Creek Contract No. LACD-133

Works of Improvement:  
Sites 1 and 2

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Deficiencies as of July 2, 1979  
Date

4 bolts missing on trash rack - Site 1

Back slope not dressed - Site 1

No gate at either site.

Borrow pits at both sites need to be backgraded and dressed.

Riprap not complete in impact basin at Site 2.

File of rocks to be removed from spillway at Site 2.

Debris from clearing operations in upper end of pool at Site 2.

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Date estimated ready for final inspection July 10, 1979

This report concurred in by:

/s/ I. M. Tuff Inspector  
Title

/s/ Paul G. Doe Gov't Representative  
Title

This is the NRCS-AS-805 that is used to document all deficiencies and outstanding items that will be provided to the contractor. Additional sheets may be needed depending on the size of the job and items needing to be addressed. This “Punch List” is usually signed by the COR and Inspector but needs to be coordinated with the CO prior to providing to the contractor. This may be handled differently in some states depending on the CO. Also noted on the “Punch List” is the estimated date the work should be ready for a “Final Inspection” so that this can be planned for. The COR and Inspector should go over this list with the contractor to make sure everything is clearly understood.

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## NRCS-AS-45

Reference the NRCS-AS-805 when filling out (a) There may be items listed here in addition to those listed on the AS-805.

(b) Other is for administrative items such as payrolls, modifications, etc.

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NRCS-AS-45  
REV. 9-72
U. S. DEPARTMENT OF AGRICULTURE  
SOIL CONSERVATION SERVICE

Contract No. LRCD-133

Date of Inspection July 11, 1979

**FINAL INSPECTION AND CERTIFICATE OF COMPLETION**

This is to certify that ABC Construction Company  
Contractor

Box 92, Tyler, Texas  
Address

had all work under the above contract for the construction of two floodwater  
retarding structures at Sites 1 and 2 in Bear Creek Watershed  
Job description and location

ready for final inspection on July 10, 1979 date; that the work was completed in accordance with the requirements of the contract with the following exceptions:

(a) Technical: Adjust slide gate fittings on principal spillway of structure  
at Site 2.

(b) Other: None

and it is recommended upon completion of the exception(s) listed under (a) above that the work under this contract be accepted by the Contracting Officer.

/s/ Paul D. Doe  
Government Representative

/s/ George D. Smith  
State Conservation Engineer

/s/ David L. Jones  
State Administrative Officer

The above exception(s) were completed on:

(a) <u>July 11, 1979</u> date	(b) _____ date
<u>/s/ Paul D. Doe</u> name Government Representative title	_____ name title

Now we are ready for the Final Inspection and to wrap up the work. I have discussed earlier the personnel that need to attend the final inspection and the CO and COR need to coordinate this inspection. A sign-in list of attendees needs to be obtained and again I would recommend having a list developed of items remaining to be completed to assist in the inspection.

The COR is responsible to complete the “NRCS-AS-45, Final Inspection and Certificate of Completion”. The date of inspection must be noted along with all (a) technical and (b) other items remaining to be corrected or completed. Under section (a), all technical items shall be listed which may be items remaining from the “Pre-Final Punch List” and any new or additional items identified during the “Final Inspection”. Under section (b), all Other items which are usually administrative items, i.e., certified payrolls, NOT for the SWPPP, or any outstanding items the CO may identify. Additional pages may need to be included with the “NRCS-AS-45” as needed.

Depending on the “Technical” items listed, the contract performance time may continue until completed. This will need to be made clear to the contractor by the CO. The items listed under section (b) Other, usually will not continue the contract performance time but will need to be completed prior to making final

payment under the contract.

# NRCS-AS-45

Final acceptance can only be made after items in both (a) and (b) have been completed.

The COR/GR must sign at the bottom under (a) and (b), as applicable and submit the AS-45 to the CO.

SCS-AS-45  
REV. 8-72

U. S. DEPARTMENT OF AGRICULTURE  
SOIL CONSERVATION SERVICE

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in accordance with the requirements of the contract with the following exceptions:

(a) Technical: Adjust slide gate fittings on principal spillway of structure  
at Site 2.

(b) Other: NONE

and it is recommended upon completion of the exception(s) listed under (a) above  
that the work under this contract be accepted by the Contracting Officer.

/s/ Paul O. Doe Government Representative      /s/ George D. Smith State Conservation Engineer

/s/ David L. Jones State Administrative Officer

The above exception(s) were completed on:

(a) <u>July 11, 1979</u> date	(b) _____ date
<u>/s/ Paul O. Doe</u> name	_____ name
Government Representative title	_____ title

The “Final Inspection Form” is signed by the COR, SCE, and the CO. If there are exceptions listed under parts (a) and/or (b) then a final punch list shall be provided to the contractor. The “NRCS-AS-45” will not be provided to the contractor. The COR is responsible for assuring all items listed under parts (a) and (b) are completed and shall document on the form the date those items have been completed and sign at the bottom of the AS-45. Once the AS-45 is signed by the COR, then the final copy shall be provided to the CO such that the contractor and sponsors can be notified.

The COR and Inspector shall maintain copies of the final inspection form in their files. Again the COR and Inspector shall continue putting entries in their diaries until all items are signed off as completed.

(Transition to next presenter)



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# Payment

While this webinar module primarily address final inspection, acceptance of the work, and final payment, we have not talked about payments generally in any of the previous seven webinars. Consequently, I will be covering progress payments in addition to final payment. The process is very similar for both, but with some minor but important differences.

## Contract Clauses

- There are two clause that stipulate the government and contractors rights and obligations
  - FAR 52.232-5, Payments under Fixed-Price Construction Contracts
    - Defines the government's obligation to make payments, type of payments, frequency of payments, and the detail required to be on the contractor's invoice, among other things
  - FAR 52.232-27, Prompt Payment for Construction Contracts
    - Defines the timeliness with which the government must make payments or otherwise pay interest for late payment, among other things

There are two clauses that stipulate the government and contractors rights and obligations.

[Read each clause name and synopsis.]

I will go into more detail of each close on the next slides, starting with clause 52.232-5.



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## FAR 52.232-5

### Payments under Fixed-Price Construction Contracts

- Payment of price
- Progress payments
- Contractor certification
- Refund of unearned amount
- Retainage
- Title, liability, and reservation of rights
- Reimbursement for bond premiums
- Final payment

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This clause covers the following aspects of payments. The bullets on this slide come from the title of the paragraphs within the clause.

[Review each.]

#### **Payment of price**

The government pays the contractor the contract price as provided in the contract. No more, no less.

#### **Progress payments**

The government must make progress payments at least *monthly* as the work proceeds, or more frequently if approved by the CO. The amount is based on estimates of work accomplished which meets the standards of quality established under the contract.

#### **Contractor certification**

There is specific certification text in the clause that must be included with each invoice. It essentially states:

- (1) the contractor is not asking to be paid for non-conforming work;
- (2) that it has made all payments due to its subcontractors and suppliers from previous payments received from the government;
- (3) that timely payments will be made to its subcontractors and suppliers with

the proceeds from the payment being requested; and  
(4) the request does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier pursuant to the terms and conditions of their subcontract.

### **Refund of unearned amount**

If after being paid by the government, the contractor discovers that a portion or all of a prior payment was for work that failed to meet contract requirements, the contractor is required to 1) notify the CO and 2) to pay the government interest on the unearned amount. Details on how the interest is calculated is in the clause. The contractor doesn't pay the unearned amount back, just interest for being paid early.

### **Retainage**

If satisfactory progress has not been made in performing the contract, the CO *may* retain a maximum of 10 percent of the amount of the payment being requested until satisfactory progress is achieved. The NRCSPOP includes a MP document which tells the CO how to handle financial aspects of retainage (MP 4I-32.103, Withholding Retainage on Construction Contracts). I won't get into the details of this document, for now it is enough for now to know that it exists.

### **Title, liability, and reservation of rights**

All material and work covered by progress payments becomes the sole property of the government upon payment. However, this transfer of title (ownership) does not 1) relieve the contractor from the sole responsibility for all material and work for which payments have been made or the restoration of any damaged work or 2) waive the right of the government to require the fulfillment of all of the terms of the contract. For example, if we pay for materials on the site or for part of the work that was completed, but something happens to damage the material or work performed, the contractor is still responsible for it. This means the contractor may have to procure more materials or re-accomplish work at no additional cost to the government. This is why contractors should have insurance.

### **Reimbursement for bond premiums**

Upon request of the contractor, the government must pay the contractor for the amount of premiums paid for performance and payment bonds. The contractor is required to furnish evidence of full payment to the surety. The amount for bond premiums is not in addition to the stated contract price, since they are required by the contract and the contractor provided a firm-fixed price for performance of all contract requirements.

### **Final payment**

The government must pay the amount due the contractor under this contract after:  
(1) Completion and *acceptance* of all work;

- (2) Presentation of a properly executed invoice; and
- (3) Presentation of release of all claims against the government arising by virtue of the contract, other than claims, in stated amounts, that the contractor has specifically excepted in the release itself. A release of claims is essentially a statement from the contractor that they have released the government from any future liability for equitable adjustment and will not file a claim. While the contractor is required to provide a release of claims, they also have the right to list specific exceptions to their release on the document, allowing them to reserve the right to file a future claim. The FAR does not have final payment release of claims language. Consequently, the NRCS has developed language for use and it is included in the contract closeout MP document (NRCSPOP 4I-4.804, Contract Closeout Procedures).

## FAR 52.232-5

### Payments under Fixed-Price Construction Contracts

- Progress payment requests must include:
  - An itemization of the amounts requested, related to the various elements of work performed
  - A listing of the amount included for work performed by each subcontractor
  - A listing of the total amount of each subcontract
  - A listing of the amounts previously paid to each such subcontractor
  - Additional supporting data in a form and detail required by the CO
- CO may authorize material delivered to the site and preparatory work done to be taken into consideration when approving a progress payment
- Material delivered to the contractor at locations other than the site also may be taken into consideration if 1) specifically authorized by the contract and 2) the contractor furnishes satisfactory evidence that it has acquired title to such material and that it will be used to perform the contract

On the prior slide I talked about the fact that progress payments have to be made at least monthly, but I didn't get into the details of how the contractor is required to document the amount requested on the invoice.

A contractor's request for progress payments must include the detail listed under the first bullet.

[Read the sub-bullets under the first bullet.]

The reason the information regarding the subcontracts is necessary is to help ensure that subcontractors are being promptly paid for the work they perform for the prime contractor.

[Read remaining two slides.]

## FAR 52.232-27

### Prompt Payment for Construction Contracts

- Two types of invoice payments
  - Progress – payment due 14 calendar days after proper invoice is received by government
  - Final – payment due 30 calendar days after the later of 1) a proper invoice is received by government or 2) government acceptance of the work
- If invoice is not proper, it must be rejected by the government within 7 calendar days of receipt
- If the government pays late, interest is paid by the government automatically
- For purposes of calculating interest on final payments, constructive acceptance is deemed to have occurred the 7th day after contractor has completed the work so long as no disagreement over quantity, quality, or compliance

Now, I will talk about the second clause, 52.232-27. As mentioned earlier, among other things, this clause defines the timeliness with which the government must make payments or otherwise pay interest for late payment.

The clause states the government considers payment as being made the date of an electronic funds transfer. Payments to contracts are made by NFC via EFT based on banking information contained in the contractor's SAM registration.

#### **Types of invoice payments**

As we already know from the last clause there are two types of payments, progress and final.

[Read sub-bullets under the first bullet.]

#### **Proper invoice and rejection**

[Read second bullet]

The clause lists several elements that an invoice must have to be considered proper. This is information such as an invoice date, line items and amounts, invoice POC details, etc. With the implementation of Invoice Processing Platform (IPP) system back in January 2014, most of this information is already prepopulated or forced or forced to be populated on the invoice in IPP. Consequently, it is less likely an invoice will be rejected for not containing those

types of things and instead might be rejected as improper for:

- (1) lacking detail supporting the amount of the payment and the certification as required by clause 52.232-5;
- (2) listing incorrect period of performance dates covered by the payment request; and/or
- (3) lacking any other information or documentation required by the contract.

If the government rejects the invoice late (after 7 days), the subsequent payment due date is reduced by the number of days the government is late notifying the contractor. For example, if a progress payment request is rejected 10 days after receipt, the rejection is 3 days late. Once the corrected invoice is received, instead of being due within the normal 14 days, it is now due within 11 days ( $14-3=11$ ).

### **Interest for late payment**

[Read third bullet]

The clause specifies how interest is calculated for late payment. NFC does this automatically. Unfortunately, sometimes there is an issue with there not being adequate funds to make the interest portion of the payment and the payment is blocked by NFC. Often there is no notification from NFC to anyone that this has occurred and it is usually discovered when a contractor inquires about a payment to NFC or the CO. The CO then has to work with NRCS accounts payable and NFC to determine how to resolve the issue.

### **Final payment and constructive acceptance**

[Read last bullet]

The constructive acceptance stated in the clause is only for purposes of calculating interest and keeps the government from delaying payment to a contractor because they have not inspected and accepted the work in a timely manner. The government can choose to delay final inspection and acceptance, but the contractor will be due interest if the work was completed in accordance with contract requirements, unless the contract specifically provides additional time for the Government to accept the work.

## FAR 52.232-27

### Prompt Payment for Construction Contracts

- Contractor is required to flow down certain FAR payment clauses in its subcontracts and subcontractors in their subcontracts
- Contractor is required to pay interest for payments made to its subcontractors later than 7 calendar days after being paid by government
- Requires contractor notification to the CO of its withholding of funds from its subcontractors and payment of interest to the government
- Requires the contractor to remit payment to the government if they are overpaid

The following is also stated in the clause.

[Read each bullet.]

The goal of these elements of the clause is to make sure that all subcontractors and suppliers are paid timely or otherwise receive interest payments. It also seeks to ensure the government is not making payments to a contractor who is not making payments to its subcontractors, even if there is a legitimate reason for non-payment.

Remember, the contractor is certifying with each request for payment that it has paid and that it will pay its contractors in a timely manner with the proceeds from the payments made by the government.

Now that I've talked about the rights and obligations of the government and contractor in these two payment clauses, I'll talk about how an invoice is actually processed in the Invoice Processing Platform system, which is referred to as IPP.

## Invoice Processing Platform (IPP)

- NRCSPPOP clause 41-52.232-70, Electronic Invoicing and Payment Requirements – Invoice Processing Platform (IPP)
- COR and CO must register in IPP
- Invoice routing profile is established at time of contract award by the CO
  - COR-CO routing (two approvers)
  - CO-only routing (single CO approver)
- NRCS approves or rejects the invoice in IPP
  - Date goods/services received
  - Date goods/services accepted
- Once approved, invoice details are sent to FMFI and payment is scheduled by NFC

### **Required use and clause**

This NRCSPPOP clause is new as of May 2017, but prior to that the same language was put in solicitations and contracts as separate text since IPP was implemented in Jan 2014. This clause is required to be in all solicitations and contracts. The clause simply requires the contractor to register and submit invoices through IPP. IPP is beneficial to contractors because they do not have to worry about invoices being mishandled or lost by the government, they can monitor status of invoice, and they receive automated emails from the system.

The CO has discretion to provide an exception to the contractor from having to enter their invoice into IPP, but the contractor still has to provide a paper invoice to the CO. The CO then must enter the details from paper invoice into IPP and upload it as an attachment. Use of this exception should be rare.

### **IPP registration**

Details on how to register in IPP are in the NRCSPPOP [MP document 41-32.905, Payments under the Prompt Payment Act]. The same process that is used to request IAS access is used to request access to IPP. This is because IPP users must also be added to the IAS system, so they can be selected as an invoice approver in IAS at the time the contract is awarded by the CO. Note, that if you

do not log into IPP at least every 90 days, your account will be deactivated automatically. The user will then have to go through the same registration process to have the account reactivated.

### **Invoice routing**

The invoice routing profile is established in IAS at time of contract award by the CO. Details on the two routing options are in the NRCSPOP [MP document 4I-32.905, Payments under the Prompt Payment Act].

[Read two sub-bullets regarding type of routing.]

If the CO selects CO-only routing, the CO must still obtain some documentation from the COR that the work being invoiced for was completed satisfactorily. Also, an individual does not need to be a COR to approve an invoice in IPP, even though the routing type states COR.

### **Invoice approval/rejection**

When approving the invoice two dates are entered by the first approver:

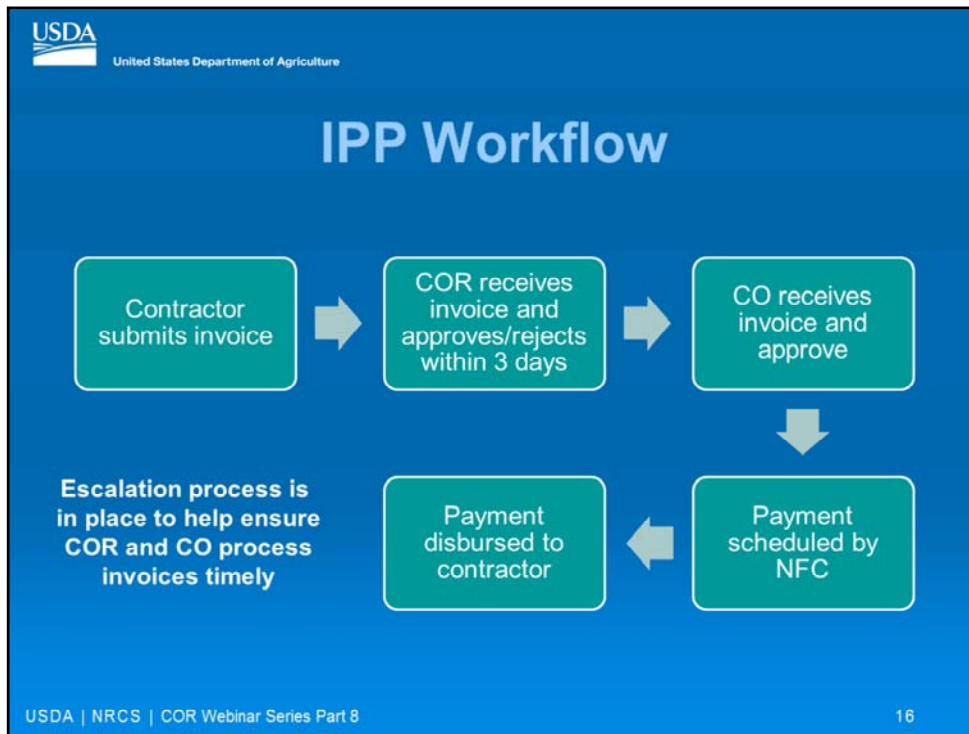
**Date Goods/Service Received:** This is the date the goods or services were delivered to the location specified in the contract or completed. This is not necessarily the date the government ultimately accepts the goods/services.

**Date Goods/Service Accepted:** This is the date the goods/services were actually accepted by the government. Sometimes the work is accepted the same day it is completed, other times it can be days or weeks before the work is accepted. This is not the constructive acceptance date of 7 days after completion of the work called for by clause 52.232-27, since that only relates to the calculation of interest if the payment is made late.

If the invoice is not proper and must be rejected, remember to do so within 7 calendar days or sooner, otherwise the due date for subsequent payment is reduced by the number of days rejection was late. Also, if the COR is planning to reject an invoice, he or she should discuss the reason with the CO. This is because improper rejection of an invoice that is actually found to be proper will shorten the due date once the invoice is resubmitted for approval. This shortening of the due date could cause interest to be paid if subsequent payment is not made timely.

**Final approval**

Once the CO approves the invoice in IPP, the invoice details are automatically sent to FMMI and NFC schedules the payment based on the payment terms listed in the system. These payment terms are sent to FMMI by IAS when the CO awards the contract in IAS are is set to 14 days for progress payments and 30 days for final payment.



Here is a graphical depiction of the workflow that I just talked about on the prior slide.

This example uses the COR-CO routing, which is more common for construction contracts.

The moment the contractor submits an invoice, the clock starts for ensuring the invoice is approved or rejected within 7 calendar days.

[Reach each step of the process below.]

1. The contractor submits an invoice which must comply with the contract clause requirements.
2. Next, IPP sends the COR an automated email stating the invoice is in their queue awaiting action. The COR has 3 calendar days within which to act in IPP and does not have the full 7 days to act since the CO is also involved in the approval process. If COR does not act within 3 days, the CO is then alerted by email and has 2 days to ensure the invoice is acted upon by both them and the

COR. If invoice is still not acted upon after a total of 5 days, a notice is sent to the IPP escalation queue monitor who will work with CO to cause action, hopefully within the total 7 calendar day window. Once escalated from the COR queue, the system will allow the CO to act as both the COR and CO approver. The escalation queue monitor is an individual on the Contracting Services Branch.

3. Next, once the COR approves the invoice (hopefully within 3 days), it is routed to the CO who receives an automated email stating invoice is in his or her queue awaiting action. The CO then has only 1 day to approve it before a notice is sent to escalation queue monitor. If the routing was set up as CO-only, the CO has 3 days to act before notice is sent to the escalation queue monitor. The goal of the escalation queue is to monitor invoices to make sure they are acted on timely and reduce or eliminate the amount of interest that would otherwise be due.

4. Once the CO approves the invoice, it is sent to FMMI from IPP and payment is scheduled by NFC.

5. Payment is then disbursed by Treasury based on the date scheduled by NFC. It can take up to a few days for payment to reach the contractor's bank and be available in their account. If there is a payment issue, the contractor can contact NFC directly or the CO. The bank details used by NFC is that entered by the contractor in their SAM registration.

Lastly, NRCSPOP IG document 4I-32.905, provides a checklist regarding the documentation and processing of invoices for construction services.



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# Contractor Performance Evaluation

Next, I will talk about when and how the government completes a contractor performance evaluation.

## Policy

- Required for construction contracts \$700K or more and all contracts terminated for default.
- Optional under \$700K.
- Assessments are processed in CPARS, which transmits the reports to PPIRS.
- If performance exceeds 1 year an interim assessment is completed every 12 months from date of award.
- Final assessment upon contract completion of the contract period of performance.

Federal and Departmental regulations provide policy and procedures on conducting assessments of the contractor's performance. However, NRCSPOP MP document 4I-42.1502 (Contractor Performance Information) combines all of this into a single document that helps users complete reports while complying with all policy. This document includes information on registering in CPARS, required training, roles and responsibilities, and the process for completing an assessment.

Contractor Performance Assessment Reporting System (CPARS) is the system where agencies, including the USDA, complete contractor performance assessments.

A performance assessment is required for all construction contracts of \$700K or more, but is optional under this threshold.

Once the assessment is completed in the system, CPARS transmits the report to a system called PPIRS (Past Performance Information Retrieval System). PPIRS is the single Federal-wide repository for completed contractor performance assessments. COs use PPIRS for certain types of acquisitions to gather information on a contractor's past performance when considering a contractor

for award of a contract.

If the contract period performance exceeds 1 year an interim assessment is completed every 12 months from date of award.

A final assessment is always initiated upon completion of the contract period of performance.

The timely completion of contractor performance assessments has been Federal-wide focal point in recent years.

Now that I've identified when assessments are required and where to find policy and procedures from completing them, I'll talk about the role of the COR and others in completing an assessment.

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## Roles and Responsibilities

- Assessing Official Representative (AOR)**
  - Typically the COR or technical representative
- Assessing Official (AO)**
  - Typically the CO
- Contractor Representative (REP)**
  - Contractor determines POC and provides to CO
- Reviewing Official (RO)**
  - NRCS official that is a level above the CO

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These are the four main roles in a completing an assessment.

[Read role, sub-bullet, and information below for each role.]

### Assessing Official Representative (AOR)

Prepares a draft assessment by entering ratings and supporting narratives.

### Assessing Official (AO)

Reviews the draft assessment.

Approves assessment prepared by AOR or requests changes.

Sends evaluation to contractor.

Reviews contractor comments.

### Contractor Representative (REP)

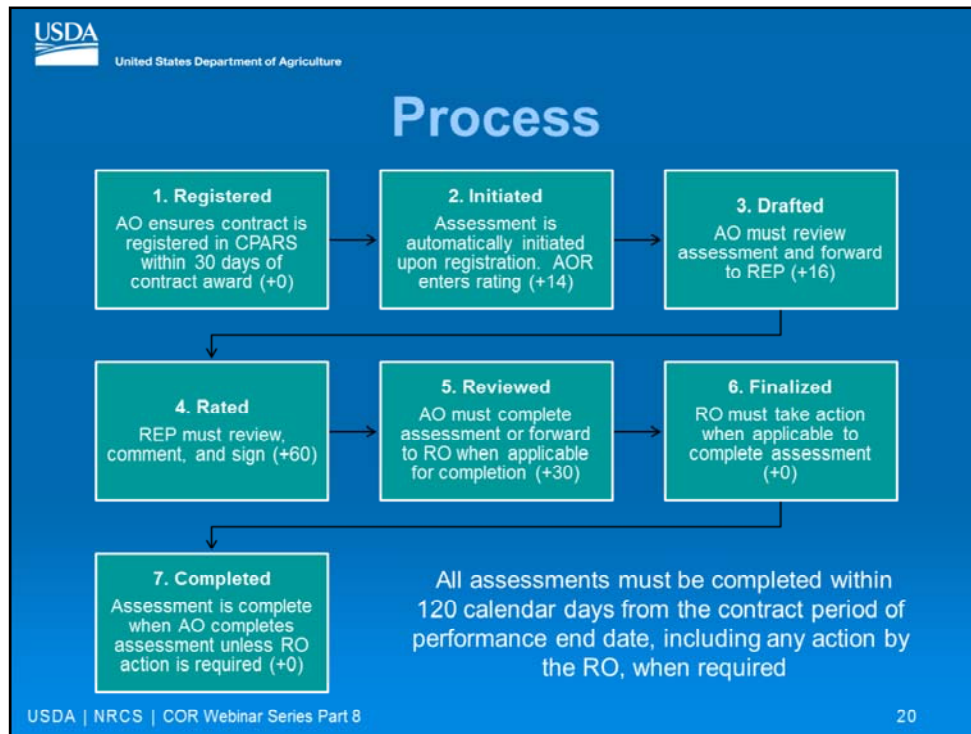
Reviews rating and narrative submitted by the AO, concurs or does not concur with the assessment by checking a box, and then provides comments if they want to. If contractor does not like rating they can

state so in the system by including rebuttal comments that are part of the assessment record and cannot be changed by the AO.

Reviewing Official (RO)

Resolves disputes between contractor REP and AO regarding the assessment rating and narrative.

Now that I've talked about the role and responsibilities that each individual has in the process, I will next talk about the process workflow.



There are timelines which have been established in Departmental policy that must be followed to ensure that assessments are completed in a timely manner. The overall assessment must be completed within 120 calendar days from the contract period of performance end date.

Each box on this slide has a number and title. This is the title of the status that CPARS uses for each step in the assessment process. I will briefly talk about each.

**1. Registered:** Contracts are typically auto registered in CPARS by a data feed from the Federal Procurement Data System (FPDS), which places them in a “registered” status. FPDS is a system the CO uses to report contract awards. However, the assessment cannot move to the next step until the AO ensures the registration is fully complete by having the point of contact information (email address and name) entered into the CPARS record for the AO, AOR, REP, and RO.

**2. Initiated:** The assessment is automatically initiated once registration is complete and shows up in the AOR to-do list. The system automatically changes the assessment to an “initiated” status. The AOR will then begin receiving

automatic email notifications from the system regarding the assessment 30 days prior to contract period of performance end date, as listed in CPARS. Promptly upon the completion end date, the AOR must enter a rating and narrative in CPARS and then forward the draft assessment to the AO. This must be done within 14 days of the contract completion date. +14 days

**3. Drafted:** Once the assessment has been submitted to the AO by the AOR it is changed to a “drafted” status and is now awaiting action by the AO. The AO must review and finalize the rating and narrative. If the AO does not agree with the rating and/or narrative, or if the narrative is not adequate, the AO can either change it themselves or return it to the AOR for revision. Once the AO is satisfied with the rating and narrative, the AO “signs” the assessment in CPARS, which automatically forwards it to the contractor representative (REP). This must be done within 30 days of the contract completion date, which means the AO only has an additional 16 days if the AOR took their full 14 days. +16 days (total 30)

**4. Rated:** Once signed by the AO and forwarded to the contractor REP, the assessment is changed to a “rated” status. The REP then has an initial 14 days to provide comments before the assessment is automatically transferred from CPARS to PPIRS on day 15 with a “pending” status listed in PPIRS for the assessment. However, the REP still has a total of 60 days (46 more days) to add comments in CPARS. If any comments are added, they are automatically added to the pending report in PPIRS. If the REP does not provide comments within the 60-day period, the assessment becomes overdue, and the REP will no longer be able to access the assessment in CPARS. The AO may then complete the assessment with or without REP comments. Once the REP has either signed the assessment or once 60 days has passed, it is placed in a “reviewed” status or a “rated overdue” status. This means the AO may move forward with finalizing the assessment. +60 (total 90)

**5. Reviewed:** Once the assessment is signed by the REP, or if the REP did not provide comments within 60 days, it is placed in a “reviewed” status and is awaiting AO action to finalize the assessment. If the REP concurred with the rating and signed it, the AO may finalize the rating by doing so in CPARS. If the REP did not concur with the assessment the AO should try to resolve the issue with the REP. The AO then has the choice to 1) modify the rating to resolve the disagreement (which does not go back to the REP for comment) or 2) leave the rating as-is and submit it to the RO for final resolution. This all must be done, including action by the RO when needed, within 30 days of receiving the response from the REP or no later than 120 days after contract completion, whichever is shorter. +30 (total 120)

**6. Finalized:** If action is required in CPARS by the RO because of a disagreement between the AO and the REP (even if the rating was modified by the AO), the assessment goes to the RO in CPARS. This puts the assessment in a “finalized” status awaiting RO action. The RO then has the choice to 1) agree with the AO and complete the assessment or 2) revise the rating and then complete the assessment. Comments are added by the RO to the assessment record regarding their review and the resolution.  
+0 (total 120)

**7. Completed:** Once the AO or RO (when applicable) has closed the assessment in CPARS it is placed in a “completed” status. No further action is required.

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## Evaluation Ratings and Narratives

Rating	Contract Requirements	Problems	Corrective Actions
Exceptional	Exceeds Many – to Gov't Benefit	Few Minor	Highly Effective
Very Good	Exceeds Some – to Gov't Benefit	Some Minor	Effective
Satisfactory	Meets All	Some Minor	Satisfactory
Marginal	Does Not Meet Some – Gov't Impact	Serious; Recovery Still Possible	Marginally Effective; Not Fully Implemented
Unsatisfactory	Does Not Meet Most – Gov't Impact	Serious; Recovery Not Likely	Ineffective

- > Ensure assign ratings are consistent with the rating definition
- > Narratives are an important part of the evaluation
- > Narrative must support the rating

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Now I will talk more about evaluation ratings and narratives.

### Ratings

Ratings and their definitions come from FAR 42.1503.

[Name the 5 different ratings. No need to read the remaining three columns for each, just compare and contrast two, such as Exceptional vs Satisfactory.]

As you can see if a contractor simply did an acceptable job and met the contract requirements, they should not automatically be given an exceptional rating. They might instead be due a satisfactory or very good rating at the most.

Evaluation elements for construction contracts include, but are not limited to:

- Quality (contractor's quality control)
- Management (effectiveness of contractor's management)
- Schedule (timeliness of performance)
- Regulatory (contractor compliance with labor and safety standards)

Each applicable evaluation element receives its own rating and narrative. An overall rating and narrative is also

established.

Ensure assign ratings are consistent with the rating definition and contractor performance.

### **Narratives**

Narratives are an important part of the evaluation.

- There is a 24,000 character limit per evaluation element and the general narrative which supports the overall rating.
- Address contractor performance on only this contract
- Recent
- Relevant
- Collect input from entire team (inspectors, engineers, program staff, CO, etc.)
- Provide reader a complete understanding of the contractor's performance
- Must be accurate, fair, comprehensive, and objective
- Address benefits and impacts to the government of good and bad events that arose during performance
- Recognize the:
  - Risk inherent in effort for the contractor
  - Government's role in contractor's inability to meet requirements
- Indicate major / minor strengths / weaknesses
- The narrative must be consistent with:
  - Project metrics (such as the schedule, budget, reports, and inspections)
  - Ratings assigned
  - Contract objectives
  - Documented problems and solutions

One of the training requirements for obtaining access to CPARS includes, not just a general CPARS overview course, but a second course specifically on writing quality narratives.

The assessment ratings and narratives must always be consistent with one another.

## Comparing Sample Narratives

- **Overall Rating: Exceptional.** The contractor did an outstanding job during this project and there were no problems during this reporting period with Contractor XYZ. They always do a great job working with the government.
  - Not sufficient, missing detail to support rating, and subjective phrases.
- **Overall Rating: Exceptional.** The contractor did an outstanding job during this project. The building remained open and operations continued full scale during the renovation. In fact, the number of clients utilizing the building increased by 15% and operations continued with no issues. There was a redesign of the project as the contractor determined the plans (provided by an outside A&E) were not what was needed to meet certification requirements. The contractor was an active participant in the redesign, which included many meetings and time. Through the Contractor's suggested Value Engineering Change Proposals, the project continued to remain within budget. There was also mold discovered during renovation however, the contractor was able to find a cost effective solution that allowed the government to save over \$75K. The Contractor also worked with CDC staff to accommodate any scheduling changes needed on their part due to special events and unanticipated issues. The Contractor met site security and safety requirements. There were no problems during this reporting period with Contractor XYZ.
  - Sufficient, includes supporting details, and statements of fact.

This slide differentiates an unacceptable narrative from a better written one.

The first sample narrative is poorly written. It simply states that the contractor did an outstanding job, that there were not any problems, and that the contractor always does a great job. There is no detail to support the exceptional rating given and it includes subjective statements rather than undisputable statements of fact.

The second sample cites supporting detail, including how the contractor exceeded contract requirements by helping to resolve unexpected issues beyond what was required of them in the contract and also how they helped the government control costs to the government's benefit. This sample narrative better supports the rating of exceptional that was assigned.



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# Records Retention

The last thing I will talk about in this session is records retention.

# Records Retention

## FAR 4.805 – Table 4-1—Retention Periods

Record	Retention Period
(1) <b>Contracts</b> (and related records or documents, including successful and unsuccessful proposals, except see paragraph (c)(2) of this section regarding contractor payrolls submitted under construction contracts).	6 years after final payment.
(2) <b>Contractor's payrolls</b> submitted under construction contracts in accordance with Department of Labor regulations (29 CFR 5.5(a)(3)), with related certifications, anti-kickback affidavits, and other related records.	3 years after contract completion unless contract performance is the subject of an enforcement action on that date (see paragraph (c)(8) of this section).

After the contract is complete and the CO closes out the contract, the contract file must be retained in accordance with the timeframes listed in the FAR.

Contract files must be retained for 6 years after final payment, except that the payroll documentation within them can be destroyed 3 years from the contract completion date.

The timeframe was different prior to January 2016. Before that date, contracts were retained either for 3 years or for 6 years and 3 months depending on the dollar value of the contract.

The CO is the one responsible for maintaining, retaining, and then destroying the contract file when it is no longer required to be retained.

## Records Retention

- Files for contract actions initiated on or after November 3, 2014 are required to be maintained on the eContractFile system and that file is the official record (NRCSPPOP 4I-4.802).
- Documents that cannot be efficiently converted to electronic format for uploading must be cross referenced in the contract file at the appropriate location (NRCSPPOP 4I-4.802).
- CO must obtain any documentation from the COR that is required to be included in the contract file during the contract closeout process, or a cross reference to its location (NRCSPPOP MP 4I-4.804)
- CO must consult with the COR to determine whether any documents in the file must be retained beyond the destruction date of the contract file (e.g., job diary, drawings, etc. (NRCSPPOP 4I-4.805)

Now that I've established how long a contract file must be retained before being destroyed, I will talk about other important aspects of records retention.

### **eContractFile**

[Read first bullet.]

This is a SharePoint based system for maintaining official contract files. Access is only granted to contracting staff on the Contracting Services Branch. This is to protect the files from possible accidental or improper deletion or change. CORs and others that need information from the contract file should contact the CO, who should be able to easily provide the needed document.

Managing files electronically is essential due to the geographic separation of contracting staff from the customers being supported and to facilitate transfer of work between contracts specialists in different offices. It also reduces the amount of physical storage space needed for files, having to transfer a large number of paper files for long term storage, and reduces overall paper usage.

The official contract files also include not only the contract itself, which includes the drawings and specifications, but also the following documentation,

among things (FAR 4.803):

- Modification and supporting documentation
- Invoices and supporting documentation
- The notice to proceed
- Suspension of work orders
- Preconstruction conference minutes
- Government quality assurance records (including inspection and testing documentation and job diaries)
- Material submittals and approvals
- Contractor payroll documentation
- Shop (as-built) drawings

### **Documents Not in Electronic Format**

[Read second bullet.]

This cross reference must include the physical address and exact location of the record and the name and contact information for the individual responsible for maintaining that document for the duration of the contract file retention period. These types of documents may include, among other things, material submittals not in electronic format, shop (as-built) drawings, and inspector diaries.

### **Obtaining Documentation at Closeout**

[Read third bullet.]

It is important that all documentation that is required to be part of the contract file, be either in the file or its exact physical location be cross referenced. This because it is required by regulation, but also because it may also be necessary to have access to ALL contract documentation should a claim be filed by the contractor, which could subsequently be the subject of litigation in the court system.

### **File Destruction**

[Read last bullet.]

Federal or NRCS records guidance for programs may require that certain documentation that is part of the contract file be retained for a longer period of time than the contract file itself. The CO has the obligation to ensure they are not destroying records that must be subsequently retained for a longer period by program staff under programs records guidance.

# Questions?