



TOWN OF OAKVILLE

Supplier Performance Program

Preamble

The Town of Oakville (the Town) has implemented a Contractor/Supplier/Consultant (Suppliers) Performance Program (the Program) which sets out the guidelines for managing the performance of Town Suppliers. The Program is administered in accordance with the Town's Procurement Policy By-law Number 2017-095. The Project Manager is responsible for administering this Program in collaboration with the Purchasing Department.

1. PURPOSE

The purpose of the Program is to monitor the performance of Suppliers to ensure the responsible management of Town contracts.

The objectives of this Program are to:

- Ensure consistent compliance with this Program through the completion of required documentation;
- Establish clear expectations and benchmarks that encourage responsibility and accountability that benefit both the Supplier and the Town;
- Monitor and evaluate a Supplier's performance against the contractual requirements and deliverables;
- Address shortfalls in Supplier performance; and
- Encourage continuous improvement through appropriate corrective action.

Supplier performance will be assessed over both the short and long term to provide the Supplier with feedback and to facilitate continuous improvement, where required. Feedback from the Project Manager to the Supplier will be provided through a written evaluation (Performance Evaluation Forms) described below.

2. EVALUATION OF SUPPLIER PERFORMANCE

2.1 Performance Evaluation Form

The Contractor Performance Evaluation Form, Supplier Performance Evaluation Form and Consultant Evaluation Form are used for reporting performance to ensure an objective assessment of Supplier performance, by applying established evaluation criteria that are detailed under various sections of the forms.

During the term of a Contract, the Project Manager (or Consultant for the Project) will document incidents of unsatisfactory performance and/or areas of dispute using the Incident Reporting Form or through meeting minutes, notices, warnings, and all related correspondence which will later be used to support a performance evaluation.

2.2 Timing of Performance Review

An evaluation form will be completed by the Project Manager, at the time of contract renewal or at the end of the contract whichever occurs first, or upon completion of specific deliverables as set out in the contract, if appropriate.

Forms issued for renewal terms will include any issues and/or concerns and assess the working relationship between the Town and Supplier. All interim evaluations will be incorporated into the final evaluation at the end of the contract.

3. MANAGEMENT OF SUPPLIER PERFORMANCE

3.1 Unsatisfactory Performance

If a Supplier's performance proves to be unsatisfactory during the term of the contract, the Town will address such issues with the Supplier. Issues and related corrective action will be documented as indicated in Item 2.1. Notification of unsatisfactory performance may also be based on feedback that Town staff has received from internal clients and members of the public.

Note the Supplier will be held responsible for the performance of its sub-contractors or sub-consultants and a Supplier will receive the form for deficient performance by its sub-contractors or sub-consultants.

If a Supplier fails to remedy a minor performance deficiency within the prescribed time or date agreed to by the parties or if a major performance deficiency is identified, the Project Manager may issue an Incident Reporting Form (as detailed in Section 3.2).

Minor performance deficiencies may include, but are not limited to:

- a) failure to return required documents within the allowed timeframe;
- b) failure to begin work by the date specified in the contract;
- c) failure to provide or update milestone schedules in a timely manner;
- d) inaccurate invoicing, projections and change orders; or
- e) failure to comply with minor terms and conditions of the contract.

Major deficiencies may include, but are not limited to:

- f) delayed delivery/failure to complete the project or key deliverables of a contract in a timely and effective manner;
- g) failure to comply with Ministry of Labour and/or Occupational Health and Safety Act and/or Town of Oakville Health & Safety requirements;
- h) failure to comply with the Environment Protection Act requirements;
- i) statement of claim or notice of construction lien filed against the Town and/or failure to comply with Construction Lien Act requirements;
- j) registration of any certificates of pending litigation or any other encumbrances on title; or
- k) failure to comply with major terms and conditions of the contract.

3.2 Incident Reporting Form

Incident Reporting Form is a document that identifies and describes a breach of any contractual obligation and identifies the required corrective action. Upon consultation with the purchasing department, the form may be issued by a Project Manager to a Supplier that has failed to remedy a minor deficiency or where a major deficiency has been identified in section 3.1.

If the Supplier fails to remedy the breach as set out, the Town may take further action including but not limited to cancellation of the existing contract in whole or part and providing the Supplier with a formal letter placing the Supplier on probation or suspending the Supplier from bidding on future opportunities for the Town.

Where a formal letter is issued placing the Supplier on probation or suspending the Supplier from bidding on future opportunities, the Supplier shall have twenty (20) calendar days to provide written concerns regarding the form to the purchasing contact, stating the reasons in writing and referencing the details provided in the Performance Evaluation Form who will review the matter with the Project Manager.

4. REVIEW OF PERFORMANCE EVALUATION FORM

If a Supplier has concerns with a Performance Evaluation Form that has been received, those concerns must be raised in writing to the Purchasing contact. If no response or feedback is received, the Supplier will be deemed to have accepted the Performance Evaluation Form.

4.1 Review of Performance Evaluation Form

- 4.1.1 Within twenty (20) calendar days of receiving a Performance Evaluation Form, the Supplier can provide a written appeal regarding the evaluation to the purchasing contact for investigation.

- 4.1.2 The Manager of Purchasing will examine and investigate the appeal and provide the Supplier with a written response within ten (10) business days of receiving the Supplier's written appeal, or such other time as deemed to be appropriate.
- 4.1.3 If the Supplier disputes the written response provided in 4.1.2 and chooses to escalate these concerns, the Supplier must submit a final appeal in writing to the Manager of Purchasing within ten (10) business days of receiving the written response provided in 4.1.2, requesting a hearing from the Town's Dispute Committee.
- 4.1.4 The Dispute Committee shall hear from both Town staff and the Supplier at a time and place appointed in writing by the Committee. The Dispute Committee shall be comprised of the Treasurer, the Director, Financial Planning, the Purchasing Manager, and the Director of the user department involved. A quorum of the Dispute Committee shall be two of the four members. The decision of the Dispute Committee shall be in writing and it shall be final.
- 4.1.5 The decision of the Dispute Committee shall determine whether a Supplier will:
- be allowed to bid on future contracts or renew a contract with the Town; or
 - be placed on a probationary term, during which time the supplier shall be permitted to bid or propose work for the town, the work of those on probation will be closely monitored; or
 - support the recommendation to suspend the Supplier from bidding on any contracts with the town for a one to three-year period, followed by a one-year probationary period after re-instatement (if applicable).
- 4.1.6 In reaching a decision, the Dispute Committee shall be entitled to rely upon the evaluation criteria in the performance evaluation and the results of prior performance evaluations relating to other contracts performed for the Town by the same supplier.
- 4.1.7 No bid submission shall be accepted from any Supplier, nor shall any purchase order be issued for payment during the term of a suspension.

4.2 Expiration of Supplier Probation / Suspension Status

- 4.2.1 Once a probation period has expired, the purchasing department shall review performance of any work completed during the probationary period with the appropriate Project Manager. If performance has been satisfactory the Supplier will return to approved status.

- 4.2.2 Once a suspension period has expired, the Supplier may apply to the Manager of Purchasing for reinstatement. The Supplier will be required to provide evidence that changes / improvements have been made in the Supplier's business processes, personnel, working procedures, etc. that would provide reassurance to the Town of the Supplier's ability to perform future work in a satisfactory manner.

5. PERFORMANCE EVALUATION CRITERIA

The following are examples of the established evaluation criteria that are detailed under various sections of the Performance Evaluation Forms, such as applicable based on the contract.

Management/Supervision:

- Staffing
- Supervision
- Coordination of Workers
- Communication
- Documentation
- Cooperation

Health & Safety:

- Compliance
- Safety
- Responsiveness

Quality of Work:

- Workmanship
- Compliance with Specifications

Schedule:

- Startup
- Adherence to Schedules and Deadlines

Project Completion:

- Training
- Manuals
- Invoicing