



Vendor Performance Management (VPM) Business Process Guide

Infrastructure Services Department (ISD)

Document Revision History¹

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¹ Only major revisions that require review by Program Lead are listed above

Table of Contents

| | |
|---|----|
| 1. Introduction..... | 4 |
| 1.1 Purpose | 4 |
| 1.2 Background | 4 |
| 1.3 Goals of Vendor Performance Management | 4 |
| Relevant City Legislation | 4 |
| 1.4 Best Practices and Vendor Performance | 5 |
| 2. Roles and Responsibilities..... | 5 |
| 3. Communicating Performance Effectively Throughout the Life of a Project | 7 |
| 3.1 Opportunities to communicate performance during project lifecycle:..... | 10 |
| 3.2 Project Start-up..... | 10 |
| 3.3 Communicating Performance during the Project | 11 |
| 3.4 Communicating Performance at the end of the Project | 13 |
| 3.5 Re-opening Evaluations..... | 14 |
| 4. Documentation | 14 |
| 5. Vendor Performance Scoring and Templates | 16 |
| 5.1 Scoring | 16 |
| 5.2 The Consultant Template (Design and Studies)..... | 18 |
| 5.3 The Contract Administrator Template (Contract Administration, Technical Support, Inspections) | 19 |
| 5.4 The Contractor Template | 19 |
| 5.5 Categories and Weightings..... | 20 |
| 6. Effective Communications | 22 |
| 6.1 Escalating Contract Issues – Process..... | 23 |
| 6.2 Notification of Vendor Non-Performance..... | 24 |
| 6.3 Default by the Vendor | 24 |
| 7. Appeal of Vendor Score..... | 25 |

1. Introduction

1.1 Purpose

The purpose of this document is to provide an overview and procedures related to Infrastructure Services (ISD) Departmental processes to effectively apply Contract Administration in relation to Vendor Performance. This is a companion reference to the online MERX System. As contracts vary in size, value and complexity, the material in this guide will provide a guideline on how to evaluate the Vendor's performance.

1.2 Background

In April 2011, Council directed staff to implement a procedure for reporting supplier performance to Supply Branch (Council Motion No. 11/10, 27 April 2011). Additionally, recent Departmental audits and industry best practices in industry recommend implementation of a Vendor Performance Management (VPM) System.

Supply Branch is the owner of the VPM system and City Departments are the users of this system. Individual City Departments are responsible for determining their in-house VPM business processes. A best practice review of other municipalities, provincial government authorities and private sector companies was conducted in advance of the implementation of this system.

Thresholds for the City of Ottawa's VPM framework have been defined as all Consulting assignments over \$15K and all Contractor assignments over \$100K.

The City ensures "best value" for tax payers' dollars, when Vendors deliver goods and services on time, and at the agreed price per quantity, quality, and in accordance with the contract requirements. Accordingly, this would be defined as acceptable Vendor performance. When Vendors fail to meet their contractual obligations, including adherence to legislated accessibility, health and safety standards, City staff shall document and address Vendor performance **immediately**. This will ensure performance issues can be addressed in a timely manner and allow the Vendor to effect performance improvement through ongoing discussions/communications.

Relevant City Legislation

Section 38 (2) of the Purchasing By-law, and standard clauses in the City's General Terms and Conditions, permit the Director/General Manager, in consultation with Supply Branch, to seek corrective action from non-performing Vendors, and to terminate a Contract when a Vendor is unwilling or unable to perform their Contractual obligations.

Section 37 of the Purchasing By-law permits the City Treasurer, in consultation with the City Clerk and Solicitor, to prohibit unsatisfactory Vendors from bidding on future City Contracts.

1.3 Goals of Vendor Performance Management

The goals of implementing a Vendor Performance Management process and system for ISD are to:

- Improve overall Vendor (consultants and contractors) performance on City Contracts

- Improve communication between staff that manage Vendors (e.g. Project Managers) and Vendors
- Improve the overall performance of Vendors over time (in a measurable way)
- Build a history of Vendor performance over time, allowing future Vendor selection decisions to include a historical performance perspective

1.4 Best Practices and Vendor Performance

Best practices in Vendor Performance Management include²:

- Building effective and collaborative relationships between the City and Vendors to ensure the best possible result
- Maintaining effective ongoing and open communications with Vendors from the beginning of the contract
- Outlining performance expectations
- Conducting regular project meetings with minutes distributed to all parties
- Measuring, monitoring, tracking and communicating performance
- Identifying variances between planned versus actual performance

2. Roles and Responsibilities

Directors/General Managers are accountable for procurement activities within their Departments and Branches.

Managers are responsible for:

- Monitoring the overall Vendor performance management process within their Branch and dealing with any issues that have been escalated as per ISD Directive
- Reviewing and approving “outlier” evaluations (above 89% or below 70%)
- Manage and review all “outlier” appeals
- For complex appeals that have implications for the wider Department, the Manager may elect to refer the appeal to the Management Advisory Committee (MAC)
- Participate in MAC Meetings as required

Program Managers are responsible for:

- Monitoring the overall Vendor performance management process within their units
- Ensuring evaluations are completed as scheduled
- Meeting with Vendors and Project Managers to discuss performance issues as required
- Reviewing all evaluations and approving Vendor scores

² Adapted from Gregory Garrett *Post Award Contract Administration*

- Working together with colleagues in assigned appeal committees to make decisions on all appeals submitted to the Department with overall scores between 70-89%
- Ensuring that issues with Vendor performance are escalated to the Manager and if necessary, General Manager as soon as possible

Vendor is the supplier of goods and/or services to the City. The Vendor's performance is to be evaluated by the Project Manager on Contracts. All Vendor scores must be approved by City Management prior to publishing.

Project Managers³ include staff in all ISD Branches who manage Vendors, but for the purposes of this document will be referred to as Project Managers. Project Managers are the recipients of goods and/or services, manage professional services or construction projects, or use contracted services to renew, rehabilitate and maintain City infrastructure assets. Project Managers are the Vendor's client and are directly impacted by Vendor performance. Project Managers are in the best position to monitor and record missed project milestones, unacceptable project deliverables, unsafe work practices, shipping errors, late/unacceptable deliverables; and to manage the contractual relationship with Vendors through effective communication and dispute resolution.

Project Managers are responsible for:

- Monitoring, communicating and documenting the performance of Vendors on their contracts and entering information into MERX
- Ensuring that issues with Vendor performance are communicated to the Program Manager/Manager and are acted on immediately
- Posting appeal decisions in MERX (when applicable)

Consultant Project Managers are individuals who are currently on contract to the City and acting as City Project Managers. Consultant Project Managers will complete evaluations of Vendors as part of their contracted role. Depending on the value of their contract with the City, Consultant PMs may also be subject to Vendor Performance; and in these cases, their performance shall be evaluated by the responsible Program Manager. Consultant PMs are expected to conform to the City of Ottawa's employee Code of Conduct and will be required to sign a Non-disclosure Agreement related to the information contained within the Vendor Performance Management system. Additionally, Consultant PMs must abide by the following guidelines:

- Consultant PMs shall not evaluate their own firm
- Consultant PMs shall not evaluate a firm that they have worked for in the previous 3 years
- Consultant PMs shall not collude with others for mutual benefit and/or gain
- Consultant PMs shall not disclose and/or take advantage of any Vendor Performance information gleaned from their tenure at the City of Ottawa for their personal gain and/or for their company's gain
- Consultant PMs shall disclose in writing, to the City any influences on their objectivity or any conflicts of interest
- The Consultant PM shall maintain the appropriate documentation to support successful project delivery as stated in the Project Delivery Manual

³ Project Managers are defined as any staff that oversee Consultant or Construction assignments. If a Program Manager or Manager is managing a consulting/construction assignment, approval would escalate to the next management level.

Superusers are staff within ISD that troubleshoot problems with the MERX system, coach and support staff on the system as required, add/remove users of the MERX system and define reporting relationships, raise system issues with Supply, update Project Information (schedule, budget) in the project containers as required, and report on the overall program periodically.

VPM Administrator is a staff member within ISD that will facilitate and attend meetings with the Appeal body (including putting Appeals on the MAC Agenda), document the decision made on appeals and prepare and provide the final appeal decision to Project Managers to post for Vendors.

VPM Coordinator is a staff member within ISD that will triage VPM inquiries, make recommendations to proceed with appeal review or reject appeals (due to incomplete information), and coordinate appeal reviews as necessary. The VPM Coordinator would prepare the appeals documentation for the Program Managers and the VPM Administrator to facilitate the discussion of the appeal. The VPM Coordinator would coordinate the meeting schedule and meeting invites for all VPM Appeal Body meetings.

PDSS (Project Delivery Support Services) will be responsible for tracking, monitoring and measuring compliance with the ISD VPM business processes outlined in this guide. The PDSS will also produce reports upon request from the MERX system.

Appeal Body is a committee of ISD Management members that will determine final decisions on appeals. The makeup of the committee is dependent on the score of the final evaluation. Overall scores that fall between 70% and 89% will be reviewed by an appeal body comprised of 3 Program Managers from ISD. Overall scores that are above 89% or below 70% will be reviewed by Managers.

Supply Branch is the City's procurement authority, and is responsible for the City's contractual relationships with Vendors. Supply is responsible for including VPM wording in the procurement document(s) and in the signed contract for eligible VPM projects. Supply is also responsible for opening the project "container" in MERX by entering the contract details into the system and assigning an evaluator. Supply monitors the functionality of the VPM system and will collect feedback regarding improvements to the system.

The Management Advisory Committee (MAC) is a Departmental committee comprised of Managers from ISD, subject matter experts may be asked to participate as required (Legal, Supply). The MAC will review all appeals where the original overall score was above 89% or below 70%, escalated appeals and render final and binding decisions.

3. Communicating Performance Effectively Throughout the Life of a Project

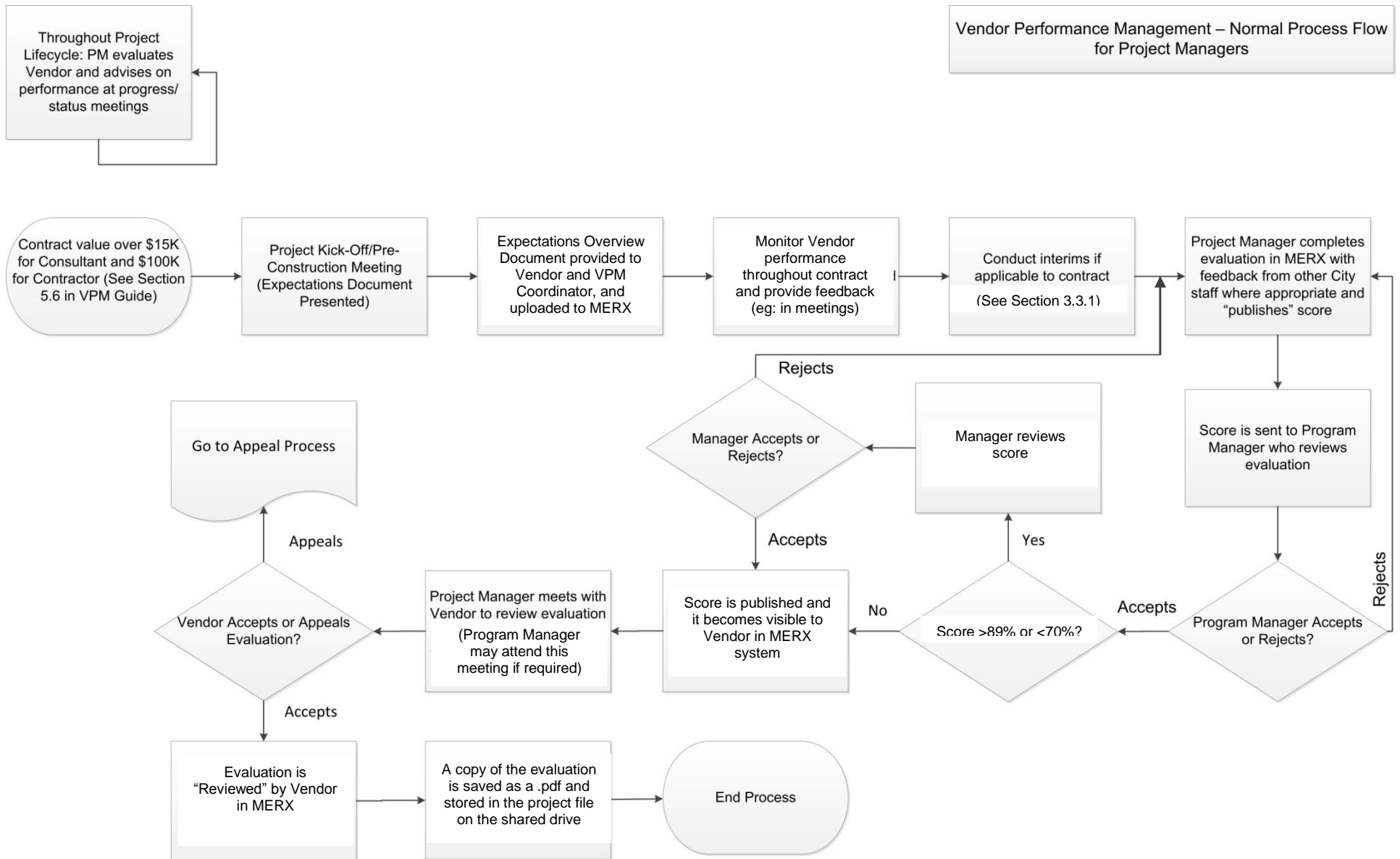
As detailed above, the Project Manager is responsible for:

- Communicating upfront the essentials of the Vendor performance program to Vendors

- Monitoring Vendor performance and compliance to the project contract documents
- Communicating and documenting the performance of Vendors on their contracts, including setting clear performance expectations
- Ensuring that issues with Vendor performance are escalated to Program Manager or Manager in accordance with Departmental escalation protocol(s)
- Entering and completing interim and final evaluation results into MERX
- Gathering information and supporting appeals (if necessary)
- Publishing the appeal decision provided by the VPM Administrator in MERX (if applicable)

Evaluations will only apply to the prime. The prime is responsible for the performance of their sub consultants and sub trades.

The process for basic Vendor Performance is on the following page.



3.1 Opportunities to communicate performance during project lifecycle:

There are many opportunities to discuss Vendor performance during the project lifecycle. It is important to reiterate that any Vendor performance issues shall be discussed and documented immediately (See “No Surprises” clause below) with the Vendor and/or Program Manager and/or where necessary, with the Manager. Supply Branch may become involved where the escalation protocol is warranted.

Opportunities for discussing performance with the Vendor include, but are not limited to:



As referenced in the ISD Project Delivery Manual, the “No Surprises” strategy is to be implemented on all projects. It is the Project Manager’s responsibility to ensure all issues with project scope, cash flow, schedule, budget and risks (potential or otherwise) are escalated as soon as possible to their Program Managers and, if necessary, their Manager. “No Surprises” also applies to communications with the Vendor in regards to their performance throughout the duration of their contract. Following protocol is important in order to formulate action/communication plans to deal with unexpected project outcomes/issues.

3.2 Project Start-up

Vendors will be informed that their contract will be subject to the City of Ottawa’s Vendor Performance Framework in Tender Documents, RFP/RFQ or on the Request for Standing Offer (RFSO).

Once the PO is issued, the Supply Branch will enter the project information into MERX. This will open up what is referred to as a “Container” in the MERX Vendor Performance Management System. Once the Container is opened, the MERX system will automatically send an email notification to the Project Manager and the Vendor. The Project Manager shall log in to MERX and verify that the information entered is correct. Project numbers in MERX are the same as the Purchase Order number. If Project Managers need to make a revision to the project information listed in the MERX container, they should contact the Departmental Superuser.

Evaluation Thresholds

All Consulting assignments with a total approved project budget of >\$15K and all Construction contracts with a total approved project budget of >\$100K are subject to the City of Ottawa’s Vendor Performance Framework.

For certain Consulting Assignments, Project Managers shall conduct more than one evaluation for the same Vendor on the same project, even if all the work is captured under one Purchase Order. This usually occurs under the following conditions:

- Design Consultant who does the Project Contract Administration

- Design Consultant who provides Technical Support During Construction
- Design Consultant who provides Inspection Services During Construction

The Project Manager shall have a separate kick-off meeting, Expectations Overview Document and evaluation for each functional aspect of the project within the Consultant's scope of work.

Project Kick-Off Meeting/Pre-Construction Meeting: Vendor Performance Management should be included in the broader Project Kick-off/Pre-Construction meeting agenda or at the start of a project in the Vendor conversation. The City and Vendor can review the proposed work plan and schedule, discuss Vendor performance expectations, anticipated evaluation milestones including interim evaluation dates (if applicable) as well as identify potential challenges and risks before work commences.

One of the most important steps in the Vendor Performance Management process takes place at this meeting as it is the opportunity to share the City's performance expectations with the Vendor by providing them with the VPM Expectations Overview Document and discussing its content at the very beginning of the project.

Project Managers shall use the appropriate template to prepare a VPM Expectations Overview Document and provide it to the Vendor at the initial project meeting (e.g. Kick-off or Pre-Construction meeting). To determine how many evaluations will be performed, refer to the Interim Assessment section below. The Expectations Overview Document will form the basis for a discussion with the Vendor about how their performance will be evaluated and at what intervals.

Once the VPM Expectations Overview Document has been discussed, the Project Manager should provide a copy to the Vendor and the VPM Coordinator, and also upload the document into MERX. Note that documents uploaded by the Project Manager are attached to the evaluation and will not be visible to the Vendor until the evaluation has been approved and published.

The VPM Expectations Overview Document shall also be stored in the project file for future reference.

3.3 Communicating Performance during the Project

Throughout the contract or assignment, ongoing communication with the Vendor with respect to project status, issues and risks, and performance is critical. Most of the documentation that will support Vendor Performance ratings will be generated during the life cycle of the project (e.g. meeting minutes, summaries, emails, etc.).

Vendor performance discussions should be included on the agenda at regular Project Progress meetings on a regular basis. Progress shall be discussed in an ongoing manner via emails, meetings, documented conference calls and letters. Interim evaluations may be discussed during these meetings.

Emails and Letters can be used as a tool to confirm on-site, in telephone and/or in-person discussions. As with all documents that detail decisions and action items, these should be included in the project file.

Project Managers should solicit input from the client department regarding the performance of the Vendor. Input from Contract Administrators, Inspectors, etc. can also be considered when evaluating Contractor performance.

3.3.1 Interim Evaluations

Interim Evaluations are a tool for formally communicating performance while the actual work of the contract is still ongoing. Interim evaluations use the same evaluation categories as the final evaluation, but do not count towards the final Vendor score and cannot be appealed. Interim evaluations will help the Vendor gain an understanding of how their performance on the contract is currently viewed by the City Project Manager and will provide information on areas to target for improvement.

Interim evaluations should be completed within 20 business days of the date specified on the Expectations Overview Document.

Interim Evaluations are mandatory for certain projects and not required for others. The table below shows the requirements for completing interim evaluations.

| Contract Duration | Interim | Final | Other evaluation threshold |
|-------------------------------|---------|-------|--|
| <6 months | | X | |
| <1 year | X | X | |
| >1 year but less than 2 years | X | X | 1 interim evaluation per calendar year of project phase* |
| Multi-year | X | X | 1 interim evaluation per calendar year (365 days) of project phase |

** Vendor Performance Management may be impacted by projects that have the work split over two years, but have long gaps of inactivity (e.g. no work being carried out); this can be due to winter shutdown, a maintenance break (facility shutdown), when equipment is installed in the season it will not be operating (e.g. a boiler installed in summer), or while awaiting for installed equipment to be delivered (e.g. boilers and chillers, special lighting or imported tiles). The evaluation period may be “suspended” during these shutdowns and times when work is not being carried out would not count towards the Contract duration resulting in fewer evaluations. Please consult with the responsible Program Manager and if necessary, the Manager in these scenarios prior to advising the Vendor how the Vendor Performance Program will be impacted. Decisions of this nature should be clearly communicated to the Vendor.*

Projects less than 6 months in duration require no interim, only a final evaluation. A maximum of 2 evaluations per year shall be conducted (includes 1 interim and 1 final).

Interim evaluations should be presented to the Vendor at the mid-point of the contract or at a significant project milestone (e.g. Preliminary Design Phase completion), or a significant construction milestone agreed upon at the expectations meeting between the Vendor and the Project Manager. If the date of the milestone should move due to modifications to the project schedule, the interim evaluation date should move as well, unless that would mean a Vendor would go a full calendar year

without an evaluation. If this date is revised, please ensure the appropriate notification is sent to the VPM Coordinator.

Project managers will enter interim evaluations into MERX. Once the information has been entered into MERX, the interim score will be reviewed and approved by the responsible Program Manager. In the case of overall interim scores above 89% and below 70%, the Manager will also have to review and approve the interim evaluation. Once the Manager(s) have reviewed and approved the scores, they will be published in MERX. An email notification will be sent to the Vendor from MERX advising them that an interim evaluation has been posted. The Vendor may then log in to MERX and view their interim score.

If necessary, Interim evaluation results will be discussed with the Vendor at a meeting scheduled by the Project Manager following publication of the score in MERX. Any revisions requested by the Vendor and agreed to by the Project Manager will require withdrawal of the existing evaluation in MERX and creation of a new one to reflect the revised score. Once the interim evaluation is complete, a PDF copy should be saved from MERX and stored in the Vendor Performance folder of the project file on the shared drive.

Interim evaluation scores do not form part of the final evaluated score and cannot be appealed by the Vendor. Scoring is further detailed in Section 5.

3.4 Communicating Performance at the end of the Project

Final evaluations of a Vendor's performance are due as the project closes-out. The final evaluations are filled out using the MERX system and are similar to interim evaluations. The final evaluations must be completed and approved within a specific timeline, depending on project type. Final evaluation scores should be discussed with the Vendor shortly after publishing in MERX. Any revisions presented by the Vendor and agreed to by the Project Manager will require the original evaluation to be withdrawn and modified to reflect the revised score. This will reduce the likelihood of the Vendor initiating the appeals process.

The final evaluation should be entered in the MERX system based on the event triggers presented in the table below:

| Type of Evaluation | Timeline to enter into MERX |
|--|--|
| Construction | 20 business days after Substantial Performance |
| Consultant - Inspection | |
| Consultant - Contract Administration | |
| Consultant - Technical Support During Construction | |
| Consultant – Design | 20 business days of delivery of final tender package |
| Consultant – Studies and other assignments | Within 20 business days of receipt of final deliverables |

The process for interim and final evaluations is the same, with the exception that Vendors have the option to appeal a final evaluation. After the Project Manager enters the evaluation in MERX, the score will be routed to their Program Manager to be reviewed and approved. Overall scores that fall above 89% or below 70% (“outlier” scores) will also be reviewed and approved by the Manager. Once the scores have been reviewed and approved, they will be published in MERX and an automated email notification will be sent to the Vendor from the system advising that an evaluation is available for their review. The Vendor may then log into MERX and view their final score. At that point, the Vendor will have the opportunity to accept or appeal the score, or call the Project Manager to request a meeting.

Project Managers are encouraged as a best practice to discuss Vendor performance compared to expectations at a final meeting. Holding a Vendor Performance Management Close Out meeting is at the discretion of the project manager/program manager unless otherwise specifically requested by the Vendor.

If executed, the Vendor Performance Close-Out meeting will include the presentation of the final evaluation to the Vendor for discussion. The City Program Manager may attend this meeting with the Project Manager. Additionally, the Manager should be advised and invited to the Vendor Performance Close Out meeting when an “outlier” score is presented to the Vendor.

The final evaluation will be stored in the MERX system and counts towards the Vendor’s Overall Vendor Score (OVS).

3.5 Re-opening Evaluations

Project Managers may need to re-open published evaluations. Some examples for needing to re-open evaluations could include:

- Design Errors and Omissions that came to light during Construction and/or during the Design phase
- Issues that presented during the warranty period
- Revising scores based on performance discussion with the Vendor at the close-out meeting

If necessary, Project Managers should advise their Program Manager and Manager that there is a need to re-open an evaluation and the rationale for doing so. If an evaluation is re-opened for the purpose of revising the score, the original evaluation will need to be withdrawn and modified. The Vendor will receive a notification from MERX when an evaluation has been withdrawn, and another when the revised evaluation has been published again. Upon review, Vendors will have the opportunity to accept or appeal the revised score.

4. Documentation

Maintaining satisfactory project documentation is key to successful Contract Administration and Project Management. Documents that should be maintained on the Project file are outlined in the

Project Delivery Manual, (applicable to all Project Managers within ISD). These documents will assist with communicating and evaluating performance.

The MERX system has the ability to attach documents to support an evaluation. As the project file shall be considered the repository of all project documents, attaching documents into the MERX system is at the discretion of the Project Manager. However, at a minimum, the following documents **must** be posted to MERX (in addition to being stored in the project file):

- Expectations Overview Document
- Any issued Letter(s) of Non-Conformance (if applicable)
- Any issued Letter(s) of Non-Performance (if applicable)
- Any issued Letter(s) of Default (if applicable)

Supporting documentation is mandatory in MERX for evaluation ratings below 70%. After the evaluation is approved and published, all documents posted to the MERX system will be visible to the Vendor being evaluated.

The following documents may be used to support Vendor performance evaluations. They should be stored in the project file, but do not need to be uploaded to MERX:

- Internal and external correspondence (emails, faxes and letters)
- Project Kick-off/Pre-Construction/Progress Meeting Agendas and Minutes, including all issues discussed, decisions made, issues unresolved and action items assigned; records of minutes shared with all parties
- Progress reports
- Project diaries which record the significant events of the day
- Inspection and laboratory/quality assurance reports
- Change Orders and Change Order Rationale Forms that document a change to the project's risk status
- Photographs and video
- Consultant's proposal and/or proposed work plan showing resources and WBS elements
- Consultant's Term of Reference
- Construction schedules
- Cash flow forecasts
- Agreements (General Terms and Conditions, Specifications)
- Project deliverables and rejected project deliverables

Final versions of all evaluations conducted over the life of the project should be saved in PDF format from MERX and stored in the Vendor Performance folder of the project file on the shared drive.

5. Vendor Performance Scoring and Templates

5.1 Scoring

All Vendor performance scores will fall into one of the following performance zones:

| Performance Level | Score Range |
|-------------------|-------------|
| Outstanding | 90-100% |
| Commendable | 80-89% |
| Satisfactory | 70-79% |
| Needs Improvement | 50-69% |
| Not Satisfactory | <50% |

As contracts vary in size, value and complexity, the material in this section will only provide a guideline on how to evaluate the Vendor performance.

There are many components that are important to ensure the successful completion of a project and each have their own rating descriptions. To provide a consistent understanding of performance levels across all categories, general criteria are presented below.

The following criteria describe the four general areas to be reviewed when considering the performance level:

- the frequency of occurrence
- how much of the item was affected
- how much direction the Vendor required
- the level of inspection required (if applicable)

| | |
|---------------------|--|
| Outstanding | <ul style="list-style-type: none"> • The Vendor frequently exceeded the requirements of the contract • Non-conformances affected a negligible portion of the project • No direction required: the contractor initiated preventative measures • Inspection, support and/or review at minimal levels |
| Commendable | <ul style="list-style-type: none"> • The Vendor very frequently met and occasionally exceeded the requirements of the contract • Non-conformances affected a small portion of the project • No direction required: the contractor initiated identification, reporting and remedial action • Inspection, support and/or review at reduced level |
| Satisfactory | <ul style="list-style-type: none"> • The Vendor met the requirements of the contract and is in good standing with the City |

| | |
|--------------------------|--|
| | <ul style="list-style-type: none"> • Non-conformances affected an average portion of the project • Required minimal direction: the contractor initiated remedial action • Inspection, support and/or review at normal level |
| Needs Improvement | <ul style="list-style-type: none"> • The Vendor occasionally did not meet requirements of the contract • Non-conformances affected a large portion of the project and/or had a major impact on the project • Required direction by the owner's representative to rectify • Required additional inspection, support and/or review effort • Non-performance letter(s) may have been issued |
| Not Satisfactory | <ul style="list-style-type: none"> • Contractor Vendor did not meet requirements of the contract • Non-conformances affected a large portion of the project and had a significant negative impact on the project • Required frequent and strong direction to rectify • Required high level of inspection and/or review • Contractor in default (Default letter may have issued) and issue not rectified |

When assigning a less than satisfactory score for any evaluation criteria, supporting comments will be required in MERX. For overall scores falling above 89% and below 70%, the Project Manager should include supporting overall comments. In the case of overall scores that are less than satisfactory, supporting documentation and comments must be added to MERX. Note that comments and attachments will be visible to the Vendor (along with the score) upon publishing the evaluation.

5.1.1 Project Scores and Overall Vendor Scores

Individual Project Scores (PS) and Overall Vendor Scores (OVS) will be tracked. Both will be presented as a percentile (%).

The intent is that the OVS will be calculated based on performance over the previous three (3) years using the following formula, with the most recent year having the highest weighting:

$$OVS = \frac{3 (\text{Year 1 Average}) + 2(\text{Year 2 Average}) + 1(\text{Year 3 Average})}{6}$$

Year 1 = the current year
Year 2 = next previous year and so on.

The overall average of all Vendor scores will be posted on the City of Ottawa/MERX website for Vendors to see how they are performing in relation to the City average. Vendors can only view their own scores in the system, they cannot view the scores of other Vendors.

New Vendors that do not have a history with the City of Ottawa will be automatically assigned the overall average City score.

Only “Approved” final evaluation scores in the MERX system will count towards a Vendor’s OVS. Scores that are currently under appeal will not affect a Vendor’s score until the said appeal has been resolved.

5.1.2 VPM Criteria in Bid Evaluations

The OVS will be considered in future bid evaluations. This will be phased in as evaluations are entered into the MERX system. Further information on this will be provided by the Supply Branch in 2016.

5.2 The Consultant Template (Design and Studies)

The Consultant template has multiple sections and is flexible based on the contract type and duties assigned. For example:

1. Consultants that undertake the Design only of the Project
2. Consultants who perform the duties of Contract Administrator on the Project
3. Consultants who provide Technical Support only to the Project
4. Consultants who provide Inspection Support to the Project
5. Consultants who provide condition assessments, options analysis services, technical services, etc.
6. Any combination of the above

As mentioned in Section 3.1, for certain Consulting Assignments that capture more than one duty, Project Managers shall conduct more than one Vendor Performance Management Kick-Off meeting, even if all the work is captured under one Purchase Order. This usually occurs under the following conditions:

- Design Consultant who does the Project Contract Administration
- Design Consultant who provides Engineering Support During Construction
- Design Consultant who provides Inspection Services During Construction

The Project Manager shall have a separate Kick-Off Meeting, Expectations Overview Document and evaluation for each piece of work within the Consultants’ scope of work.

The Design/Studies Consultant provides expert knowledge to analyze information, draw conclusions and make recommendations in the form of a written report and/or engineered design for future implementation.

5.3 The Contract Administrator Template (Contract Administration, Technical Support, Inspections)

Where the Contract Administrator (CA) is external to the City, they will be evaluated within the VPM framework. At times, the CA and the Design Consultant are the same. The CA is responsible for:

- Administering the terms of the construction contract between the City of Ottawa and the Contractor
- Act as the City's primary representative on the job site
- Interpret the contract Tender Documents and judge the contractor's performance of such;
- Ensure that all work on the contract proceeds according to the contract specifications, drawings as well as the terms and conditions of the contract(s) prior to approving work and progress payments
- Identify and manage issues that impact on project schedule, financial implications (within PO authority), or potentially cause a negative impact to the public
- Ensures that accurate records are established and maintained to substantiate payment
- Resolve claims, and assist in negotiating credits/extras/additional work at fair market value within the PO authority

The Technical Support during Construction evaluation is for Vendors performing the technical inspection, review, and proper completion of the construction Contract. Technical Support staff have sound knowledge of design standards, specifications, and materials associated with construction. Some technical experts may also provide guidance regarding Laws and Regulations including Environmental, Occupational Health & Safety requirements and their application in construction contracts.

The main duty of Vendors performing Inspection Services during Construction is to monitor that the Works are constructed in accordance with the contract documents and that contractor follows all applicable City of Ottawa policies and procedures, terms and conditions of the contract, relevant Provincial and Federal laws and/or regulations.

5.4 The Contractor Template

The Contractor template is used to evaluate the Vendor who constructs or rehabilitates an asset(s). The Contractor is a person or company who undertakes a scope of work within a defined time frame and budget per the contract documents issued via public tender and/or a competitive quotation process by the Supply Branch. Additionally, the contractor is responsible for providing all of the material, labour, equipment (such as vehicles and tools) and services necessary for the construction of the project. The contractor may hire specialized subcontractors/suppliers to perform some or all of the construction work and is responsible for managing the performance of the subcontractor(s)/suppliers. Evaluations are to be completed for the Prime contractor only. Subcontractors are not evaluated separately, as their performance is encapsulated in the evaluation of the Prime.

5.5 Categories and Weightings

The applicable evaluation template for the project is identified in MERX when Supply opens the container. When the Project Manager chooses to complete the evaluation, the appropriate evaluation criteria will be displayed and allow the Project Manager to assign scores for each category. MERX will automatically calculate the overall score based on the marks assigned for each category. Design Consultants and Studies will be evaluated using the Consultant – Design template and are weighted as follows:

| | Design Consultant / Studies |
|--|-----------------------------|
| 1. Overall Project Management | 20 |
| 2. Schedule | 15 |
| 3. Budget Management | 20 |
| 4. Quality of Design, Reports and Deliverables | 20 |
| 5. Issue and Risk Management | 15 |
| 6. Communications and Co-operations | 10 |

Contract Administrators, Inspectors, and Technical Support consultants are all evaluated using the Consultant– Contract Administration template and are weighted as follows:

| | Contract Administrator (CA) | Technical Support during Construction | Inspection services during Construction |
|---|------------------------------------|--|--|
| 1. Overall Construction Project Management | 15 | NA | NA |
| 2. Schedule Monitoring | 15 | NA | NA |
| 3. Cost Control | 15 | | |
| 4. Technical Support During Construction * | NA | 10 | NA |
| 5. Oversight of Contractor compliance with Contract documents | NA | NA | 15 |
| 6. Issue and Risk Management | 10 | NA | NA |
| 7. Communication and Co-operation | 10 | NA | NA |
| 8. Records Management | 10 | NA | NA |

In the Consultant – Contract Administration evaluation template, there is an option in the MERX system to skip categories (“Not Applicable to this Contract”). For Inspectors and Technical Support consultants, evaluations are based on only one category as shown in the table above (100% of the Vendor score will be based on this one category).

The categories on the Contractor evaluation are weighted as follows:

| | Contractor |
|--|------------|
| 1. Overall Construction Project Management | 15 |
| 2. Supervision | 10 |
| 3. Quality | 15 |
| 4. Health and Safety | 15 |
| 5. Co-operation and Public Relations | 10 |
| 6. Cost Control | 10 |
| 7. Site Management | 10 |
| 8. Schedule Management | 15 |

6. Effective Communications

Staff need to work at maintaining a good relationship with the Vendor so differences in opinion can be handled appropriately. Good communication is the key to successful Vendor Performance Management. Regular communication is always the first and best choice to prevent problems and maintain a good working relationship with the Vendor.

Effective dispute resolution requires that the Project Manager and the Vendor:

- Recognize that contract documents are not perfect, and neither are people;
- Keep larger objectives and the end result in mind;
- Focus on the facts and depersonalize issues;
- Make reasonable compromises, negotiate prescribed changes to the contract and justify them;
- Work cooperatively to proactively resolve disputes in a timely manner.

6.1 Escalating Contract Issues – Process

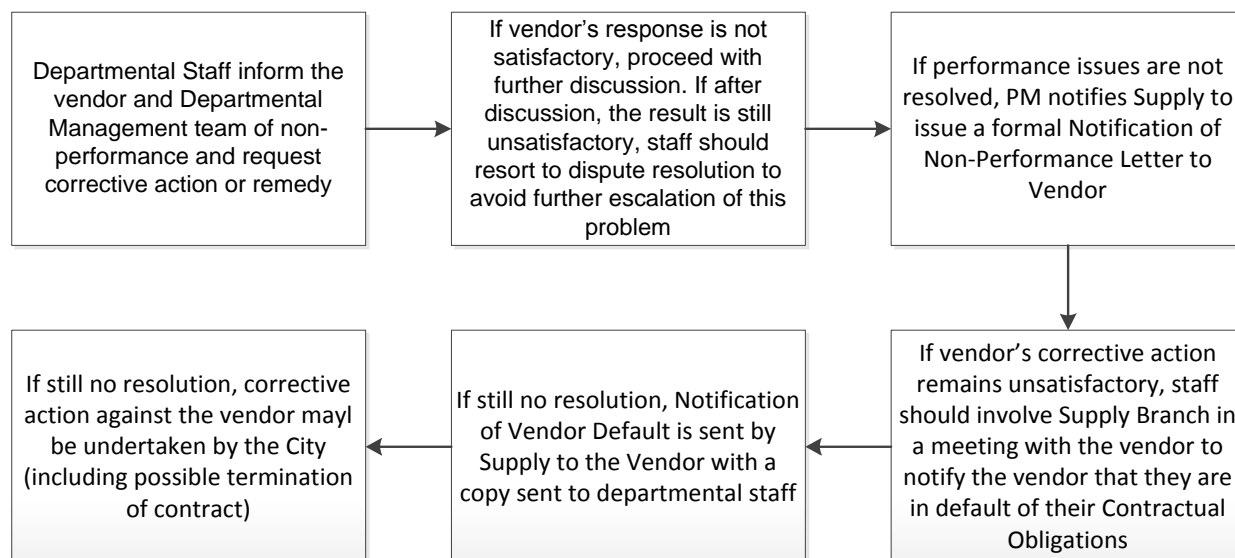
As outlined above, it is important to address contract issues immediately with the Vendor and try to mutually bring the matter to resolution. This will facilitate Vendor performance discussions and also will serve as supporting documentation for discussions of appeals should they occur. It is best to ensure the following are discussed:

- A description of the situation/issue
- The details of the issue and the resolution requested by the Vendor/City as well as the timeline to complete
- The action taken by the Vendor/City to bring the situation to resolution
- The result of the action – was the issue resolved?
- Follow-up activities by the CA (if required)

Tools that are available to Departmental staff to document contract Issues are the following:

- Issue Log/Reports
- Progress Meetings and/or additional project meetings and minutes of these meetings
- Interim evaluations
- Letter(s) of Non-Conformance
- Letter of Notification of Non Performance
- Letter of Vendor Default

Below is the process for managing and escalating contract issues, including when to use the tools described above:



6.2 Notification of Vendor Non-Performance

The PM should endeavor to solve all issues of performance that needs improvement or is unsatisfactory or exhibiting non-performance on an ongoing basis. Ongoing communication and a proactive approach can reduce potential issues (for example, addressing minor issues on site or in Progress meetings). Unfortunately, even a proactive approach still may not prevent all issues of non-performance. As these cases present themselves, a short discussion may resolve a Contract issue that needs improvement or is unsatisfactory or exhibiting non-performance behavior.

In cases of serious Non-Performance, a meeting and written communication or phone call should be sent to advise the Vendor of the specific items that the Vendor has not performed and/or performed unsatisfactorily. The PM should quote the relevant part of the contract specification, delivery date, work plan or specific clause. The Vendor and the PM shall agree on the time required to complete the deliverable(s) required under the contract terms and conditions.

The PM shall follow up this discussion with the Vendor with a Letter of Vendor Non-Performance detailing the conversation. Supply Branch and the Program Manager should be copied on the issuance of this letter. A copy of the letter should also be uploaded to MERX as supporting documentation. Additional monitoring by the Project Manager will be necessary to evaluate Vendor response/correction.

If Vendor's response is still unsatisfactory, a meeting with Supply Branch and the Vendor should be initiated by the Project Manager advising the Vendor that if no action is taken to fulfill their contractual obligations, they will be in default. The details of this meeting should be formally documented and shared with all parties and Departmental Managers in accordance with Departmental escalation protocols.

6.3 Default by the Vendor

The purpose of the default process is to enforce the contract, not to cancel it. Should the Vendor meet the City's demands for corrective action they would no longer be in default, and the contract could be concluded successfully.

If dispute resolution fails, written records of all important communications with the Vendor should be forwarded to Supply Branch. A record of the City's response to Vendor non-performance, including a request for corrective action, will allow Supply Branch to determine if the Vendor is in default of its contractual obligations.

The default process must include written notification to the Vendor of its specific non-performance, a request for a correction or remedy in accordance with the Contract, and delivery of the remedy by an acceptable date. The letter must inform the Vendor that should it fail to correct its performance by the specified date; the City will find the Vendor in default of its contractual obligations and is within its legal rights to terminate the contract. A copy of this letter should be uploaded to MERX as supporting documentation.

The contract may require the Vendor to make performance securities available for the City to claim in the event of default. Performance securities may be in the form of cash, certified cheques, letters of credit, or surety bonds. Supply Branch, with the assistance of Legal Services, would determine if the City is within its rights to make a claim against a performance security when the Vendor is in default. Even if the City makes a claim against a performance security, the Vendor may be bound to provide a remedy and complete the contract.

7. Appeal of Vendor Score

After the final evaluation has been discussed with the Vendor, Vendors may choose to appeal their final evaluation. Any final score can be appealed. The Vendor must submit the appeal within 15 calendar days following the day the final evaluation is published on MERX. Interim evaluation scores cannot be appealed.

The objective of reviewing the appeal is to validate the information that was provided by the Vendor for this appeal, not review the entire evaluation. However, if new information was brought to light that affects how the project outcome came about the appealed score could be negatively impacted in the appealed categories.

The City shall endeavor to respond to appeals within 15 business days. Appeals that must escalate to the MAC or are more complex may take longer to render a decision. The Vendor should be informed in writing if the appeal review process will take longer than 15 days, and an estimated timeframe for resolution should be provided. When the Vendor enters the appeal into MERX, they will be prompted to enter a rationale for the appeal and will have the option to attach supporting documentation. The rationale provided must be specific to what category they are appealing and Vendors shall be required to submit documentation to justify a modification to their score.

Vendors have a single opportunity to enter an appeal. If the appeal is incomplete, or necessary documentation is not provided to support the rationale then the appeal will be rejected. The appeal rationale provided shall highlight the specific references (pages, sections etc.) within the documentation that support the appeal. Appeals on appeals are not permitted.

General guidelines for Vendor appeals:

- Whatever relevant documents and/or comments are submitted in MERX by the Vendor shall be reviewed by the City
- If one or more categories are appealed, appropriate documentation and justification must be supplied for each category being appealed
- If the Vendor appeals on 2 categories, but only provide rationale for one, then the appeal shall proceed on the category with supporting rationale
- If documentation is not provided for the specific category then the appeal on that category shall be dismissed

Project Managers and Program Managers will receive an automated notification from the MERX system that the evaluation is under appeal. The Manager will receive a notification of the appeal only if the original score was below 70% or above 89%. The evaluation approver shall advise the VPM

Coordinator. The Project Manager may be asked to prepare documentation and support the appeal process as necessary.

The VPM Coordinator will review the appeal and the attached documentation and will recommend one of the following routings:

1. Insufficient Documentation to proceed with appeal; recommend reject appeal
2. Convene appeal body to further review appeal and approve or reject appeal

The VPM Administrator will present the recommendation and attend the meeting of the appeal body if the appeal is being considered. The appeal body is a group that will render the final decision on an appeal. Depending on the score being appealed, the appeal body will have different membership. The table below describes the conditions for which the appeal body would need to be called and the membership of each:

| Scores >89 or <70 | Scores between 70-89 |
|---|--|
| Appeals are reviewed by the Management Advisory Committee (MAC). Membership of the MAC is made up of ISD Managers. The responsible Program Manager may be asked to provide context. | Appeals are reviewed by a committee of 3 Program Managers consisting of 2 Program Managers that will be randomly selected from the ISD Department and the responsible Program Manager. |

The City reserves the right to convene the MAC for appeals on scores between 70-89% if the project is high-visibility, highly political, complex and/or of high monetary value.

The appeal body will review all documentation and/or comments associated with the appeal. Additional information may be requested of the responsible Program Manager and/or Project Manager. After the review, the appeal body will render a decision on the appeal with majority rules (at least 2 out of the 3 members of the appeal body must be in agreement of the final decision). The VPM Administrator will attend these meetings and document the decision.

Following the meeting the VPM Administrator will prepare the appeal response. The response will be provided to the evaluating Project Manager, who will be responsible for posting the appeal decision in MERX. The Vendor will receive notice of the appeal decision through MERX. All Vendor questions related to the appeal should be directed to the VPM Administrator. Appeal decisions are final and binding. This approach is consistent with industry best practices.

Similar to other municipalities and Provincial authorities, Vendors may continue to bid on tenders while an evaluation is under appeal. The evaluation score under appeal is 'suspended' in the VPM system until an appeal decision is entered, the score is not part of the Overall Vendor Score (OVS) calculation.

The appeal workflow is provided on the following page.

Appeal Process

