

CATEGORY: FINANCIAL MANAGEMENT
SUBCATEGORY: PROCUREMENT
SUBJECT: CONSULTANT PERFORMANCE EVALUATIONS

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39.1 Purpose and Overview

This procedure provides guidance on Consultant Performance Evaluations for Consultants secured by The Regional Municipality of Peel (Region) for certain types of projects. Evaluations provide a summary of a Consultant's performance on any awarded Contract subject to a Consultant Performance Evaluation process and will become an official record to be kept in accordance with the Retention and Validity Period guidelines noted in Section 39.9. The information collected in the Evaluations will serve the following purposes:

- Provide feedback to Consultants for performance improvements and / or acknowledge Satisfactory or "Exceeds" performance,
- Determine Consultants' eligibility or ineligibility to bid on future Region Contracts, and
- Provide justification for the award or non-award of Contracts.

This procedure should be read in conjunction with the Procurement By-Law 30-2018, as amended from time to time and as implemented by the Region's Procurement Department ("Procurement").

The Region requires all Project Leads responsible for managing Contracts to complete the required Evaluations in accordance with this procedure, as amended from time to time. A Consultant's Rating is based on the scoring of the criteria shown on the Evaluation Form.

39.2 Definitions

Calendar Day: All days in a month, including weekends and holidays.

Consultant: For this procedure, an individual, partnership or corporation offering engineering, architectural, or similar professional services as identified in the Contract and where the Contract requires participation in this procedure and the completion of an Evaluation Form. For the purposes of a Consultant's eligibility or ineligibility to bid pursuant to Sections 39.6.3

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Probation Rating and 39.6.4 Suspension Rating, “Consultant” includes any entity affiliated or related to the Consultant (including any entity with the same directing mind as the Consultant on Probation or Suspension) as determined in the discretion of the Director of Procurement, in consultation with the Regional Solicitor.

Consultant Performance Evaluations (Evaluations): The use of Key Performance Indicators (KPIs) to capture, measure, analyse and report a Consultant’s performance on any given Contract to make a formal determination of a Consultant’s Rating.

Consultant Performance Evaluation Form: The Evaluation Forms specific to evaluating work performed by a Consultant including, but not limited to, design and contract administration services, class environmental assessments, and feasibility studies.

Contract: The agreement in writing governing the performance of the Work and resulting from one of the following procurement processes: Request for Tender, Request for Proposal, Direct Negotiation, Request for Quotation, and includes the Consultant’s Submission and other written documents accumulated before or during the performance of the Contract outlining the requirements of the Work performed.

Evaluation Form: The tool used to evaluate the performance of the Consultants and outlines the specific KPIs and their respective evaluation criteria.

Exceeds: Consultants who receive an “Exceeds” rating (an 86% or above Final Evaluation rating) are eligible to bid on and be awarded work for the Region, subject to other requirements of the Contract.

Final Evaluation: The Final Evaluation to be completed upon the completion of any applicable Contract which summarizes the Consultant’s performance from the beginning to the end of the Contract.

Interim Evaluation: Any Consultant Performance Evaluation which is completed at any time after the commencement of the Work and prior to the Final Evaluation.

Pre-Qualification: A request by the Region preceding a Request for Proposal, Request for Quotation or a Request for Tender seeking submissions from potential Consultants where it is deemed that the nature and complexity of the work involved warrants the time and effort required to pre-select the most experienced and qualified Consultants.

Probation: A Consultant’s ability to bid on Region Contracts is limited until such time that the Consultant achieves a Satisfactory Rating.

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Project Completion:

- For Environmental Assessment projects: When Phase 4 of the project is completed and a “notice of completion” is issued.
- For Detailed Design (only) projects: When Design is 100% complete, IFT drawings are approved by CAD, and tender documents are approved for issue by Procurement.
- For Detailed Design/Contract Administration/Inspection projects: When “preliminary acceptance” is issued in the case of OPS-governed construction projects and after the whole of the works have been delivered in the case of CCDC-governed construction projects. On projects where the Consultant’s services have been identified as being required during the construction warranty period, the Region may adjust the final evaluation score during this period based on the Consultant’s performance re: warranty services.
- All other projects shall have their Project Completion parameters established at the project kick-off meeting by mutual agreement between the Project Lead and the Consultant.

Project Lead: The Region’s assigned individual who has the responsibility and authority for the planning, managing, executing and closing of the Work associated with the Contract.

Project Phase: Any one of the following: Environmental Assessment or Studies, Preliminary Design, Final Design, Construction, Final Evaluation.

Rating or Status for Consultant Evaluation: The score received on a Final Evaluation is used to determine Consultant’s standing as Exceeds, Satisfactory, Probation or Suspension.

Regional Program Area: In Public Works, defined as any one of Water, Wastewater, Transportation, Waste Management, SCADA & Instrumentation, Program Planning & Compliance, Operations Support, Development Services. In Corporate Services, defined as Real Property Asset Management.

Satisfactory: Consultants who receive a Satisfactory Rating are eligible to bid on and be awarded Work for the Region, subject to any other requirements of the Contract.

Subcontractor / Sub-consultant: A person, partnership or corporation undertaking the execution of a part of the Work by virtue of an agreement with the Consultant.

Suspension: The Consultant is no longer permitted to bid on certain Region Contracts until permission is granted by the Region.

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Validity Period (Record): Each Evaluation completed shall remain on the Consultant's record for a period of five years, after which it will remain on file but will not be taken into consideration when determining any potential Suspension duration.

Work: The work to be undertaken by the Consultant pursuant to the provisions of the Contract.

39.3 Forms

1. Consultant Performance Evaluation Form 2017

39.4 Roles and Responsibilities

Project Leads are responsible for the management of the Consultant and are therefore responsible for the completion of the Evaluation Form. The Evaluation Form is a contractual requirement, and the subsequent completion of it is mandatory for all Project Leads. If inspectors or any other individual or organization was heavily involved in the management of the Contract and the Consultant, Project Leads may receive input from those individuals.

Procurement is responsible for the monitoring, retention and reporting of data as well as ongoing maintenance and improvements including, but not limited to, procedure updates, Evaluation Form changes, responding to inquiries regarding this procedure, and providing support to Project Leads. Additionally, Procurement shall ensure that the appropriate Consultant Performance Evaluation clauses are included in the development of any applicable procurement documents.

39.5 Consultant Performance Evaluation Procedure

This section provides information and procedures involved in specifically administering the Consultant Performance Evaluation procedure.

39.5.1 Procedure

Where Contracts are externally managed, ensure that those external Consultants are aware of this procedure and Consultant Performance Evaluation Form.

Include the Consultant Performance Evaluation Form as a standing item on meeting agendas. Project Leads are to review performance status with the Consultant at project meetings, and these discussions shall be captured in the meeting minutes, particularly when there are concerns or issues surrounding the Consultant's performance.

39.5.1.1 "Value Add" Bonus Score

A maximum of three additional points (maximum 1 point per evaluation question) may be added to the Consultant's total Evaluation score for Evaluation questions where the

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Consultant earned an “Always” rating re: their particular performance deliverable but additionally demonstrated service quality that was considered, at the sole discretion of the Project Lead, to be “above and beyond” the requirements of the contract.

39.5.1.2 Frequency of Evaluations

Interim and Final Evaluations are required to be conducted by the Project Lead as follows:

A mandatory Final Evaluation at the end of the project, a mandatory Interim Evaluation at the end of each Project Phase, and additional Interim Evaluations during each Project Phase as determined by the Project Lead, based on Project Phase duration and/or Project Phase complexity.

In cases where a Consultant’s Interim Evaluations are continuously not Satisfactory (either on a single project or across two or more projects) and the Consultant has failed to make the requested improvements, the Region reserves the right to place the Consultant on Probation until the Final Evaluation(s) is/are complete, subsequently evaluated, and the applicable Rating can be applied. Any Consultant placed on Probation through this Interim Evaluation process may appeal the decision based on Section 39.8 – Appeals, as applicable.

39.5.1.3 Final Evaluations

Upon completion of the final Project Phase of the project, the Project Lead shall complete a Final Evaluation after which the Project Lead shall route it for final approval as follows:

Rating	Final Approval
Exceeds Rating (86% and above)	Project Lead’s direct Manager or Supervisor.
Satisfactory Rating (70% to 85 %)	Project Lead’s direct Manager or Supervisor
Probationary or Suspension Rating (69% or below)	Project Lead’s direct Manager or Supervisor, and Director of the Division

1. The Final Evaluation, once approved, must be completed within 60 Calendar Days of Project Completion.
2. If the Final Evaluation is Satisfactory or “Exceeds”, the Project Lead shall submit to the Consultant a copy of the Manager or Supervisor-approved Evaluation Form via e-mail.
3. Where a Final Evaluation is not Satisfactory or “Exceeds”, the Project Lead shall review the Manager/Supervisor/Director-approved Final Evaluation with Procurement and shall submit to the Consultant a copy of the Evaluation Form via e-mail and, if requested, both

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parties shall present the Final Evaluation to the Consultant in person to review the deficiencies.

39.6 Ratings Guidelines

Upon completion of each Final Evaluation, the score calculated shall determine the Consultants Rating and their eligibility to bid on future Contracts as outlined below.

39.6.1 Exceeds Rating

Consultants who score 86% or above through the Final Evaluation are in “Exceeds” status and are eligible to bid on, and be awarded Work for the Region, subject to other requirements of the Contract.

Consultants in “Exceeds” Status will have their company names published on the Region’s external website and their company names will be included in Procurement’s triannual report to Council, acknowledging the Consultant’s “Exceeds” status.

The criteria that contribute to a Consultant receiving an “Exceeds” rating include, but are not limited to:

- The Consultant consistently exceeds Project Lead expectations in areas including but not limited to: schedule maintenance, innovation, change management.
- The Consultant quickly becomes familiar with its contracted Regional Program Area’s policies and procedures to maintain the scope of services requested. All contractual obligations are completely fulfilled.
- No Project Lead direction required – the Consultant initiated appropriate measures, as required.
- Inspection, support, and review by Project Lead only required at a minimal level.

39.6.2 Satisfactory Rating

Consultants who score 70% to 85% through the Final Evaluation are in Satisfactory status. These Consultants are eligible to bid on, and be awarded Work for the Region, subject to any other requirements of the Contract.

39.6.3 Probation Rating

Consultants who score between 60% and 69% through the Final Evaluation on a project or have just come off a Suspension (in a particular Regional Program Area), or have a series of non-Satisfactory Interim evaluations on their record as per Section 39.5.1.1, are deemed to be on Probation for that particular Regional Program Area and, depending on the specific issues that led to the rating, may also be deemed to be on Probation in other Program Areas as well. The terms of Probation are dependent on whether or not the Consultant has other ongoing Contracts with the Region, and shall be as follows:

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i) No Other Ongoing Contract(s) with the Region

The Consultant is eligible to bid on any new Contracts but may only be awarded a maximum of one Contract in the Program Area(s) in which it has been placed on Probation, subject to the requirements of the Contract. After award of the one Contract, the Consultant is not eligible to bid on any other Contracts in the Program Area(s) in which it has been placed on Probation until it receives a Satisfactory or “Exceeds” Rating at a specially scheduled Evaluation to be held six months after project commencement.

If the Consultant receives a Satisfactory or “Exceeds” Rating on its six month specially scheduled Evaluation, the Consultant will move immediately into Satisfactory status in the Program Area(s) in which it has been placed on Probation and the Probation Rating will be removed.

If the six month specially scheduled Evaluation Rating is anything but “Exceeds” or Satisfactory, the Consultant shall stay on Probation in the applicable Program Area(s) until a subsequent specially scheduled Evaluation is completed and a subsequent Rating is applied.

If the Consultant fails to receive a Satisfactory or “Exceeds” Rating on the Final Evaluation, the Consultant shall move immediately into Suspension status where it will be ineligible to bid on any Peel projects in the applicable Program Area(s) subject to this Evaluation Procedure for a period of one year.

ii) Ongoing Contract(s) with the Region

The Consultant is unable to bid on any new Contracts in the Program Area(s) in which it has been placed on Probation and must receive a Satisfactory or “Exceeds” rating on ALL Interim and/or Final Evaluations that occur on their ongoing projects in the Program Area(s) in which it has been placed on Probation within six months of them entering Probationary status.

If the Consultant receives a Satisfactory or “Exceeds” Rating on all of its Final Evaluation(s) and all of its Interim Evaluation(s) on their ongoing projects in the Program Area(s) in which it has been placed on Probation that occur within the six month period after which it was placed on Probation, the Consultant will move immediately into Satisfactory status and the Probation Rating removed.

If any of the six month Interim Evaluation(s) is/are anything but “Exceeds” or Satisfactory, the Consultant shall stay on Probation in the Program Area(s) in which it has been placed on Probation until the Final Evaluation for the ongoing project(s) (for

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which their Interim Evaluations were not Satisfactory or “Exceeds”) is/are complete and subsequent Rating applied.

If the Consultant fails to receive a Satisfactory or “Exceeds” Rating on any of the Final Evaluations of their ongoing projects, the Consultant shall move immediately into Suspension status where it will be ineligible to bid on any Peel projects in the applicable Program Area(s) that are subject to this Evaluation Procedure for a period of one year.

While on Probation, the Consultant shall be permitted to work as a Sub-Contractor/ Sub-Consultant on other Contracts, unless the Region deems otherwise.

The Project Manager whose evaluation resulted in the Consultant being placed on Probation shall be responsible to retain and provide as necessary all required back-up notes/meeting minutes/emails etc. to demonstrate that all perceived shortcomings of the Consultant’s performance were communicated to the Consultant in a timely and clear manner.

39.6.4 Suspension Rating

Consultants who score 59% or below on a Final Evaluation will be placed on immediate Suspension and shall not be allowed to bid on new Contracts issued by the Regional Program Area(s) from which they are suspended, for the durations outlined as follows:

- If this is the Consultant’s only Suspension on Record as per Section 39.9 – Retention and Validity Period, the Consultant must complete a one year Suspension period in the applicable Program Area(s) from the time of Final Evaluation.
- If the Suspension is the Consultant’s second or more Suspension on Record as per Section 39.9 – Retention and Validity Period, the Consultant must complete a three year Suspension period in the applicable Program Area(s).

Upon completion of any Suspension period, the Consultant shall move into Probation Status.

While on Suspension, the Consultant shall not be allowed to perform any Work on Region Contracts in the applicable Program Area(s) and subject to this Evaluation Procedure as a Subcontractor/Sub-consultant. It is the responsibility of Consultants to ensure any Subcontractors/Sub-consultants they retain are in good standing with the Region and are eligible to perform work on Region Contracts prior to bidding on any Work.

Consultants are to call 905-791-7800 ext.7538 to obtain an up-to-date list of any Subcontractors/ Sub-consultants in Suspension. Should a Consultant name any Subcontractor/ Sub-consultant that is not in good standing, they shall be required to name a

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replacement Subcontractor/ Sub-consultant at no additional cost to the Region, or shall be deemed not eligible for award.

If a suspended Consultant has ongoing Contract(s) with the Region in the Program Area(s) in which it has been placed on Suspension, the Consultant must complete those Contract(s) and score a Satisfactory Rating. Anything less than Satisfactory shall result in the Consultant adding further Suspension time to its current Suspension duration. Should the Consultant complete the Contract(s), and receive a Satisfactory Rating prior to the completion of the Suspension period, the Consultant shall remain in Suspension for the length of the original Suspension period.

If at the end of the Suspension period the Consultant has yet to complete the Contract(s), in the Program Area(s) in which it has been placed on Suspension, a specially scheduled Evaluation(s) shall be completed. If the specially scheduled Evaluation(s) are Satisfactory, the Consultant shall move immediately into Probation Status. If ANY of the specially scheduled Evaluations are less than Satisfactory, the Consultant shall stay on Suspension until the projects is/are complete and the Final Evaluation(s) completed. The Final Evaluation(s) shall determine whether the Consultant moves into Probation or into another Suspension period.

The Project Manager whose evaluation resulted in the Consultant being placed on Probation shall be responsible to retain and provide as necessary all required back-up notes/meeting minutes/emails etc. to demonstrate that all perceived shortcomings of the Consultant's performance were communicated to the Consultant in a timely and clear manner.

Procurement shall ensure submissions from those Vendors which are no longer eligible to bid on Contracts due to their Ratings will have their submissions disqualified.

Any Consultant in either Probation or Suspension status is permitted to submit proposals for projects in Peel Program Areas outside of those for which they are in either Probation or Suspension status, subject to a Regional review of the nature of the circumstances that led to the Probation or Suspension rating being applied. The Region retains the right to not accept submissions from a Consultant across multiple Program Areas if it deems that the factor or factors that led to the Consultant being placed on Probation or Suspension are sufficiently significant.

39.7 Procedure – Pre-Qualification Process

Should a Consultant be in Suspension Status for a particular Program Area during the time that a Regional Pre-Qualification process is issued for that same Program Area, they are permitted to submit a response to a Pre-Qualification process that includes that Program Area regardless of whether or not they have ongoing Contract(s) with the Region. Should the Consultant

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successfully prequalify, it shall not be allowed to bid on any Contracts which result from the Pre-Qualification until it has completed its Suspension period, subsequent Probationary period, and moved into Satisfactory Status.

If a Consultant is in Probation Status for a particular Program Area, they are permitted to submit a response to a Pre-Qualification process that includes that Program Area regardless of whether or not they have ongoing Contract(s) with the Region. Should the Consultant successfully prequalify, it shall not be allowed to bid on any Contracts which result from the Pre-Qualification until it has completed its Probation period and moved into Satisfactory Status.

If the Consultant is in Probation status and has no ongoing Contract(s) with the Region, it is allowed to bid on all Contracts, including those resulting from the Pre-Qualification until such time as it is awarded one Contract as per the conditions of the Probation Rating outlined in Section 39.6.3 – Probation Rating. Once awarded a Contract, the Consultant shall be unable to bid on any other Contracts including those subject to the Pre-Qualification, until such time as the Consultant's performance has been evaluated and deemed to be Satisfactory.

39.8 Appeals

A Consultant or its representative may appeal the Final Evaluation and Rating by submitting an appeal, in writing, to vendorperformance@peelregion.ca to the attention of the Director, Procurement, within 21 Calendar Days of receipt of the Final Evaluation. Appeals submitted after 21 Calendar Days shall not be accepted and Consultants shall be notified of this upon Regional submission of the Final Evaluation and Rating to them. A Consultant undertaking an appeal of an assigned evaluation rating shall note that it will retain the status rating assigned to it as a result of the evaluation for the entire duration of the appeal process.

An appeal must contain the following information:

- Document (contract) number,
- Project number,
- Contract name,
- The specific issues and items the Consultant disagrees with along with reasons in support of the appeal,
- Any evidence the Consultant relies on or believes is relevant to the Final Evaluation and Rating, and
- Preference for an in-person meeting or paper review.

Upon receipt of an appeal, the Region shall acknowledge receipt and shall review the matter. A committee shall be struck to perform the review and shall be comprised of the Director, Procurement, or designate, a Director or designate that was not involved with and/or approved the original evaluation and any other individuals the Region may deem necessary such as staff from technical services, consultants, etc. The committee shall not include individuals that

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produced or were involved in the initial Final Evaluation and Rating. The committee shall review the Consultant's concerns and gather information from those involved in the performance of the Contract. The committee shall conduct its review in accordance with the preference identified by the Consultant. Should the committee's decision be favourable to the Consultant based upon the documentary evidence submitted, the committee shall dispense with the need for an in-person meeting.

Upon review of the information, the committee shall, within 45 Calendar Days of receipt of the appeal, make its decision to either confirm or vary the Final Evaluation and Rating. The decision shall contain the committee's reasons. The decision of the committee shall be considered final.

The Director, Procurement, or designate shall advise the Consultant of the decision in writing and copy the Project Lead. If an adjustment has been made, a revised Final Evaluation shall be provided with the decision and project and Procurement files shall be updated accordingly.

39.9 Retention and Validity Period

All Interim Evaluation(s) and the Final Evaluation are to be kept in the project file for each Contract. A copy of the Final Evaluation and any unsatisfactory Interim Evaluation(s) are to be sent to Procurement.

Final Evaluations stay on a Consultant's Record for a period of five years, after which they cannot be considered when determining appropriate Suspension duration.

39.10 Disclosure

The Region reserves the rights to share certain Evaluation results with other municipalities or government bodies upon request, where the Consultant has listed the Region as a reference. Information to be shared shall include, the following: current rating status and whether the Consultant completed the referenced project.

39.11 Prohibitions, Restrictions and Compliance

Any employee who knowingly contravenes any of the requirements of this procedure is committing an act of misconduct and is liable for disciplinary action.

39.12 Questions and Interpretations

Direct any questions regarding this procedure to vendorperformance@peelregion.ca.