CATEGORY: FINANCIAL MANAGEMENT

SUBCATEGORY: PROCUREMENT

SUBJECT: VENDOR PERFORMANCE MANAGEMENT (VPM)

27.1 Purpose and Overview
27.2 Definitions
27.3 Forms
27.4 Roles and Responsibilities
27.5 Frequency of Performance Evaluations
27.6 Status Guidelines
27.7 Procedure – Pre-Qualification Process
27.8 Vendors of Record & Agency Rosters
27.9 Appeals
27.10 Record Retention
27.11 Disclosure
27.12 Joint Ventures, Collaborative Partnerships
27.13 Merger and Acquisitions
27.14 Questions

27.1 Purpose and Overview

This Procedure provides guidance on Vendor Performance Management (VPM) and Performance Evaluations for Vendors under contract with The Regional Municipality of Peel ("Agency"). Evaluations provide a summary of a Vendor's performance on any awarded Contract and will become an official record to be kept in accordance with the Record Retention guidelines noted in Section 27.11. The information collected in the evaluations will serve the following purposes:

- Provide feedback to Vendors for performance improvements and / or acknowledge Satisfactory performance, and
- Inform Vendor's eligibility to be awarded future Agency Contracts.

This Procedure should be read in conjunction with the Procurement By-Law, as amended from time to time and as implemented by the Agency's Procurement Division ("Procurement").

VPM applies to awarded competitively procured Contracts valued at $100,000 or more where the applicable VPM requirements are included in the Contract. Where the responsible program area determines that it would add value to the management of the Contract, VPM may also be applied and included in Contracts below this threshold or those utilizing other procurement methods including but not limited to direct negotiations, emergency procurements, or cooperative purchasing arrangements.

For Contracts subject to the Vendor Performance Evaluation program, the Vendor Performance Evaluation Procedure is a contractual requirement.

The Agency requires all Contract Managers responsible for managing Contracts to complete Interim Evaluations and Final Evaluations in accordance with this Procedure, as amended from time to time. A Vendor's Status is based on the outcome of these evaluations.

27.2 Definitions

Agency: means The Regional Municipality of Peel, Peel Housing Corporation o/a Peel Living and any other government or agency or board on behalf of which The Regional Municipality of Peel is acting.

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

Contract: The contract or agreement between the Agency and the Vendor governing the performance of the Work and includes, without limitation, the Request for Tender, Request for Proposal, Request for Pricing, or Request for Quotation, and the Vendor's Submission and other written documents accumulated before or during the performance of the Contract outlining the requirements of the Work performed.

Contract Manager: For this Procedure, the Agency staff member who oversees the management of a Contract or Contracts throughout the Contract lifecycle and is responsible for entering Vendor performance data and completing the Vendor Performance Evaluation Form on behalf of the Agency. The term Contract Manager is inclusive of Project Leads and Project Managers.

Contract Term: The period during which a Contract is in effect, as identified within the Contract, including Rectification Period and Warranty.

Consultants: For this Procedure, an individual, partnership or corporation offering and performing design Engineering and/or Architectural services, Information Technology services, and/or other Professional Consulting services**.**

Evaluation Score: The score from the Interim Evaluation(s) or Final Evaluation as assigned by the Contract Manager through the Vendor Performance Management System resulting from the Vendor's performance on the Contract.

Final Completion: All the Work, including warranty and rectification as applicable, has been completed and accepted by the Agency and all obligations under the Contract have been satisfied by the Vendor.

Final Evaluation: The last evaluation pursuant to this Procedure to be completed by the Agency under any Contract.

Goods and Services (Operational): Non-construction related Contracts, specific to the delivery of a good or service.

Interim Evaluation: Any evaluation performed at any time after the commencement of the Work (including set milestones) and prior to the Final Evaluation, where a Vendor Performance Evaluation Form is completed.

Litigation: Any issued lawsuit or administrative tribunal application in which the Vendor is involved with the Region, either as plaintiff, applicant, defendant or respondent, or any correspondence in contemplation of same.

Notification: The written communication issued by the Agency advising the Vendor of their Evaluation Score, and any change in Status, which will include the date the Vendor Status takes effect.

Pre-Qualification: A request by the Agency preceding a Request for Proposal, Request for Quotation or a Request for Tender seeking submissions from potential Vendors 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 Vendors.

Procedure: The Agency's procedure for Vendor Performance Evaluations as outlined in this procedure document, as may be amended from time to time.

Project Lead: The Agency's assigned individual who has the responsibility and authority for the planning, managing, executing and closing of the Work in connection with the Contract. The term Project Lead is inclusive of Project Manager(s).

Rectification Period: The time period within which the Vendor will rectify deficiencies and any damages that may have occurred during the performance of the Work.

Ready-for-Takeover: Shall have the meaning as particularly set out in the Contract, as applicable.

Satisfactory: Pursuant to this Procedure, the Status that allows a Vendor to be eligible to be awarded Work for the Agency, subject to other requirements of the bid document and Contract.

Status: The standing that determines the Vendor's eligibility/ineligibility to be awarded a Contract based on the outcome of the Final Evaluation or by the Agency's decision to invoke suspension as a result of three Interim Evaluations rated less than Satisfactory on the same Contract.

Suspension 1: Pursuant to this Procedure, this is a Status prohibiting the Vendor from being awarded Agency Contracts for a period of one (1) year from the effective date stipulated in the Notification. Vendors with this Status are **not** eligible to complete work as sub-contractors or sub-consultants on Agency Contracts.

Suspension 2: Pursuant to this Procedure, this is a Status prohibiting a Vendor from being awarded Agency Contracts for a period of two (2) years from the effective date stipulated in the Notification. Vendors with this Status are **not** eligible to complete work as sub-contractors or sub-consultants on Agency Contracts.

Substantial Performance: When the Work is substantially performed as defined in the *Construction Act R.S.O. 1990.c. C.30*, as may be amended or replaced from time to time, and as more particularly set out in the Contract.

Vendor: The entity awarded the Work under a Contract for the delivery of goods and/or the performance of services and includes any entity affiliated or related to the Vendor (including any

entity with the same directing mind as the Vendor on suspension) as determined at the discretion of the Director of Procurement, in consultation with the Regional Solicitor.

Vendor of Record or VOR: A procurement arrangement authorizing one or more qualified Vendors to provide goods/services to the Agency for a defined period based on terms and conditions, including pricing, as set out in the VOR agreement. The term VOR is inclusive of Agency Roster.

Vendor Performance Evaluation: The process the Agency will employ to provide a qualitative and quantitative assessment of the Vendor's performance of a Contract; measuring and monitoring the performance of the Vendor for the purposes of ensuring compliance with the Contract.

Vendor Performance Evaluation Form: The form used to document the evaluation of Work performed by a Vendor which outlines the specific Key Performance Indicators (KPIs) and their respective weights and that is used for both Interim Evaluations and Final Evaluations.

Vendor Performance Management System: The online electronic system for which performance data is entered, stored and managed.

Warranty: The Vendor's guarantee of the Work as set out in the Contract.

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

27.3 Forms

Forms relating to Vendor Performance Management are integrated into the Vendor Performance Management System.

27.4 Roles and Responsibilities

The following are the roles and responsibilities for those involved in the Vendor Performance Management program:

Contract Managers

- Responsible for the management of Contracts;
- Responsible for the completion of all Vendor Performance Evaluation Forms (Interim Evaluation(s) and Final Evaluation) **within the Vendor Performance Management System**;
- For those Contracts subject to the Procedure, the completion of the Vendor Performance Evaluation Form is **mandatory** for all Contract Managers. If Consultants, inspectors, Agency property managers and/or any other individual or organization were heavily involved in the management of the Contract with the Vendor, the Contract Manager may receive input from those individuals. The Vendor Performance Evaluation Form is not to be completed by those providing this supplementary input (i.e. Consultants, inspectors, Agency property managers, etc.).
- Where Contracts are managed by Consultants, Agency Contract Managers are to ensure that Consultants are aware of this Procedure and the evaluation criteria within the Vendor Performance Evaluation Form;

- Contract Managers shall include the Vendor Performance Evaluation Form as a standing item on meeting agendas. Contract Managers are to review the Vendor Performance Evaluation Forms and Status with the Vendor at the meetings and these discussions will be captured in the Interim Evaluations, Final Evaluations, and meeting minutes where appropriate, especially when there are concerns or issues surrounding the Vendor's performance. If a Vendor fails to improve or act on concerns that were raised and recorded in meeting minutes and/or Interim Evaluations, and these items are affecting the Vendor's Evaluation Score, the Contract Manager will communicate these performance deficiencies in accordance with the Contract requirements; and
- Should the Agency or Vendor choose to terminate a Contract for any reason after the commencement of Work, or should the Agency terminate the Vendor's right to continue performance of the Work under the Contract, the Contract Manager will complete a Final Evaluation within fourteen (14) Calendar Days of notice of termination of Vendor's right to continue the Work. This Evaluation Score will determine the Vendor's Status.

Vendors

- Vendors will have access to the Vendor Performance Management System to review their own profile and any Interim Evaluations and Final Evaluations completed on their awarded Contracts;
- Vendors shall address any performance issues or concerns raised by the Contract Manager;
- Vendors are encouraged to provide commentary on their respective performance evaluations directly through the Vendor Performance Management System;
- Vendors may appeal their Evaluation Score as per Section 27.9; and
- Vendors responding to a bid solicitation who are considering utilizing sub-contractors for the Work, are to review and adhere to the Agency's list of Suspended Vendors prior to submitting a bid.

Procurement

- 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, Vendor Performance Evaluation Form changes, automated tool maintenance, responding to inquiries regarding this Procedure, providing support to Contract Managers, and facilitating Vendor appeal meetings; and
- Procurement shall ensure that the appropriate clauses related to this Procedure and processes are included in the development of any applicable bid solicitation documents.

27.5 Frequency of Performance Evaluations

This section provides information with respect to the frequency of completing the Vendor Performance Evaluation Form.

27.5.1 Interim Evaluations

Interim Evaluations will be completed, at a minimum, once every 6 months during the term of the Contract. Contracts that are 8 months or less in duration will only require a Final Evaluation to be completed. If an Interim Evaluation due date falls within two months of the Final Evaluation due date, the Interim Evaluation may be waived for that period and only the Final Evaluation will be required. The number of Interim Evaluations to be completed may be increased at the discretion of the Contract Manager.

Where there are milestones set out in the Contract document, Interim Evaluations may be completed at those milestones and these evaluations may be in addition to any previously established Interim Evaluation date(s).

Interim Evaluations provide insight and opportunity to assess Vendor performance and may, at the discretion of the Contract Manager, increase in frequency beyond the minimum required number of performance evaluations when performance issues arise. In cases where a Vendor's Interim Evaluations are less than Satisfactory on three Interim Evaluations under the same Contract, the Agency will place the Vendor on Suspension 1 or Suspension 2 based on the scoring of their most current evaluation.

27.5.2 Final Evaluations

Final Evaluations will be completed within 60 Calendar Days from the date of Final Completion of the Contract. For greater clarity, for construction and related consultant Contracts, a Final Evaluation will be completed within 60 Calendar Days from when all deliverables have been met including items from the Rectification Period, and all obligations of the Warranty period have been satisfied, as set out in the Contract.

For Goods and Services (Operational) Contracts, Final Evaluations are to be completed at the end of the Contract Term, or where the Contract provides for optional extension terms, a Final Evaluation is to be completed at the end of the last optional extension term exercised by the Agency.

Should the Agency or Vendor choose to terminate a Contract for any reason after the commencement of Work, or should the Agency terminate the Vendor's right to continue performance of the Work under the Contract, the Contract Manager will complete a Final Evaluation within fourteen (14) Calendar Days of notice of termination of Vendor's right to continue the Work. This Evaluation Score will determine the Vendor's Status.

Where a Final Evaluation results in a less than Satisfactory Evaluation Score, the Contract Manager will review the Final Evaluation with their Manager, Director, and Procurement representative prior to submitting it to the Vendor.

Once a Final Evaluation is completed and the results reviewed, notification will be sent to the Vendor indicating that a Final Evaluation is now available for their review. Vendors receiving a less than Satisfactory Evaluation Score will receive a Notification from Procurement outlining their Final Evaluation Score and any change to their Status. **The change in Status will be effective from the date on the Notification.**

27.6 Status Guidelines

Upon completion of each Final Evaluation, the Final Evaluation Score will determine the Vendor's Status for that Contract and the Vendor's eligibility to be awarded future Contracts as outlined below. Eligibility for award of Contracts will be based upon the Vendor's Status on the date of bid closing.

27.6.1 Satisfactory Status

Vendors who receive an Evaluation Score of 70% or above on the Final Evaluation will receive a Satisfactory Status and are eligible to bid on and be awarded Work for the Agency, subject to other requirements of the Contract.

27.6.2 Suspension Status

Suspension 1: Vendors who receive an Evaluation Score ranging from 60% up to and including 69.9% on a Final Evaluation or as outlined in Section 27.5 are deemed to be on Suspension 1. Vendors on Suspension 1 shall not be eligible for award of any new Contracts for a period of **one (1)** year from the date on the Notification.

Suspension 2: Vendors who receive an Evaluation Score of 59.9% or less on a Final Evaluation or as outlined in Section 27.5 are deemed to be on Suspension 2. Vendors on Suspension 2 shall not be eligible for award of any new Contracts for a period of **two (2)** years from the date on the Notification.

Vendors on suspension are not eligible to sub-contract on Agency Contracts as of the date identified on the Notification.

For the purposes of a Vendor's eligibility or ineligibility to bid pursuant to Section 27.6.2 Suspension Status, "Vendor" includes any entity affiliated or related to the Vendor (including any entity with the same directing mind as the Vendor on suspension) as determined at the discretion of the Director of Procurement, in consultation with the Regional Solicitor.

Vendors on suspension should be aware that their suspension Status will be made publicly available through a telephone line. It is the responsibility of all Vendors responding to a bid solicitation to ensure that all sub-contractors/sub-consultants they retain are in good standing with the Agency and are eligible to perform Work on Agency Contracts prior to submitting a bid for any Work. Vendors shall call 905-791-7800 ext. 7538 to obtain an up-to-date list of Vendors in suspension Status. Should a Vendor name any sub-contractor/sub-consultant that is listed as being on suspension, that Vendor shall be required to name a replacement acceptable to the Agency, within 48 hours of request by the Agency, at no additional cost to the Agency; failing which, that Vendor shall not be considered for Contract award.

If a Vendor is put on Suspension 1 or Suspension 2 prior to Final Completion, the Vendor will be expected to complete the suspension period regardless of the Evaluation Score from the Final Evaluation on that Contract or any other Contract they may have with the Agency. However, should the Vendor enter either Suspension 1 or Suspension 2 upon the Final Evaluation of this or any other Contract, the date of the suspension start will be reset to reflect each time a new suspension score is received. The date of the suspension period will reflect the longest applicable suspension.

Notwithstanding the above statements; Vendors with multiple Contracts who have been placed on suspension on one of their Contracts are expected to complete the other existing Contracts and receive a Final Evaluation Status.
In cases where a Vendor is on Suspension 1 or Suspension 2 for multiple Contracts, the Vendor shall remain on Suspension Status until the longest applicable suspension period is complete. For clarity, the suspension Status of a Vendor remains until the designated suspension period is complete regardless of whether the Vendor receives a Satisfactory Status on the Final Evaluation of any of its other Contracts.

Bid submissions received from Vendors who are no longer eligible for award due to their Status shall not be considered.

27.7 Procedure – Pre-Qualification Process

Vendors on suspension are permitted to respond to Pre-Qualification processes and be pre-qualified, however, they will not be eligible for award of subsequent Contracts until the suspension period ends. Those Vendors who have been previously pre-qualified and are subsequently placed on suspension, shall not be eligible for award of any Contract until the completion of their suspension period.

27.8 Vendors of Record (VOR) or Agency Rosters

Vendors on suspension are permitted to respond to Vendors of Record (VOR) or Agency Roster request processes, however, they will not be eligible for award of subsequent Contracts until the suspension period ends. Those Vendors on a VOR or Agency Roster that are subsequently placed on suspension status shall not be eligible for award of any Contracts, including those arising from the VOR process, until the completion of their suspension period.

27.9 Appeals

A Vendor may appeal their Evaluation Score in writing, through the **Vendor Performance Management System** within 21 Calendar Days of the date on the Notification. Appeals submitted after 21 Calendar Days from the Vendor's receipt of the Notification shall not be accepted and Vendors shall be notified of this upon submission of the late appeal. A Vendor undertaking an appeal of a suspension Status shall note that it will retain the suspension Status 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 (if applicable),
- Contract name,
- The specific issues and items the Vendor disagrees with along with reasons in support of the appeal,
- Any documentary evidence the Vendor relies on or believes is relevant to the evaluation and its subsequent Evaluation Score, and
- Preference for an in-person/virtual meeting or written review.

Upon receipt of an appeal, Procurement will acknowledge receipt and review the request. A committee will be formed to perform the review comprised of the Director of Procurement or designate, the Project Lead's Director or designate and any other individuals the Agency may deem necessary such as staff from technical services, Consultants, etc. The committee shall not include individuals that were involved in the original evaluation that resulted in the Status change.

The committee will review the Vendor's concerns and gather information from those involved in the performance of the Contract. The Vendor may request its appeal be heard in person, virtually, or through written correspondence. Within 60 Calendar Days of receipt of the appeal, the committee will review the information, and make its decision to either confirm or amend the Vendor's Evaluation Score and Status. The Director of Procurement or designate shall notify the Vendor in writing of the committee's decision, and this decision shall be considered final. A copy of the committee's decision shall also be forwarded to the Contract Manager.

If an adjustment has been made to the overall Evaluation Score or Status, a revised Final Evaluation and or notice of Status change will be provided with the committee's decision and the project and procurement files will be updated accordingly.

27.10 Record Retention

All Vendor Performance Evaluations completed by the Contract Manager are to be kept in their respective project files for each Contract. Vendor Performance Evaluations will be kept on record in accordance with the Agency's Records Retention By-law.

27.11 Disclosure

The Agency reserves the right to share evaluation results for project(s) completed on behalf of the Agency with any other organization where the Vendor has listed the Agency as a reference. Information to be shared may include current Status and whether the Vendor completed the referenced Contract.

27.12 Joint Ventures, Collaborative Partnerships

The Agency shall have the right, in its sole discretion, to review and determine the application of this Procedure to joint ventures and other collaborative partnerships, and to make adjustments to this Procedure based on the nature and/or complexity of the Work and the structure of the Contract. The application of this Procedure will be identified within the Contract documents.

In exercising its discretion under this section, the Agency will consider the objectives and expected results of the Vendor Performance Management program.

27.13 Mergers & Acquisitions

In the event of a change in control of a Vendor, either through a merger, acquisition or otherwise, the Agency shall have the right, in its sole discretion, to review and determine the application of this Procedure and make adjustments to same in response to this change.

In exercising its discretion under this section, the Agency will consider the objectives and expected results of the Vendor Performance Management program.

27.14 Successors and Assigns

In the event of an assignment, transfer, conveyance or other disposition of the Contract by the Agency to one or more municipalities, municipal service board or municipal business corporations as a result of or pursuant to a court order or a legislative act, including the *Hazel McCallion Act (Peel Restructuring), 2023*, the successor organization may at their discretion utilize the results of the evaluations pursuant to this Procedure.

27.15 Questions

Direct any questions regarding this Procedure to vendorperformance@peelregion.ca. Further information on the Agency's Vendor Performance Management Program can be found on the Agency's Procurement webpage (www.peelregion.ca/business/procurement) under Vendor Performance Evaluation section.