



## City of Hamilton

# AUDIT, FINANCE AND ADMINISTRATION COMMITTEE ADDENDUM

**Meeting #:** 23-013  
**Date:** September 7, 2023  
**Time:** 9:30 a.m.  
**Location:** Council Chambers  
Hamilton City Hall  
71 Main Street West

Tamara Bates, Legislative Coordinator (905) 546-2424 ext. 4102

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## 5. COMMUNICATIONS

- \*5.1 Tina Iacoe, Manager of Procurement, Procurement Policy and Procedure Regarding Vendor Performance Evaluation

Be received and referred to consideration of Item 14.1, Commercial Relationship Between the City of Hamilton and Ibrahim Nassri Trading Inc. (FCS23097) (City Wide) – Confidential



# Procurement Section, Financial Services Division

## MEMORANDUM

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**TO:** Chair and Members  
Audit, Finance and Administration Committee

**DATE:** September 6, 2023

**FROM:** Tina Iacoe  
Manager of Procurement, Financial Services Division

**SUBJECT: Procurement Policy and Procedure Regarding Vendor Performance Evaluation**

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During agenda review for the Audit, Finance and Administration Committee meeting scheduled for September 7, 2023, there were a number of questions that were posed of staff regarding the policy and procedure for Vendor Performance Evaluation. Therefore as requested, please find attached Procurement Policy #8 Vendor Performance Evaluation and the corresponding Procedure for Vendor Performance. Both of these documents can be found on the City's enet site, under the Procurement Resource page.

Thank you.

Copied: S. Hesmer, Acting Director, Financial Services and Taxation & Corporate Controller

## POLICY # 8 - Vendor Performance Evaluation

### SECTION 4.8

- (1) On an annual basis and at the completion of every Contract for Goods and/or Services of \$100,000 or greater, the Client Department shall complete a *Vendor Performance Evaluation Form*. The General Manager of the Client Department shall ensure this performance evaluation is completed for these Contracts. Such evaluation shall be completed and a copy will be forwarded to the Procurement Section.
- (2) In the event of a vendor's unsatisfactory performance as determined by the City in its absolute discretion, including the vendor's refusal to perform or to complete performance of a Contract with the City at any time during the term of any City Contract, the General Manager or an Authorized Delegate of the Client Department shall complete and forward a copy of the Vendor Performance – Incident Reporting Form as soon as reasonably possible after the occurrence.
- (3) Documented unsatisfactory performance on any City Contract will be used to determine the eligibility of a vendor to continue to provide Goods and/or Services to the City on a current Contract and to determine their ability to participate on future City Contracts. Any vendor may be excluded from a bidding process due to unsatisfactory performance, where in the opinion of the Procurement Sub-Committee or Council, the commercial relationship between the City and such vendor has been impaired.
- (4) The City's Public Works Department shall be responsible for the vendor performance evaluation process with respect to linear construction Contracts issued by that department under Policy # 7 – Construction Contracts in a format which includes feedback from area residents and elected officials.
- (5) In the event of a vendor's breach of a City Contract, the Manager of Procurement in consultation with the Client Department shall have the discretion to either:
  - (a) re-issue the RFQ, RFT or RFP; or
  - (b) negotiate and enter into a new Contract for the remainder of the Contract with the second lowest bidder of the original RFT or RFQ, or the next qualified Proposal of the original RFP,whichever is in the best interests of the City.

**Procurement Procedure – Vendor Performance / Contract Management  
Related to Procurement Policy: Policy # 8 – Vendor Performance Evaluation**

<b>Effective Date:</b>	January 24, 2014
<b>Last Revision Date:</b>	<b>NEW</b>

**1.0 Purpose**

This procedure outlines the steps that shall be taken to ensure that vendor management and performance monitoring is conducted as part of the contract management process in accordance with the Policy # 8 – Vendor Performance Evaluation. Vendor performance monitoring is a quality assurance process to promote continual improvement in overall contract performance

**2.0 Scope**

This procedure applies to all City staff and agents acting on behalf of the City, which have the authority to approve payment or manage a contract.

**3.0 Responsibility**

Client Departments utilizing any City contract shall ensure that the work is performed in accordance with that contract. Procurement will assist the Client Department as outlined in this procedure and in Policy # 8.

**4.0 Authority**

Procurement Policy # 1 – Vendor Eligibility  
Procurement Policy # 7 – Construction Contracts  
Procurement Policy # 8 – Vendor Performance Evaluation

**5.0 Procedure**

**5.1 Contract Management Preparation**

- 5.1.1 Prior to the start of the contract the Client Department shall become familiar with the contract requirements; including the vendor's and City's respective responsibilities. Information requiring review includes a copy of all contract documents, including any addenda that were issued and contract pricing information for the vendor.
- 5.1.2 It is strongly recommended that the Client Department develops a checklist of contract requirements. It is important that the checklist highlights those contract requirements that are anticipated to be problematic. This checklist should be made available to all City staff utilizing and/or responsible for the contract. A copy of the checklist (if created), shall be provided to the vendor.
- 5.1.3 When the Client Department feels it is appropriate and before the work commences, an initial meeting with the vendor should be held to ensure that everyone understands the contract requirements and responsibilities and to establish performance expectations. If

performance expectations are not explicitly detailed in the contract, consideration should be given to adding them to the checklist referenced in 5.1.2 after discussion with the vendor. The Client Department must understand that there is a learning process with any new contract and/or vendor and must ensure that the vendor clearly understands the contract requirements before they start work.

- 5.1.4 Contract Management Guidelines are reference material that has been prepared to assist the Client Department with the contract management process (see Section 7). The Client Department should follow these guidelines as appropriate.
- 5.2 It is important that there is open communication with the vendor throughout the term of the project/contract. Any discussions should be with the intent of ensuring that the City's contract requirements are understood and met. The dialogue should be timely, and shall be communicated to ensure that the contract is fulfilled (i.e. avoid being confrontational, accusatory or laying blame). Any verbal discussions should be followed up in writing, with the vendor (e.g. letter, email, and minutes) with a copy kept in the Client Department's vendor file with action items and key decisions clearly identified.
- 5.3 The Client Department is to monitor the vendor's activities and performance in accordance with the contract documents. This may include such things as site visits to ensure that the work is correct and complete, and review of invoices for correct contract pricing and supporting documentation. Any deficiencies identified in site visits shall be documented and followed up in accordance with Section 5.2.
- 5.4 Dealing with Performance Issues During the Contract
- 5.4.1 The Client Department is to refer to the contract documents to confirm the exact requirements.
- 5.4.2 The Client Department will then discuss the issue with the vendor to see if the issue can be resolved easily. The goal is to have the deficiencies corrected by the vendor. The Client Department shall document these discussions and provide the vendor a copy of the documentation.
- 5.4.3 If these discussions result in clarifications to the contract requirements, they should be included in the Client Department's documentation and a copy forwarded to Procurement. If these discussions result in changes being proposed to the contract, contact Procurement before proceeding with or agreeing to any changes.
- 5.4.4 When dealing with contract or performance management issues, the premise of "reasonableness" shall be applied.
- 5.4.5 If the issue cannot be resolved cooperatively with the vendor, the Client Department shall complete the Vendor Performance - Incident Reporting Form and forward it to Procurement, who shall then provide a copy to the vendor.
- 5.4.5.1 The information on the incident reporting form needs to be detailed and complete. For example, if the vendor is unresponsive to the City, the information on the form should not be 'several attempts were made to contact the vendor'.

- It should state specifics, such as: 'March 15, 2013: called vendor's cell number at 10:15 am, 12:30 pm and 2:35 pm. Vendor did not respond within the contract response time. (Reference specific section of the contract terms of reference). See Appendix A for an example of how a Vendor Performance - Incident Reporting Form shall be filled out. It is important to avoid the use of acronyms when completing the form.
- 5.4.5.2 Documentation is key when dealing with vendor performance issues. The Client Department shall document repeatedly and continuously for ease of tracking.
  - 5.4.5.3 Procurement will facilitate obtaining a response from the vendor. The information requested will be to address why/how the incident occurred and what corrective actions or process the vendor is putting in place to ensure that the incident does not reoccur. A due date should accompany the City's request to remedy and address the issues identified on the Vendor Performance - Incident Reporting Form.
- 5.4.6 If the issue is not resolved by the vendor, the Client Department in consultation with Procurement will determine if the matter should be escalated to Legal Services. Procurement will make the initial request (as well as any follow up) to Legal Services for assistance. The Client Department should contact Procurement for status updates when required.
- The course of action may change depending on the characterization of the issue as a nuisance or a default. Significant defaults (that pose a risk to the public or which may be health and safety related) ought to be flagged as they may constitute a basis for immediate escalation.
- 5.4.7 At the completion of every contract, a Vendor Performance Evaluation Form is required. The purpose of this form is to document what worked well, what didn't work well and to itemize any continual improvements that should be incorporated in the new contract.
- 5.4.7.1 The premise is to capture and document lessons learned throughout the contract. If there were no vendor incidents of poor performance, the vendor should be rated favourably.
  - 5.4.7.2 Any Vendor Performance - Incident Reporting Forms that have been completed shall be referenced by the Client Department when completing the Vendor Performance Evaluation Form.
  - 5.4.7.3 The documentation of vendor performance is an essential process to promote improved contract performance and where required, for establishing whether the commercial relationship between the City and the vendor has been impaired. Policy # 1 – Vendor Eligibility outlines the conditions that allow the City to ban a vendor from doing further business with the City.

**6.0 Related Forms**

Vendor Performance Evaluation Form  
Vendor Performance – Incident Reporting Form

**7.0 Supporting Documentation**

Procurement Policy # 1 – Vendor Eligibility  
 Procurement Policy # 7 – Construction Contracts  
 Procurement Policy # 8 – Vendor Performance Evaluation  
Contract Management Guidelines

**8.0 Appendices**

Appendix A – Vendor Performance - Incident Reporting Form example

**9.0 Revision History**

<b>Date:</b>	<b>Description of Revision:</b>
January 24, 2014	Initial release of procedure.