

APPEALS OF A PERFORMANCE EVALUATION (INTERIM OR FINAL)

- 1.1 A Supplier may file an appeal of a Performance Evaluation (interim or final) with the Corporate Procurement & Supply Services (CPSS) Branch Manager.
- 1.2 The Supplier must fill out Part 1 of a *Performance Evaluation Appeal Form* and submit it in person to the CPSS office located on the 4th Floor of Century Place, 9803 – 102 A Ave, Edmonton, AB, along with the filing fee and a copy of the Report Card or detailed Performance Evaluation being appealed, within 7 calendar days of receiving the Report Card and detailed Performance Evaluation. Note that the Report Card is deemed to have been received 10 calendar days following the date the City mailed it to the Supplier at its address for notices listed in the Contract. The Appeal Form will be date and time stamped upon receipt.

The appeal form identifies the details of the appeal, including the Supplier's referee selection. It is important to complete all fields on the appeal form and attach the supporting documentation. Failure to do so will result in a delay to the appeal meeting.
- 1.3 A CPSS Manager will validate the appeal form and the attachment(s). Validation includes confirming that the appeal form has been completed, the Appellant met the submission deadline, including that the filing fee was paid prior to the submission deadline.

If valid, the appeal will be logged and the Performance Evaluation is stayed (i.e. not used for past performance scoring on new procurement response evaluations) until the referee issues a decision. CPSS will set the status on the Performance Evaluation to "Stayed – Under Appeal".

The appeal is forwarded to the CPSS Branch Manager. A copy of the appealed Performance Evaluation should be included in the submission.

If not valid, the Appeal Form will be sent back to the Appellant, with a letter explaining why it was not accepted. The attempted appeal and the letter rejecting the appeal will be logged. The Evaluator and Contracting Manager will also be notified of the invalid appeal submission.
- 1.4 If valid, the CPSS Branch Manager will notify and send copies of the appeal form and all attachments to the Contracting Manager, Evaluator and the respective Branch Manager.
- 1.5 Within 7 calendar days of receiving a valid appeal, the CPSS Branch Manager will set a date for an appeal meeting that occurs within 45 calendar days of receiving the appeal. A notice will be sent to the Appellant, Contracting Manager, Evaluator, and referee. The notice will include the name, title and contact information of the referee.

If the meeting needs to be rescheduled due to reasonable causes, the CPSS Branch Manager will set a new date and send out notifications. Requests for rescheduling, by either the Appellant or the City must be at least 24 hours in advance of the set date and time, unless extenuating circumstances exist. All timelines will be adjusted based on the new meeting date.

The referee has the ability, based upon request of either the City or Appellant to modify the timelines with respect to the meeting date and disclosure.

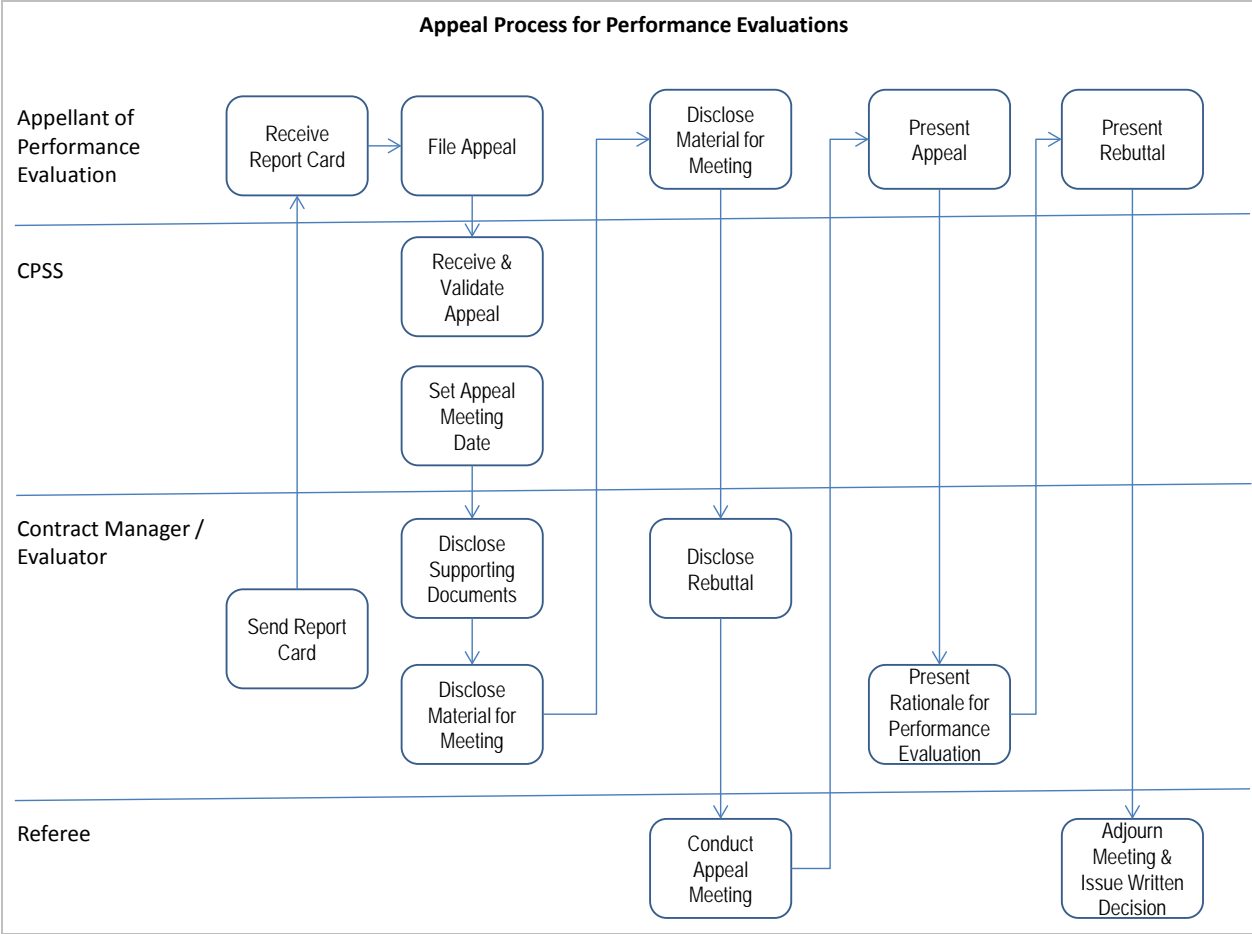
- 1.6 Within 5 calendar days of receiving notification of the appeal meeting date, the Contracting Manager will prepare and disclose three hard copies of documentation that supports the Performance Evaluation given to the Appellant. CPSS will distribute copies of the documentation to the Appellant and the referee.
- 1.7 At least 21 calendar days prior to the meeting date, the Contracting Manager will prepare and disclose three hard copies of the documentation it intends to rely on at the appeal meeting to the CPSS Manager. The CPSS Manager will distribute copies of the documentation to the Appellant and the referee.
- At least 14 calendar days prior to the meeting date, the Appellant will prepare and disclose three hard copies of the documentation it intends to rely on at the appeal meeting to the CPSS Manager, or written notification that all documentation has already been submitted (either with the Appellant's appeal form or in the Contracting Manager's disclosure package). The CPSS Manager will distribute copies of the documentation to the Contracting Manager and the referee.
- At least 7 calendar days prior to the meeting date, the Contracting Manager may submit rebuttal documentation, by submitting three copies to the CPSS Manager. The CPSS Manager will distribute copies of the rebuttal documentation to the Appellant and the referee.
- If the Appellant fails to disclose, the Performance Evaluation appeal is null and void. The CPSS Manager will update the SP application accordingly.
- If the Contracting Manager fails to disclose, the Performance Evaluation is revised to what was requested by the Appellant. The CPSS Manager will update the SP application accordingly.
- 1.8 At the appeal meeting, the referee introduces the attendees. An administrative person will record the minutes of the meeting.
- If the Appellant does not appear within 15 minutes after the scheduled start time of the meeting and does not have a valid reason, the referee may consider the appeal withdrawn.
- 1.9 The Appellant presents its appeal. The Appellant has 30 minutes to present its case.
- 1.10 The Contracting Manager presents its rationale for the Performance Evaluation given. The Contracting Manager has 30 minutes to present its case.
- 1.11 After the Contracting Manager presents its case, the Appellant has 20 minutes to provide a rebuttal.
- 1.12 Cross-examination is not permitted.
- 1.13 Questions may be asked by the referee after each presentation.

- 1.14 After hearing the information, the referee will adjourn the meeting. The referee will deliberate in private and provide written reasons on Part 2 of the Performance Evaluation Appeal form within a reasonable time.
- 1.15 The referee considers the information that was presented.
- 1.16 The referee may make any of the following decisions:
- Dismiss the appeal (no change to score(s))
 - Increase or decrease an evaluation score or scores on the Performance Evaluation or any related comments
 - Modify any comments on the Report Card or detailed Performance Evaluation
- 1.17 The decision of the referee is final and binding. There is no further right of appeal within the City or the courts.
- 1.18 A CPSS Manager or Senior Buyer will record the events and documentation.
- 1.19 CPSS will make updates to the SP application and generate the revised Report Card and Detailed Performance Evaluation for signing by the same levels of signature as the original, send the signed revised documents to the Supplier and upload scanned versions to the SP application.
- 1.20 The Appellant and the City are each responsible for their own costs, fees and expenses, regardless of the outcome of the appeal.

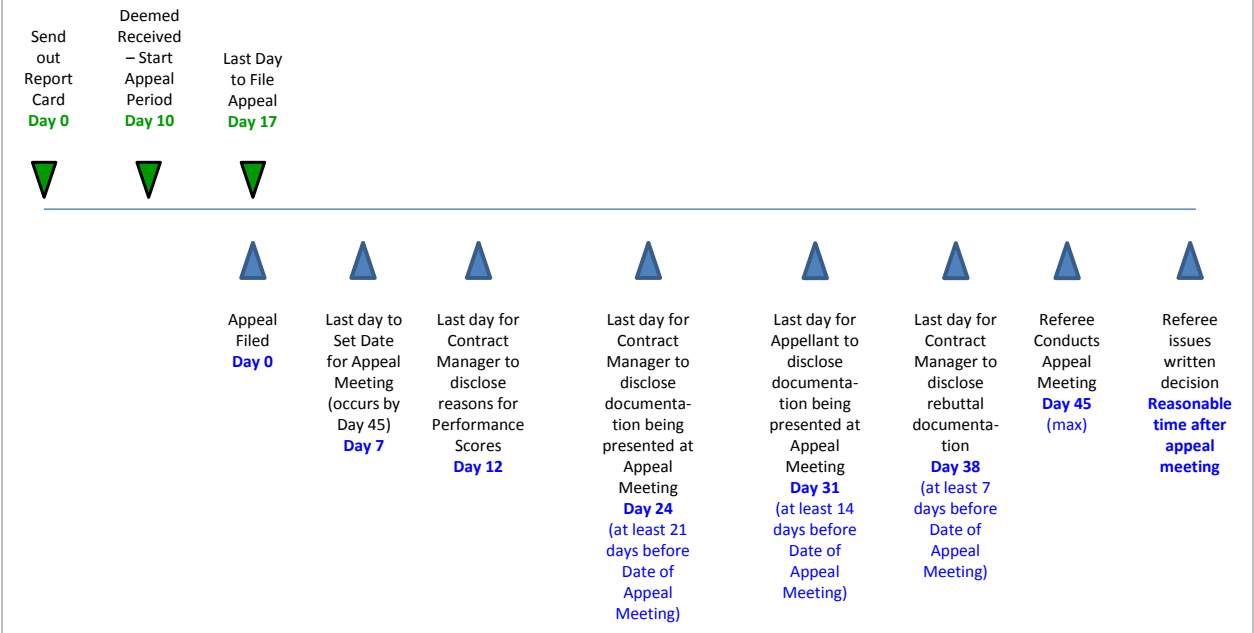
Timeline Summary to Appeal a Performance Evaluation

<p>Send out signed Report Card and detailed Performance Evaluation to Supplier</p> <ul style="list-style-type: none"> ● 10 calendar days 	<p>Deemed received by Supplier. Note: For the purposes of computing days with respect to deemed receipt of a notice of Probation or Suspension, the following period is considered a blackout and will not be included in the computation: December 20 up to and including January 5 of each year.</p> <p>Starts timeline for appeal period</p>
<p>Up to 7 calendar days after deemed receipt date</p>	<p>Supplier files an appeal to the Report Card</p>
<p>Appeal accepted date</p>	<p>Review filing and accept as valid or reject</p>

<ul style="list-style-type: none"> • 7 calendar days after appeal acceptance date 	Notice of date for appeal meeting is sent out. Meeting must occur within 45 calendar days of receiving valid appeal.
<ul style="list-style-type: none"> • 5 calendar days after meeting date notice 	Contracting Manager discloses documentation that supports the Performance Evaluation
At least 21 calendar days prior to the appeal meeting date	Contracting Manager discloses 3 copies of documentation to be presented at appeal meeting
At least 14 calendar days prior to the appeal meeting date	Appellant discloses 3 copies of documentation to be presented at appeal meeting
At least 7 calendar days prior to the appeal meeting date	Contract Manager may submit 3 copies of rebuttal documentation
Performance Evaluation Appeal meeting held	Both parties have 30 minutes each to make a presentation. Appellant has additional 20 minutes to present rebuttal. Meeting adjourned
Within a reasonable time	Referee provides written decision with reasons



Maximum Time Lines for Appealing Performance Evaluation
(notwithstanding blackout period exceptions)



1. Definitions

Appellant – The Supplier or Bidder filing an appeal against a Probation or Suspension (referred to as a Standing) or against a Performance Evaluation (printed version referred to as Report Card).

Bidder – In the SP program, a Bidder is a company or an individual who has responded to an RFX and has never been awarded a Contract to supply any goods or services to the City. A Bidder in the SP program is not the generic definition that normally refers to all respondents of a price only tender.

Branch Manager – The Branch Manager or Acting Branch Manager of a City branch.

Senior Buyer – A CPSS specialist responsible for guiding the procurement process for goods, services and construction. The Senior Buyer may call upon a buyer to assist in completing tasks.

City – The municipal corporation of The City of Edmonton.

Contract – An agreement between the City of Edmonton and a Supplier, outlining the terms and conditions for the goods, services or construction to be provided by the Supplier. In some circumstances, the Purchase Order is the Contract.

Contract Manager or Contracting Manager – A City employee who is the recipient of goods, services or construction from a Consultant or Contractor.

CPSS – The Corporate Procurement and Supply Services Branch of the City.

Deemed Receipt Blackout Dates - For the purposes of computing days with respect to deemed receipt of a Report Card or notice of Probation or Suspension, the followings period is considered a blackout and will not be included in the computation: December 20 up to and including January 5 of each year.

Evaluator – A City employee designated by the Contracting Manager to be authorized in evaluating a Supplier's performance on a specific Contract and is familiar with that Contract. In some specific arrangements, a Consultant may be invited to participate in the evaluation of another Supplier, where the Consultant has a primary role in the Supplier's delivery of goods or services.

Interim Performance Evaluation – A documented record of a Supplier's performance against the pre-defined performance Criteria, conducted prior to Contract completion. These may be completed at pre-defined time intervals or milestones, or as the need arises during a Contract (unplanned Interim Performance Evaluation).

Performance Evaluation – A documented record of a Supplier's level of performance in meeting the terms and specifications of the Contract (Purchase Order) as requested by the City. A Performance Evaluation is a set of Category and Criteria scores and comments, based on what the City determined would be appropriate for evaluation (a Questionnaire). It is distinguished from the Report Card, which is the summarized print out that is signed by City representative(s) and provided to the Supplier.

Report Card – The summary output of the Category Scores and comments, printed and signed by the City representative(s). It is distinguished from the Performance Evaluation, which is the detailed scoring within the SP application.

Supplier – The provider of goods, services or construction by purchase, rental, lease or conditional sale.