

APPEALS OF A PROBATION OR SUSPENSION STANDING

- 1.1 The Supplier or Bidder (known as the Appellant) may file an appeal for the following reasons:
- The Appellant disagrees with the reasons given by the City for the Probation or Suspension status as being sufficient grounds for Probation or Suspension
 - The Appellant disagrees with the terms of the Probation or Suspension (minimum duration, terms of the Probation or Suspension and/or re-instatement requirements)
- 1.2 The Appellant must fill out a Supplier or Bidder Probation or Suspension Appeal Form and submit it along with the filing fee and any supporting attachments, to the Corporate Procurement & Supply Services (CPSS) office within 7 calendar days of the deemed date of receiving the Probation or Suspension notification. The Appeal Form will be date and time stamped upon receipt by the CPSS Branch.
- The supporting attachments should include all documentation for the appeal referee to review.
- The form identifies the details of the appeal, including the Appellant's referee selection. It is important to complete all fields on the appeal form and attach supporting documentation.
- 1.3 A CPSS Manager will validate the appeal form and attachments. 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.
- 1.4 If valid, the appeal will be logged and the Standing is not active until the appeal referee renders a decision. The appeal is forwarded to the CPSS Branch Manager.
- 1.5 If not valid, the appeal form will be sent back to the Appellant, with a letter explaining why it was not accepted. Unless the submission deadline has not passed, there is no opportunity to resubmit the appeal. The attempted appeal and the letter rejecting the appeal will be logged. For non-City wide Probations or Suspensions, the affected Contracting Manager(s) will also be notified of the invalid Probation appeal submission.
- 1.6 The CPSS Manager will notify and send copies of the appeal form and all attachments to any affected Contracting Manager(s) and Branch Manager of the Standing.
- 1.7 Within 7 calendar days of receiving a valid appeal, the CPSS Manager will set a date for an appeal meeting that occurs within 45 calendar days of the receipt of the appeal. A notice will be sent to the Appellant, respondent and the referee. The notice will include the name, title and contact information of the referee.
- For City-wide Probations or Suspensions, the **respondent** may be a CPSS Manager if the reason(s) for the Probation or Suspension is related to the procurement process. Or it is a Director from a business area directly affected by the Probation or Suspension.
- For non-City wide Probations or Suspensions, the **respondent** is a Contracting Manager or Director directly affected by the Probation or Suspension.

If the meeting needs to be rescheduled for valid reasons, the CPSS (Branch) Manager will set a new date and send out notifications. Requests for re-scheduling, by both the Appellant and the City must be made 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.

- 1.8 At least 21 calendar days prior to the meeting date, the respondent will prepare and disclose three hard copies of the documentation that supports the Probation or Suspension Standing 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 respondent's disclosure package). The CPSS Manager will distribute copies of the documentation to the respondent and the referee.

At least 7 calendar days prior to the meeting date, the respondent may submit rebuttal documentation, by submitting three hard copies to the CPSS Manager. The CPSS Manager will distribute copies to the Appellant and the referee.

If the Appellant fails to disclose, the Standing appeal is null and void. The CPSS Manager will update the SP application accordingly.

If the Contracting Manager fails to disclose, the Standing is null and void. The CPSS Manager will update the SP application accordingly.

- 1.9 At the meeting, the referee introduces the attendees.

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 to be withdrawn.

An administrative person will record the minutes of the meeting.

- 1.10 The appeal is read out by the referee.

- 1.11 The Appellant presents their appeal. The Appellant has 60 minutes to present its case.

- 1.12 The respondent presents their rationale for the Probation or Suspension status. The respondent has 60 minutes to present its case.

- 1.13 The Appellant is given an opportunity for a rebuttal. The Appellant has 30 minutes to present its rebuttal.

- 1.14 Questions may be asked by the referee after each presentation.

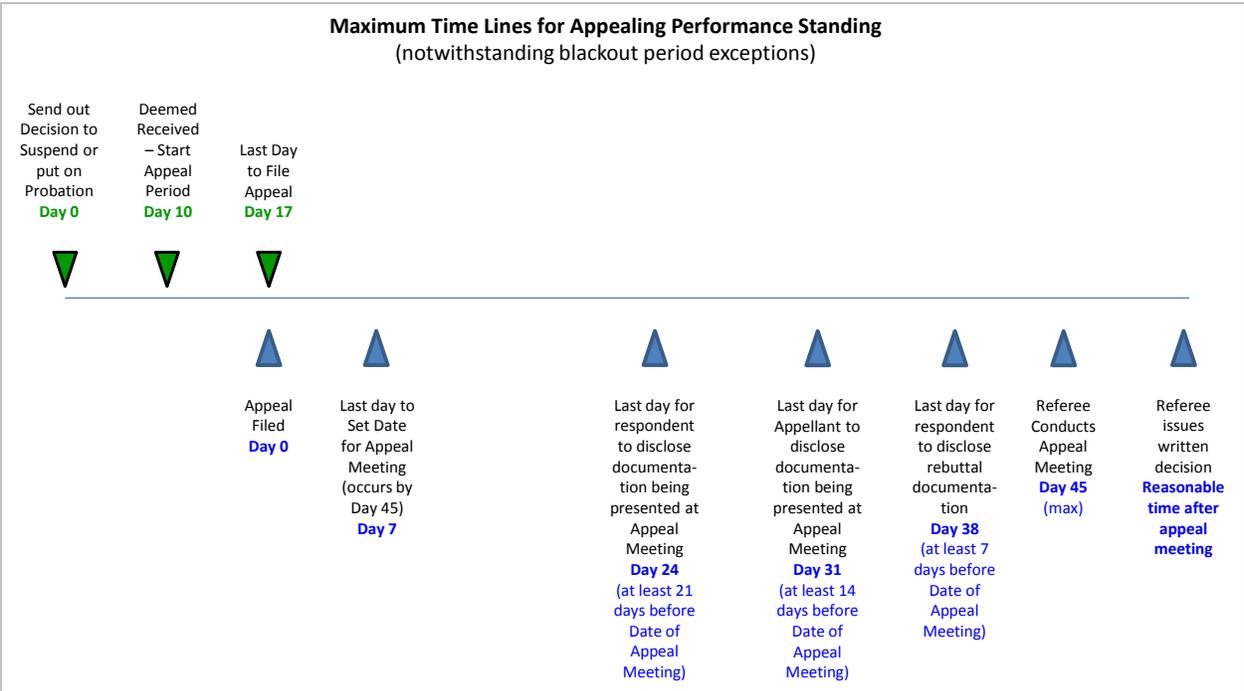
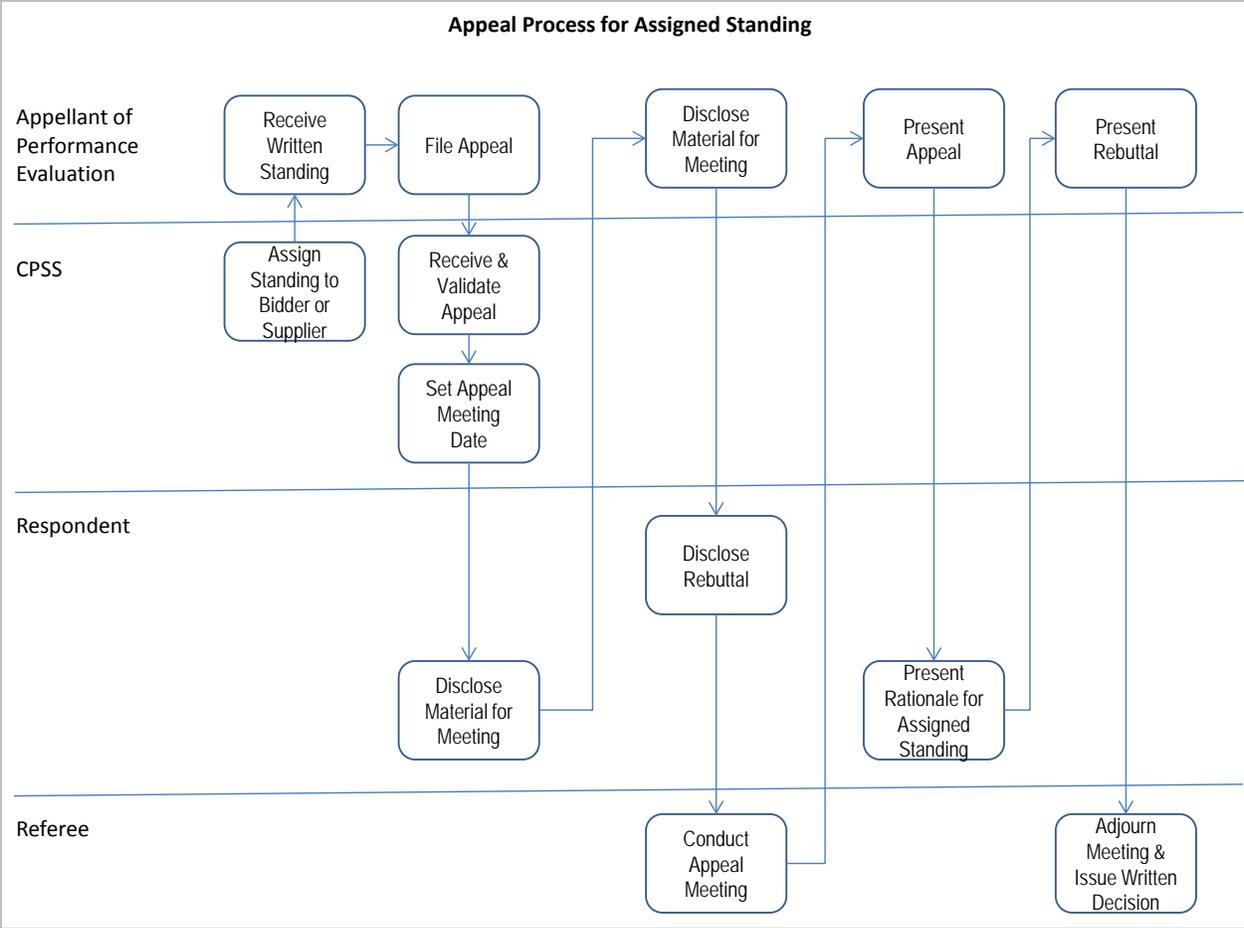
- 1.15 Cross-examination is not permitted.

- 1.16 The referee only considers the information before them.

- The referee may confirm, vary, substitute or cancel the Probation or Suspension. Written reasons must be given.
- 1.17 After hearing the presentations and asking any questions, the referee will adjourn the meeting. The referee will deliberate in private and provide written reasons on Part 2 of the Decision to Put a Supplier or Bidder on Probation or on Suspension form within a reasonable time.
- 1.18 The decision of the referee is final and binding. There is no further right of appeal within the City or to the courts.
- 1.19 A CPSS Manager will record the events and documentation in 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.
- 1.21 If the Probation or Suspension is confirmed, then:
- Update the SP application with the Supplier's or Bidder's status and terms of the Probation or Suspension. All authorized City personnel with access to the Supplier Performance database will see the 'Probation' or 'Suspension' Standing of the Supplier or Bidder.
 - The Probation or Suspension notification letter is scanned into the SP application.
 - In the case of a Suspension being confirmed, the following actions will also be taken:
 - Remove the Supplier or Bidder from any active pre-qualification lists.
 - Publish the Supplier or Bidder's name on the City's external website.

Timeline Summary to Appeal a Standing

<p>Send out letter and signed form to Suspend or put on Probation 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 Standing</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 	<p>Notice of date for appeal meeting is sent out. Meeting must occur within 45 calendar days of receiving valid appeal.</p>
<ul style="list-style-type: none"> • 5 calendar days after meeting date notice 	<p>Respondent discloses documentation that supports the Standing</p>
<p>At least 21 calendar days prior to the appeal meeting date</p>	<p>Respondent discloses 3 copies of documentation to be presented at appeal meeting</p>
<p>At least 14 calendar days prior to the appeal meeting date</p>	<p>Appellant discloses 3 copies of documentation to be presented at appeal meeting</p>
<p>At least 7 calendar days prior to the appeal meeting date</p>	<p>Respondent may submit 3 copies of rebuttal documentation</p>
<p>Standing Appeal meeting held</p>	<p>Both parties have 60 minutes each to make a presentation. Appellant has additional 30 minutes to present rebuttal.</p> <p>Meeting adjourned</p>
<p>Within a reasonable time</p>	<p>Referee will provide written decision with reasons</p>



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.

Probation – Temporary period of time to correct poor performance and may have additional conditions to meet – until Contract finishes or performance improves. 'Probation' is also a specific type of Performance Standing.

Professional Services – Services where firms or individuals are providing technical or professional expertise, direction and guidance, including recommendations to the City, on a project basis.

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.

Standing (synonymous with **Performance Standing**) – A status given to a Bidder or Supplier that indicates if any restrictions apply to their ability to compete for new opportunities for goods, services or construction with the City. Standing may include 'Probation' or 'Suspension'.

Suspension – Is a specific type of Performance Standing where Suppliers or Bidders on Suspension are not allowed to respond to City procurement opportunities, or be awarded Contracts for goods, services or construction, directly or indirectly, to the City. Suspensions are stated with a minimum period of time, conditions and re-instatement requirements.