

INTRODUCTION & TYPES OF APPEALS

This document sets out the procedural requirements and processes that will be followed when there is an appeal of a City of Edmonton (“City”) decision in the following circumstances:

- A supplier is appealing a decision that they are suspended from contracting with the City in accordance with the [Probation and Suspension Process](#);
- A supplier is appealing a decision that places them on probation in accordance with the [Probation and Suspension Process](#);
- A supplier is appealing a decision that they do not meet the conditions for either a suspension or probation to be lifted; or
- A supplier is appealing a performance evaluation or their Supplier Performance Rating (SPR).

This document is intended to provide the full and complete rules and procedures for appeals falling under this process. This process is mandatory and must be followed for all appeals filed.

The purpose of any appeal is to ensure that a supplier has every opportunity to present evidence and argue their case before a committee that will render a fair final decision. While appeals will allow a supplier to present evidence and arguments, it is also crucial that they be handled expeditiously so that they do not become overly complex.

APPEAL COMMITTEE

The Committee will sit as a panel of three or five panel members and one Committee Chair. The Quorum of the Committee shall be considered to be three panel members. The Committee Chair will determine who the panel members are.

A panel member is not permitted to participate in an Appeal if:

- The panel member had any involvement in the suspension decision or probation decision under appeal, including recommending or making the decision;
- The panel member had any involvement in evaluating the supplier’s performance in the performance evaluation under appeal;

- The panel member is the direct supervisor of any employee who evaluated the supplier's performance in the performance evaluation, recommended the supplier to be suspended or placed on probation, or decided that the supplier should be put on probation or suspension;
- The panel member had, on any prior matter that may be related or relevant to the appeal, either evaluated the supplier in a performance evaluation, recommended a suspension or probation, or made a decision to suspend or put the supplier on probation;
- Except as a panel member, the panel member has any involvement in an ongoing dispute with the supplier; or
- The panel member has any other type of conflict of interest or bias.

No panel member will be disqualified solely as a result of having heard a prior appeal involving the supplier.

Role of the Chair of the Committee

The Chair is the Branch Manager of Corporate Procurement & Supply Services (CPSS Branch Manager). During any appeal, the Chair shall make any rulings necessary under this process, or otherwise, to ensure that the hearing proceeds in both a manner that is efficient and that is fair to everyone involved. As noted above, the Chair will select the panel members, but will not be a voting member of the appeal decision.

The Chair may consult other panel members before ruling on any procedural issue.

The Chair shall ensure that an appeal proceeds respectfully and shall not allow any discriminatory or harassing behaviour to take place.

The Chair reserves the authority to remove any participant from a hearing if their conduct is deemed disrespectful, harassing, or otherwise inappropriate toward the panel or any other participant.

In the event that the Chair is disqualified from participating in an appeal, they may designate an alternate Chair to preside over the proceedings.

FILING AN APPEAL

For this section, 'City representatives' refers to the individuals or positions responsible for issuing the suspension or probation decision, or their designates.

Version 1.0

[City of Edmonton](#)

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The supplier must fill out a "Performance Evaluation, Probation or Suspension Standing Appeal - Appeal Form (Part 1)" ("Appeal Form") and submit it, along with any supporting attachments, to the CPSS Branch Manager's Office within 15 business days after the City emails the "Decision to Assign Standing" form ("Decision Form") to the supplier or after the supplier receives their initial performance evaluation. CPSS will electronically date and time stamp the submitted appeal form upon receipt.

CPSS will review the Appeal Form to ensure it is complete and meets the filing timeline. CPSS will inform the supplier via email of the confirmed date of receipt and if the appeal is considered valid or invalid.

If the supplier is appealing being placed on probation or suspension, the City will not implement the probation or suspension until the conclusion of the appeal process, unless otherwise requested by the City, whose request must be reviewed and decided by the Committee Chair. If decided by the Committee Chair, the supplier may still be placed on probation or suspension throughout the duration of the appeal.

Scheduling of the Appeal

Within 15 business days of receiving a valid appeal, the Committee Chair will set a date for an appeal meeting. The meeting will be conducted virtually. CPSS will communicate the date and time of the appeal meeting to all involved parties. The Committee Chair will determine if the process merits an in-person hearing; otherwise, all processes and documentation will be presented virtually and electronically.

If the appeal meeting must be rescheduled due to reasonable circumstances, the Committee Chair may exercise discretion to approve the change. CPSS will then coordinate a new meeting date and issue updated notifications. Requests to reschedule by either the supplier or the City must be submitted to the Committee Chair at least 24 hours before the scheduled meeting time, during regular business hours (excluding statutory holidays and weekends), unless extenuating circumstances apply. All related timelines will be adjusted accordingly based on the new meeting date.

Disclosure Procedure

Within 15 business days of receiving notification of the appeal meeting date, the City representatives will prepare and disclose to CPSS electronic copies of any documentation used to support the

Probation or Suspension Decision. CPSS will distribute copies of the documentation to the supplier and City representatives.

Within 15 business days of receiving the copies of the documentation from the City, as noted above, the supplier will prepare and disclose to CPSS electronic copies of any additional documentation they intend to rely on at the appeal meeting. CPSS will distribute copies of this documentation to the committee and City representatives.

The City may submit rebuttal documentation to CPSS within 15 business days of receiving the suppliers' documentation. CPSS will distribute copies of the rebuttal documentation to the supplier for reference and review.

The supplier can submit rebuttal documentation to CPSS within 15 business days after receiving the City's rebuttal documentation. CPSS will then provide the City with copies of this rebuttal documentation for their reference and review.

The Committee Chair may, on application, accept late disclosure or modify the disclosure dates when there is a reasonable cause or where the opposing party does not object.

The committee may require that the names of witnesses and testimonial statements regarding the general nature of testimony be exchanged no later than five business days before the appeal meeting.

Failure to Disclose

If the Committee Chair determines that the supplier failed to disclose sufficient reasons or documentation to support the appeal in accordance with the above section, the appeal shall be dismissed.

If the Committee Chair determines that the City failed to disclose any documentation in accordance with the above section, the appeal shall be granted to the supplier.

APPEAL MEETING

The minutes of proceedings before the committee shall be taken in writing and recorded in audio and video format.

If the supplier fails to show up within 15 minutes after the scheduled start time of the meeting and has not contacted CPSS with a valid reason for the non-appearance, the Committee Chair shall consider the appeal withdrawn and provide written notice to the supplier.

The Committee Chair shall introduce all members of the committee and the parties and inform the parties of the hearing procedures.

The appeal meeting shall proceed in the following order with the following time limits:

- The supplier presents evidence and arguments to support their appeal. The supplier has 30 minutes to present any evidence and argument relating to its case;
- The committee may ask questions of the supplier after the supplier has completed the presentation;
- The City representatives will then present their evidence. The City representatives have 30 minutes to present any evidence relating to its case;
- The committee may ask questions of the City representatives after the City representatives have completed the presentation;
- The supplier has 20 minutes to provide a rebuttal to the evidence as well as any argument they wish to make, to sum up their position;
- The City representatives have 15 minutes to make any argument they wish to sum up their position;
- The supplier has 5 minutes to respond to the argument of the City Representative; and
- The committee may then ask any final questions about the evidence or argument of either party.

Cross-examining the other party or the witnesses by the City representatives or the supplier is not permitted.

If either party requires additional time to complete their presentation, a request may be submitted to the Committee Chair. The Committee Chair may grant a reasonable extension if it is determined that the party has relevant evidence or arguments that could not reasonably have been presented within the originally allotted time. In considering such a request, the Chair may consider factors such as the party's level of preparedness, the efficiency with which relevant information has been presented, and whether the presentation includes repetitive or redundant content.

Either party shall not raise at the meeting any new evidence that was not exchanged during the disclosure phase, whether verbally or in documentary form.

APPEAL DECISION

After hearing the information, the committee will adjourn the meeting. The committee will deliberate and vote privately, then provide a written decision using the "Performance Evaluation, Probation or Suspension Standing Appeal - Appeal Decision (Part 2)" to the Committee Chair. Copies of the form will be sent to all parties. The committee will endeavour to make and release their decision within 15 business days of the conclusion of the appeal meeting, but may require additional review time in their discretion.

In arriving at a decision, the committee shall only consider the information provided by the parties and may not gather additional information.

The committee may make any of the following decisions:

- Dismiss the appeal;
- Increase or decrease an evaluation score or scores on the performance evaluation;
- Modify any comments associated with a performance evaluation;
- Overturn a suspension or probation;
- Increase or decrease the duration of a suspension or probation;
- Impose, remove, or modify any conditions on a suspension or probation; and
- Make any other decision necessary to decide the appeal.

The committee may consider the supplier's dispute history or other inappropriate conduct, as outlined in the [Probation and Suspension Process](#), in making a decision.

The committee's decision is final and binding. There is no further right of appeal within the City or the courts.

The supplier and the City are each responsible for their own costs and expenses, regardless of the appeal's outcome.

Performance Evaluation, Probation or Suspension Standing Appeal

Appeal Form (Part 1)

Supplier Information		
Supplier Name <i>(enter the complete legal name of the company, as well as the "Operating As" name)</i>		
Supplier Address		
Telephone Number address	Contact Name	Email
Contract Information		
Contract or Agreement number:		
Title/Description of Contract:		
Performance Evaluation ID (if applicable):		
Attach Reason(s) for Appeal		
• <i>Indicate whether the appeal is relating to an intended probation or suspension by the City and any details pertaining.</i> • <i>Attach a copy of the Performance Evaluation that is being appealed.</i> • <i>Indicate what information on the Performance Evaluation the appeal is against</i> • <i>Provide justification for appeal against the specific Performance Evaluation information</i> • <i>If the appeal is about a specific score, state the requested Performance Evaluation score</i> • <i>Attach additional pages or any documentation required to complete this section.</i>		

Supplier Signature		
Signature (yyyy-mm-dd)	Printed Name of Signatory Person and Title	Date
CPSS Branch Managers Office Use Only		
Appeal Reference #:		
Was the appeal filed on time? ☐ Yes ☐ No		
Date received:		
Is the required information on or included with the appeal form? ☐ Yes ☐ No		
Type of Contract ☐ Construction ☐ Goods & Services ☐ Goods ☐ Professional Services		

This form is in accordance with the City's Supplier Performance Appeal Process.

spmescalations@edmonton.ca

Performance Evaluation, Probation or Suspension Standing Appeal
Appeal Decision (Part 2)

Appeal Reference #:			
Date of Appeal Meeting		Location of Meeting	
Appeal Decision Details			
☐ Dismiss the appeal - original City decision (including term) stands. ☐ Increase or decrease an evaluation score or scores on the performance evaluation. ☐ Modify any comments associated with a performance evaluation. ☐ Overturn a suspension or probation. ☐ Increase or decrease the duration of a suspension or probation. ☐ Impose, remove, or modify any conditions on a suspension or probation. ☐ Other			
Revisions to Performance Evaluation, Probation or Suspension- if applicable (remove any unnecessary fields)			
<i>Performance Evaluation Scores or Comments:</i>			
KPI	Question	Original Score	Revised Score
KPI	Question	Original Comment	Revised Comment

Probation or Suspension Duration:

Original Duration	Revised Duration

Revised Conditions of Probation or Suspension:

Original Condition	Revised Condition

Justification for Decision

Provide reasons and decision on Appeal (attach separate sheet, if necessary)

City Appeal Committee

Signature (yyyy-mm-dd)	Printed Name of Signatory Person and Title	Date

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