



# **GUIDELINE FOR APPRAISING CONTRACTORS' PERFORMANCE**

CHINESE TEMPLES COMMITTEE  
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## CONTENTS

	<b>Page</b>
1. General	1
2. Reporting Officer	1
3. Frequency of Reports	1 - 2
4. Report Format and Assessment Criteria	2
5. Countersigning Officer	2
6. Issue of an Adverse Report	3 - 4
7. Action Where Performance is Unsatisfactory	4 - 6
8. Appeal Mechanism	6 - 7
Appendix A	App A/1
Appendix B	App B/1
Appendix C	App C/1
Appendix D	App D/1

## **GUIDELINE FOR APPRAISING CONTRACTORS' PERFORMANCE**

### **1.0 General**

- 1.1 In order to ensure that contractors perform their duties in accordance with the contracts, they must be effectively managed by the Project Management Section (PMS). It is essential that the contractor's performance is assessed and reported accurately so that the quality of works can be reflected, and in turn, good value for money can be ascertained. In cases of unsatisfactory performance, action shall be taken in accordance with Section 7 hereinafter.
- 1.2 The performance of contractors must be regularly assessed and reported on a quarterly basis by the Deputy Project Manager (DPM)/Consultant until issue of the Maintenance Certificate or the Defects Liability Certificate, or until completion of all Works Orders in the case of term contracts. All the contractor performance reports shall be reviewed and countersigned by the Project Manager (PM).
- 1.3 The PM shall be responsible to manage the contractors' performance reporting and to recommend the necessary actions against poor performers for the consideration of the Works Working Group (WWG).
- 1.4 Regular reports on contractor's performance are required for all current contracts.

### **2.0 Reporting Officer**

- 2.1. The Reporting Officer shall be the Deputy Project Manager or the Consultant where a consultant is named as the Architect/Engineer for the contracts.

### **3.0 Frequency of Reports**

- 3.1 Subject to paragraphs 3.2 and 3.3 below, the reports should normally be quarterly from the commencement of the Works until the issue of the Maintenance Certificate or the Defects Liability Certificate, or until completion of all Works Orders in the case of term contracts. The reporting date shall normally be the last day of February, May, August and November.
- 3.2 After the Maintenance Certificate or the Defects Liability Certificate has been issued, quarterly reports are no longer required. Instead, except for term contracts for which no further reports are required, a final report on the

contractor's performance should be made upon issue of the final payment certificate (which will cover the resolution of claims).

- 3.3 If a contractor's overall performance is poor and close monitoring is desirable, additional six-weekly intervening reports between the normal reporting periods may be made by the Reporting Officer provided that the contractor shall be given written notice of not less than 7 working days before the next reporting date. The contractor will be informed when the intervening reports are no longer required.

#### **4.0 Report Format and Assessment Criteria**

- 4.1 The report format and the criteria to be used for assessing performance of a contractor shall be in accordance with the standard report form and guidance notes. Whilst it is accepted that the overall assessment is subjective, the Reporting Officer's grading and the Countersigning Officer's acceptance of the assessment shall reflect the strengths and weaknesses of the different aspects of performance of the contractor.

- 4.2 For quarterly and six-weekly intervening reports, all parts of the report, including the detailed assessment of performance, shall be completed. For the final report, it shall cover the resolution of claims.

- 4.3 For reporting of contractors' performance during the maintenance or defects liability periods, a minimum of five out of the eleven major aspects of performance (including Attitude to claims) shall be assessed and rated. It should be noted that the performance to be reported during such periods would mainly cover performance of outstanding works and repair or rectification of defects.

- 4.4 Each contractor shall be made aware of his assessed performance. To increase transparency on performance reporting, the PM shall send the completed performance report to the contractor once the report has been countersigned by him. No advance copy of the performance report shall be sent to the contractor. The standard letters to contractor enclosing the Quarterly Report and the Final Report are at Appendix A & B respectively.

#### **5.0 Countersigning Officer**

- 5.1. All the contractors' performance reports shall be reviewed and countersigned by the PM within 20 working days after the end of the reporting period.

## **6.0 Issue of an Adverse Report**

- 6.1 The contractor shall be forewarned on his unsatisfactory performance, as far as possible, before the issue of an adverse report. The standard warning letter issued by an officer of at least PM level to the contractor before issuing an adverse report is at Appendix C.
- 6.2 If the PM considers that clarification of certain issues relating to the poor performance of the contractor is necessary, prior to the issue of an adverse report, he/she together with the Consultant where a contract is administered by a consultant should interview the contractor at principle/director level, notifying them of the issue of an adverse report and explaining those significant aspects that lead to the issue of the adverse report, discussing any problems encountered and agreeing an action plan for improvement. The PM should also take this opportunity to listen to the contractor's responses on poor performance, complaints or reasons for disputing the assessment, and amend the report if necessary. In addition, when the DPM or the Consultant anticipates, towards the end of the reporting period, that he/she or the Consultant will give the contractor an Adverse report, he/she or the Consultant must advise the PM. The PM should take particular measures, which would normally include visiting the site, to satisfy himself/herself that the anticipated assessment is correct.
- 6.3 An adverse report shall be issued if the grading of the overall performance is less than 40 or if any critical aspect of performance in the report is rated with a "Very Poor" grading.
- 6.4 Adverse report shall be reasonably justified with facts and evidence e.g. summary of the correspondence exchanged and of any discussion that have taken place with the contractor regarding his poor performance, the response received from the contractor after issue of warning letter, etc. It is essential that the Reporting Officer shall state the reason(s) together with evidence for substantiating the issue of an adverse report in Section F(a) of the report. A detailed account on aspects of poor or very poor performance and advice on specific areas where improvements are required should also be provided.
- 6.5 Once an adverse report has been countersigned by the PM, he/she shall send a copy of the adverse report under cover of a formal warning letter to the contractor at principal/director level. The standard warning letter to contractor

advising the issues of Adverse Report is at Appendix D.

- 6.6 In case it has been resolved by the WWG that regulating action should be taken against the contractor as a result of the issue of the adverse report, the contractor shall also be advised of the proposed regulating action in the warning letter. If no appeal is received within 14 days from the date when the performance report and the warning letter are sent to the contractor, the PM shall issue a formal Suspension to the contractor if the regulating action is suspension for tendering. Late appeal will not be considered.
- 6.7 After issuing a warning letter and an adverse report to the contractor, the PM would interview the contractor at principal level to discuss the problem areas and to draw his attention that continued poor performance on the contract might result in suspension from tendering. The PM shall write to the contractor confirming the points made against the contractor, and should also inform the contractor the details of the regulating actions. (Note: If the Contractor appeals against the adverse report, the interview should be conducted after the decision on the appeal has been finalized and confirmed by the WWG and the Contractor has been informed accordingly.)
- 6.8 After receiving an adverse report, the contractor should review the aspects of poor performance stated in the report and submit an action plan for agreement with the PM. At the end of the next reporting quarter, the Reporting Officer should review the contractor's performance according to the agreed action plan, and state whether he is satisfied with the contractor's performance in the report.

## **7.0 Action Where Performance is Unsatisfactory**

- 7.1 As soon as it becomes apparent to the Reporting Officer that the performance of a contractor is unsatisfactory, he shall ensure that the situation is brought to the attention of the contractor. The Reporting Officer is also required to indicate the action taken and the response of the contractor. If no action has been taken, the reason must be stated in the quarterly report.
- 7.2 Poor performance on the part of a contractor may indicate a need for closer liaison. If an increased level of liaison as well as pointing out problem areas to the contractor does not result in a satisfactory improvement in performance, then the Reporting Officer shall bring the matter to the attention of the PM who shall issue a warning letter to the contractor at principal/director level highlighting the areas of concern. In certain circumstances, it may be appropriate to discuss the report with the contractor at principal/director level to agree where performance might be improved.
- 7.3 The purpose of suspension from tendering following an Adverse Report is to ensure that only suitable competent contractors are allowed to tender for

contracts and pressure is put on the contractor to improve his performance. A contractor shall be suspended from tendering for 1 similar contract or for a period of minimum 12 months whichever the earlier after receiving 2 consecutive adverse reports in same contract. The period of suspension shall be extended for 3 similar contracts or to a minimum of 24 months whichever the earlier, counting from the first day of the suspension, after receiving the third consecutive adverse report in the same contract.

- 7.4 For the purpose of imposing regulating actions as described in paragraph 7.3 above, only quarterly performance reports will be counted, but not the final or special report for a contract. However, the final or special report may be taken as reference or basis in taking regulating action under special circumstances as described in paragraph 7.9 below.
- 7.5 The commencement date of suspension shall be determined by the WWG.
- 7.6 The DPM shall maintain a list of contractors suspended from tendering with date of suspension, duration of suspension and date of suspension uplifted.
- 7.7 A contractor who is under suspension from bidding shall not be invited for Expression of Interest or shortlisted for submission of tender for further contract until the suspension is uplifted. Bids already submitted by the contractor in response to invitations before the suspension is imposed shall not be assessed further and shall be disqualified.
- 7.8 In making recommendation to the WWG whether to uplift the suspension of a contractor from bidding at the end of the suspension period, the PM shall consider the performance of the contractor in executing the contract for a minimum period of 6 months or until and in any event an overall review of the situation should be carried out at the first quarterly review after substantial completion / satisfactory completion of the contract, performance reports for other projects, and any improvement measures carried out by the contractor in respect of the project team, staffing and company operating procedures, and other relevant information. The PM shall inform the contractor of the final decision.
- 7.9 In addition to the regulating action due to poor performance as mentioned in Section 7.3 above, other circumstances leading to suspending shall include:
  - (a) serious misconduct or suspected serious misconduct;
  - (b) failure or refusal to implement an accepted offer;
  - (c) poor integrity of his employees unless the contractor has taken reasonable measures to prevent or the misconduct is not within the control of the contractor;
  - (d) bankruptcy or other financial problems;
  - (e) public interest.

- (f) Public safety and public health;
- (g) Suspected serious poor performance or other serious causes in any work contract
- (h) Failure to submit information and/or satisfy requirements on the management and technical capability; and
- (i) Failure to obtain Quality Management System certification as required.

In such circumstances, the approval of the WWG is required prior to taking regulating actions.

- 7.10 Upon identifying a major default of a contractor or any serious incident regarding the performance of a contractor in a contract, the DPM/ Consultant should submit a special report on the performance of the contractor for the PM's information and decision. Such special report could be submitted between the submission of quarterly performance reports or after the submission of Final Report if warranted. The special report will be used as reference in taking regulating action against the contractor or in considering whether to award a contract to the contractor in a contractor selection exercise.
- 7.11 In such circumstances as detailed in Sections 7.9 and 7.10, the PM shall make recommendation for the approval of WWG for taking regulating actions.
- 7.12 Regulating actions will not be applied to sub-contractor who does not have direct contractual relationship with the CTC. However, in case of circumstances mentioned in paragraph 7.9 above found on any sub-contractor, regulating action of suspending the sub-contractors from bidding should also be considered.
- 7.13 The DPM shall provide reasons in the quarterly performance report for any substantial drop in ratings when compared with the last performance report, and the PM shall issue adequate warning(s) to the contractor prior to the issuance of the report in order to alert the contractors of their deteriorating performance within a short period of time.
- 7.14 Six-weekly reporting shall be introduced after the 2<sup>nd</sup> consecutive Adverse quarterly report and continued until a Not Adverse report is received. Thereafter normal quarterly report applies.

## **8.0 Appeal Mechanism**

- 8.1 A contractor who does not agree with the performance assessment made on him and / or the proposed regulating actions may notify / appeal in writing with substantiations and supporting evidence to the Executive Secretary (ES)



within 14 days from the date when the copy of the performance report and the warning letter is sent to the contractor.

- 8.2 The PM should submit the Contractor's appeal to WWG for their consideration, upon the receipt of the appeal and after hearing the Contractor's representation, whether the original assessment or decision shall stand or be amended. The PM should assist WWG in analyzing the appeal and collection of further information if necessary.
- 8.3 Upon the decision on the appeal has been finalized and confirmed, the ES would inform the Contractor in writing about the final result of the appeal.

[Date]

[Contractor Name and Address]

Dear Sirs,

Project Title:

Quarterly Report on Contractor's Performance  
(1<sup>st</sup> / 2<sup>nd</sup> / 3<sup>rd</sup> / 4<sup>th</sup> Quarter of [year])

I enclose a copy of the Quarterly Report on Contractor's Performance for the captioned contract for the period [date] to [date] for your information and necessary action.

If you wish to dispute the rating in the performance report, you should submit written representations to the Executive Secretary for review by fax at 3718 6800 or by hand at Room 34/F, Wu Chung House, 213 Queen's Road East, Wanchai, Hong Kong on or before [date]\*.

Yours faithfully,

(Name of Project Manager)  
Project Manager  
Chinese Temples Committee

Encl.

Notes:

\*The 14<sup>th</sup> day after the letter date, including Saturdays, Sundays and Public Holidays.

[Date]

[Contractor Name and Address]

Dear Sirs,

Project Title:

Final Report on Contractor's Performance

I enclose a copy of the Final Report on Contractor's Performance for the captioned contract for your information and necessary action.

If you wish to dispute the rating in the performance report, you should submit written representations to the Executive Secretary for review by fax at 3718 6800 or by hand at Room 34/F, Wu Chung House, 213 Queen's Road East, Wanchai, Hong Kong on or before [date]\*.

Yours faithfully,

(Name of Project Manager)  
Project Manager  
Chinese Temples Committee

Encl.

Notes:

\*The 14<sup>th</sup> day after the letter date, including Saturdays, Sundays and Public Holidays.

[Contractor Name and Address]

(Attn.: Staff at principal level)

Dear Sirs,

Project Title:

Warning Letter-Contractor's Performance (before issue adverse Report)

I write to register our concern about your unsatisfactory performance under the captioned Contract.

2. (Describe the aspects of unsatisfactory performance or inadequacies in detail). In order to allow us to review the matter in full perspective, you are invited to explain the reasons for the apparently unsatisfactory performance/inadequacies noted above or any factors that may have affected the completion of the contract to the Chinese Temples Committee (CTC).

3. You will appreciate that we are keen to ensure the quality and timely completion of the contract. You are therefore advised to make every effort to rectify the shortcomings/inadequacies noted in the above paragraph and make suitable improvements (specify any particular aspects or the standard required, if appropriate). Without prejudice to the CTC's contractual rights and remedies, the matter would be reflected in your performance report. Your performance under the contract may also be taken into account in our future contractor selection exercises.

4. In case there is anything you wish to draw to our attention or in respect of which our assistance is required, please do not hesitate to contact our (Name of PM's Delegate) at (Telephone Number).

Yours faithfully,

(Name of Project Manager)  
Project Manager  
Chinese Temples Committee

[Contractor Name and Address]

(Attn.: Staff at principal level)

Dear Sirs,

Project Title:

Warning Letter-Contractor's Performance (issue of 1<sup>st</sup> Adverse Report)

An Adverse report has been made in respect of your performance during the period ( date ) to ( date ) on captioned contract.

2. Particular aspects of your performance during this period which have given rise to the adverse report are:- (Describe the aspects of unsatisfactory performance or inadequacies in detail)

3. I urge you to make a rapid substantial improvement in your performance. Should there be further Adverse reports, I will have to call for more frequent assessment of your performance and your competence to carry out further Chinese Temples Committee contracts will be reviewed. This may result in your suspension from tendering.

4. If you wish to dispute the rating in the performance report, you should submit written representations to the Executive Secretary for review by fax at 3718 6800 or by hand at Room 34/F, Wu Chung House, 213 Queen's Road East, Wanchai, Hong Kong on or before [date]\*.

Yours faithfully,

(Name of Project Manager)  
Project Manager  
Chinese Temples Committee

Encl.

Notes:

\*The 14<sup>th</sup> day after the letter date, including Saturdays, Sundays and Public Holidays