

Reference Check Review Guidelines





REFERENCE CHECK REVIEW GUIDELINE

Overview

The purpose of these guidelines is to provide clarity on implementation of the Province of British Columbia's internal reference check requirements for government service contracts.

In the past, poor performance by a vendor on one government contract often has had no consequences in terms of their ability to bid on or to be selected for future opportunities within government. Therefore, procurement policy has been strengthened to ensure proper assessment of past vendor performance within core government.

The internal reference check requirement will not be the only reference check process which would be built into the solicitation of a procurement opportunity. Where appropriate, ministries should consider, other jurisdictional, industry and project specific references when evaluating participating vendors.

The policy enhancements included in chapter 6 of the Core Policy and Procedures Manual (CPPM), as shown in boxes in these guidelines, are requirements for government service contracts with an estimated value of \$10 million or greater. Ministries issuing solicitations for service contracts estimated to be under \$10 million are not required to adhere to this policy. The term "service contract" refers to a contractual requirement that contains any ratio of services and other things (such as goods) in the overall requirement, provided that some measure of services comprises the contract deliverables. For greater certainty, purchases exclusively of goods are exempt from this policy.

The procurement guidelines which follow provide information on how to incorporate the policy into all phases of the procurement and contract management lifecycle.

The contents of the guidelines are based on the structure of the Procurement Competency Model and include:

- ❖ **Planning**
- ❖ **Pre-award and Solicitation**
- ❖ **Award**
- ❖ **Administration and Monitoring**
- ❖ **Post-contract Assessment**
- ❖ **Corporate Reporting**
- ❖ **Vendor Relationship Management**



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Planning

CPPM, chapter [6.3.3b\(1\).2](#):

For a procurement of services under a contract with an estimated value of \$10 million or greater, ministries must include a pre-qualification process with an internal performance reference check component. The internal performance reference check must review a vendor's performance on all contracts with a value of \$1 million or greater that the vendor currently has or has had with the Province in the three years prior to the closing date of the pre-qualification process.

Contract Valuation and Definition of Service Contract

- In determining applicability of this policy ministries should estimate the value of procurements based on the following guidelines:
 - The estimated contract value should be based on the anticipated dollar amount over the term of the service contract;
 - Where a multi-phased project is being procured ministries will estimate the dollar value of the service contract based on the anticipated cost to the Province of all phases of the project.
- When subdivision of a major project into two or more component parts occurs, the Terms of Reference, Business Case and solicitation document for each component part must clearly disclose the potential combined scope of the project. Approval, by the expense authority, must be sought on the combined value of all contracts issued for a sub-divided project.

[[CPPM 6.3.2.a.6](#)]
- A contract with any component of service obligations owed to the Province would be considered a service contract for the purpose of these guidelines.
- The internal performance reference checks will be performed as a condition for satisfying the pre-qualification requirements. The internal performance reference checks should be



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performed at the beginning of the pre-qualification evaluations and will result in a pass or fail grade. Only participating vendors passing the performance reference checks will be eligible to proceed to the next stage in the prequalification process.

- Part of the prequalification process will be the establishment of a Qualifications Review Committee, which is the body responsible for assessing participating vendors.
- The Qualifications Review Committee members will be confirmed by the sponsoring ministry executive (determined by procuring ministry) and will have signed appropriate conflict of interest and confidentiality acknowledgment forms.
- The Qualifications Review Committee members should be viewed as objective. They do not require specific knowledge in the procuring ministry's business area. The key criterion is that they are able to apply sound professional judgement in regards to the participating vendors' performance under past contracts with the Province.
- The Qualifications Review Committee members may be staff within the procuring ministry or contractors of the Province; and may or may not be the same individuals selected for the procurement evaluation committee.
- Participating vendors will be required by the pre-qualification process document to disclose all contracts with a value of \$1 million or more that they then currently hold or have held with the Province in the three years prior to the closing date of the pre-qualification process. It is the responsibility of the procuring ministry engaged in the solicitation process to verify the completeness of this information.
- Where appropriate, internal performance reference checks should include assessment of a participating vendor's parent corporation, subsidiaries, other affiliated corporations, major subcontractors, key personnel and predecessor organizations, if any.
- Legal review will be required. Legal Services Branch with the Ministry of the Attorney General will be required to review and approve the development of appropriate disclosure language to be used in procurement documents for the pre-qualification process.



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- The pre-qualification process documents should list the common standard performance areas that will be reviewed under the performance reference check template (i.e. performance around contractual standards and service target levels, schedule performance, cost performance, team approach). Ministries will be required to clearly set out in the pre-qualification process documents any additional performance criteria used to evaluate participating vendors.
- The required CPPM 6.3.3b (1) internal performance reference check will be an additional component to the pre-qualification process and is intended to supplement any processes and best practices already in place within a ministry's pre-qualification process. In addition to the required section 6.3.3.b (1) internal reference check, pre-qualification processes may also include mandatory requirements and other appropriate qualification considerations (e.g., evaluation of vendor history, experience, and past performance under non-government of BC contracts or evaluation of past performance under government contracts by affiliates or other persons related to the vendor).
- The Qualifications Review Committee will consider the internal performance reference checks in the aggregate on a pass/fail basis and document the justification of the final assessment of the Qualifications Review Committee.
- The Qualifications Review Committee should consider implementing the following best practices for internal performance reference checks:
 - Require reference provider to provide responses in writing to maintain a record,
 - Pose questions to reference providers that allow for "yes"/ "no" responses and pose the same questions to every reference provider, and
 - Ensure fairness and avoid challenges of subjectivity by having at least two committee members review responses from reference providers and reach consensus on whether or not the reference is negative or positive.
- Ministries need to ensure that there is adequate time to complete internal performance reference checks during the procurement process.



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CPPM, chapter [6.3.3b\(1\).3](#):

It is the responsibility of the Executive Financial Officer (EFO) (or delegate) for each ministry to:

- (a) oversee the performance management process for the ministry, for all contracts with a value of \$1 million or greater,***
- (b) oversee the design and use of a standardized internal performance reference check template to be used in ministry pre-qualification processes and a post-contract evaluation template to be used to provide a record of performance by ministry contractors as part of the ministry performance management process, and***
- (c) ensure sufficient document retention to support internal performance reference checks by other ministries engaged in pre-qualification processes.***

- As per CPPM section [6.2](#), ministries have the responsibility for:
 - planning, managing and fully documenting their procurement processes,
 - managing solicitation and contract award processes in a prudent and unbiased manner that fairly treats all potential vendors and bidders, and
 - ensuring that all contracts are designed to provide the best value to government.
- Ministries are already required to complete post-contract evaluation on every contract over \$50,000 to provide a record of the contractor's performance and to assist in future contracting activity [CPPM [6.3.6c \(3\)](#)].
- For contracts of \$1 million or more, ministries must now also perform post-contract evaluations which reflect the same standardized general assessment indicators that will be used to conduct performance reference checks in procurement processes (see *Reporting/Post-Completion Evaluation* below).
- To ensure fair and consistent application the performance reference check templates and post-contract evaluation templates must be reflective of each other and contain common government assessment indicators which can be applied across all ministries.

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- Ministries may include additional assessment indicators beyond the mandatory common government assessment indicators to address ministry-specific and industry-specific needs.
- The assessment indicators need to be clear, unambiguous, transparent, disclosed to vendors and objectively and fairly applied.

Common government assessment indicators include:

- **Performance - contractual standards and service target levels** (has contractor met contractual standards and service target levels? Was the client satisfied with the contractor's performance of the services? Other considerations can be professional behaviour, client management, timely meeting of administrative requirements such as reporting, record keeping etc.)
- **Cost performance** (were the services provided within budget or close to the cost estimates? Did the contractor manage expenses appropriately? How did the contractor manage cost overruns?)
- **Schedule performance** (timeliness of completion, meeting of target levels, interim and final milestones)
- **Team** (evaluation of parent companies, affiliates, major subcontractors, management, key personnel, predecessors)



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Pre-Award

CPPM, chapter [6.3.3b\(1\).1](#):

The Qualifications Review Committee that assesses vendors under the pre-qualification process may disqualify a vendor from proceeding to the next stage in the procurement process for failing the internal performance reference check; vendors disqualified for failing the internal performance reference check may request in writing to the Qualifications Review Committee a review by the Office of the Comptroller General of their disqualification.

- If the Qualifications Review Committee decides the vendor has failed the internal performance reference check, within two business days of that decision being made, using reasonable efforts, the Qualifications Review Committee will notify the vendor that it is disqualified from further evaluation under the pre-qualification process, including a general explanation for why the vendor was disqualified based on the evaluation criteria used.
- A vendor who has failed the past performance evaluation will have the opportunity to request a review of the initial determination of disqualification and within five business days of being notified provide additional information in writing to the Office of the Comptroller General (“OCG”) for an independent review with a copy to the Qualifications Review Committee.
- The review request will be by written submission from the vendor.
- Allowing vendors the opportunity to address their unsatisfactory reference checks through an independent review helps to ensure transparency and fairness and will mitigate concerns about the subjective assessment of past performance.
- The OCG may consider information from any source in its review.



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- After considering the review request, any accompanying written information submitted by the vendor and the Qualifications Review Committee, and any further information obtained by the OCG, the OCG will either:
 - (a) Confirm that the participating vendor has failed the reference check and so is disqualified from further evaluation under the procurement process, or
 - (b) Determine that the participating vendor has passed the reference check.
- On receipt of the vendor's written submission, the OCG will use reasonable efforts to reach a decision within ten business days of receipt and will notify the vendor and the Qualifications Review Committee of that decision. The OCG's decision will be final and conclusive.
- The next stage of the procurement process may not commence until all reviews have been completed by the OCG.
- An administrative review process decision tree can be reviewed in Appendix I.

Contract Administration and Monitoring

- As per CPPM [6.3.6.c \(2\)](#), during the term of a contract, ministries must ensure timely and consistent monitoring of the vendor's performance as the assignment progresses in accordance with the terms and conditions of the contract. This is continuous monitoring and is in addition to the post-contract evaluation requirement under section [6.3.6.c.\(3\)](#).

Reporting / Post-Contract Evaluation/ Vendor Relationship Management

- During an exit meeting, the vendor and the ministry will review the post-contract evaluation. If the vendor disagrees with the assessment they can choose to formalize their objections through the Vendor Complaint Review Process ("VCRP") [CPPM [Chapter 6, Part II](#)].
- The VCRP provides a consistent, fair and timely process to deal with vendor complaints concerning government procurement.

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- The intent of the VCRP is to assist government in identifying and responding to problems in the establishment and application of government procurement policy and procedures.
- A complaint may be made in respect of the process used to assess a post-contract evaluation; or if a vendor disagrees with its post-contract evaluation.
- The application of this VCRP is limited to ministries and those procurements which are subject to government procurement policy as described in Chapter 6 of this Core Policy and Procedures Manual.
- If the vendor's complaint has not been resolved by the ministry to the vendor's satisfaction, the vendor may raise its concerns in writing to the OCG for review.
- The post-contract evaluations inform internal performance reference checks and therefore, need to be objective, standardized and unambiguous. Ministries should consult their legal counsel to develop, review or approve the appropriate forms to be used for post-contract evaluations.
- The post-contract evaluation template must use, at a minimum, the same common government assessment indicators identified for the performance reference check template (see *Planning* section above). Ministries have the discretion to add in performance indicators appropriate for their particular ministry/business area.
- The correlation between the performance reference check template and the post-contract evaluation template is critical to ensure the performance reference check review policy is objective, standardized across government, and clear.
- Upon request from a procuring ministry, post-contract evaluation for the three years previous to the procurement opportunity will be made available by the ministry responsible for managing the contracts.



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Appendix I – The Administrative Review Process - Flowchart

