

MINISTRY OF TRANSPORTATION

QUALIFICATION COMMITTEE PROCEDURES

MINISTRY OF TRANSPORTATION ONTARIO QUALIFICATION COMMITTEE PROCEDURES

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1. Purpose of the Qualification Committee Procedures Document

The purpose of these procedures is to provide an administrative routine for the operation of Qualification Committee (“Committee”). The procedures apply to engineering, construction and maintenance work, and define the roles of the Contractor, the Engineering Service Providers (e.g. Engineering Consultants, Contract Administration Consultants, and Laboratories) and the Ministry of Transportation (“MTO”). These procedures are intended to guide the members of the Committee to ensure that the purpose, intent, integrity and fairness of the Committee are maintained.

The procedures supersede those contained in previous editions of this document.

2. Qualification Committee

2.1. Qualification Committee Membership and Structure

The Qualification Committee is established by the Minister and members are appointed by position, except the non-MTO members who are appointed by the Chair.

Qualification Committee is an internal administrative committee that has the authority to impose administrative sanctions on Contractors and Engineering Service Providers. The membership of the Committee is comprised of MTO executives, mainly from the Transportation Infrastructure Management (“TIM”) Division, and contains not less than two (2) members from the Ontario Public Service (“OPS”) who are not MTO employees. The Committee is chaired by the ~~MTO Chief Engineer Assistant Deputy Minister (ADM) of TIM Division~~ who is also responsible for ~~designating a voting member as Vice-Chair and~~ appointing a non-voting Secretary. The Committee is vice-chaired by the Assistant Deputy Minister (ADM) of TIM Division. The Committee may at its discretion access a non-voting legal advisor through the ministry’s internal protocols.

The Committee voting members by position are:

- The MTO Chief Engineer (“Chair”)
- Assistant Deputy Minister, Transportation Infrastructure Management Division (“Vice-Chair”)
- Director, Standards and Contracts Branch
- Director, Design and Engineering Branch
- Director, Capital Program Delivery Branch
- Director, Major Infrastructure Projects Branch
- Director, Highway Operations Management Branch
- ~~The MTO Chief Engineer~~
- Manager, Contract Management Office
- Two (2) Non-MTO members of the Ontario Public Service

There is no substitution for voting members that are absent.

2.2. Qualification Committee Meeting Operations

The Committee meetings are regularly held once per month, or as determined by the Chair. The meetings have a confidential agenda and minutes which reflect correspondence, information shared, considerations, final decisions and action items. Background material is circulated in advance of meetings; reference material may be provided at the meeting. The meetings could either be in-person or virtual. During the meeting, the taking of photographs, screenshots, videos or electronic recordings is prohibited.

The Contractor or Engineering Service Provider will have an opportunity to request one meeting, to make an oral presentation to the Committee regarding the infraction. Such meeting shall occur prior to any decision made by the Committee. The Secretary will inform the Contractor or Engineering Service Provider of the date, time, and location of the meeting. The Contractor or Engineering Service Provider's delegation at the meeting shall be limited to three (3) persons.

That meeting will provide an opportunity for the Contractor or Engineering Service Provider to be present and to listen to the information about the Infraction Report that is presented to the Committee by the Secretary (or designee). At the same meeting, the Contractor or Engineering Service Provider may make an oral presentation to the Committee in respect to the Infraction Report. The Contractor or Engineering Service Provider will have up to sixty (60) minutes to make their oral presentation. The Contractor or Engineering Service Provider is encouraged to provide all information related to the infraction to be presented to the Committee, via the Secretary, at least one (1) week in advance of the meeting.

Up to two ministry representatives will have the opportunity to attend the meeting and listen to the information about the Infraction Report that is presented to the Committee by the Secretary as well as the Contractor or Engineering Service Provider's oral presentation to the Committee.

Quorum for a meeting is four (4) voting members one of which must be the Chair or Vice-Chair. For the review and final decision regarding an Infraction Report, Quorum shall include at least one (1) of the two (2) non-MTO members of the Ontario Public Service.

For review of items related to Operations Division (OD), attendance of the Director, Highway Operations Management Branch will be required at the Committee meeting.

2.3. Qualification Committee Roles and Duties

The mandate of the Committee is to take action to:

- Approve the process for the qualification system
- Monitor the performance of Rated and non-Rated Contractors
- Monitor the performance of Engineering Service Providers

- ~~• Foster improved Contractor or Engineering Service Provider performance and behaviour~~
- ~~• Ensure an open and fair tendering and administration environment~~
- ~~• Ensure Contractors, Engineering Service Providers, Contract Administrators, agents and representatives act ethically and with integrity~~
- Assess the implications of Contractor or Engineering Service Provider non-conformances and take appropriate action

The key tasks of the Committee are to:

- Approve the Qualification Procedures for Contractors and Engineering Service Providers
- Impose administrative sanctions on Rated construction and maintenance Contractors and registered Engineering Service Providers
- Decide on appeals of Performance Ratings
- Consider and decide on the imposition of sanctions arising from the Contractor Pre-Qualification Exclusion Policy
- Address matters related to the exclusion of non-Rated Contractors
- Monitor performance of Contractors and Engineering Service Providers
- Support a fair and equitable tendering environment for highway design, construction, maintenance, laboratory and administration services
- On an annual basis or as required, review the trends related to the issuing of the Warning of Infractions Report and Infraction Reports, and take appropriate action
- Decide whether to initiate action with professional and technical associations from incidents arising in construction, engineering, laboratories, and maintenance
- As required, the Committee will review processes and procedures in consultation within the ministry and with the industry to determine if adjustments are required to ensure compliance with its purpose and mandate
- Other items within the Committee's mandate

The key intended outcomes of the Committee are to:

- Foster improved Contractor or Engineering Service Provider performance and behaviour.
- Ensure an open and fair tendering and administration environment.
- Ensure Contractors, Engineering Service Providers, Contract Administrators, agents and representatives act ethically and with integrity.

The Committee functions, within the context of the ministry's Quality Framework, including the following elements:

- Pre-Qualification
- Quality Assurance
- Contract consequences for substandard quality and performance (i.e. non-

- conformance, Liquidated Damages, etc.)
- The ministry's Contract Administration Policies and Processes
- Contractor Performance Ratings
- Contractor Performance Indices
- Engineering Service Provider Corporate Performance Ratings
- Engineering Services Performance and Selection System (ESPSS) Mandatory Contractor Quality Management Systems
- Other functions as required

2.3.1. Infraction Reports

The Committee will assess all Infraction Reports, the corresponding Statement of Facts, and associated supporting documents to determine the most appropriate action to effect positive change, improve Contractor or Engineering Service Provider performance and promote compliance with the qualification system. The available actions are as follow:

No Further Action

- The assessment determines that no further action is required by the Committee.

Warning Letter to Contractor or Engineering Service Provider

- Warning letters are kept on file for possible future reference.

Improvement Plan and Report Back

- The assessment determines that an Improvement Plan will cause performance improvement, positive change or ensure compliance with the qualification system.
- A Report Back is at the discretion of the Committee.
- Improvement Plan or Report Back can be added as a requirement to a Warning Letter and or sanction.

Sanctions

- The assessment determines an administrative sanction is appropriate to cause performance improvement, positive change or ensure compliance with the qualification system.

Decision-making criteria for determining sanctions for infractions include:

- Sanctions under consideration can extend from 0 to 100% rating reduction, restriction or any other characteristic of qualification, rating or registration, depending on the severity of the incident

- Factors to be weighed by the Committee include:
 - Safety – public safety and/or worker safety
 - Impacts to the natural environment
 - Contractor cooperation / lack of cooperation including timeliness of Contractor’s response to requests during the investigation of the Infraction Report and preparation of, or revisions to, the Statement of Facts
 - Contractor’s proactive approach / reactive approach
 - Seriousness of the incident (e.g. safety, environment, quality & property impacts)
 - Impacts of the incident
 - Pending or applied charges against the ministry or Contractor by regulatory agencies
 - Potential negative exposure / negative publicity to the ministry/government
 - Opportunity to respond to progressive notification
 - Response or a lack of response to progressive notification
 - Contractual consequences that have been or may be imposed
 - Performance Rating – current and historical
 - Contractor’s infraction and Warning of Infraction history
 - Contractor’s overall conduct
 - Criminal or negligent nature of an action or inaction
 - Impact to the integrity of the bidding process
 - Failure to provide adequate organization, co-operation, personnel or equipment
 - Delayed delivery / failure to complete the project or key components in a timely manner
 - Impact or likely indications of fraud, collusion, conflict of interest, deceit or falsifying any type of document
 - Reputational risk to government
 - Financial risk to government
 - Other factors related to the facts of the matter

A sanction will normally be imposed when the assessment reveals that the contract violation had significant monetary impacts, was precedent-setting, and was related to safety, the environment or quality that may result in a medium to high risk for the Contractor / Engineering Service Providers, the ministry, or both.

Infraction Reports are issued only to the prime Contractor or prime Engineering Service Provider. The ministry’s legal contract is with the prime Contractor or prime Engineering Service Provider who is responsible for the actions of their sub- Contractors/sub engineering service providers and material suppliers.

If there is a consortium or a legal partnership involved, each partner will be impacted by the Infraction Report, if the Committee decides to impose sanctions.

2.3.1.1. Possible Imposed Qualification Committee Sanctions

The imposed sanction must be appropriate considering the nature of the violation. The following are possible sanctions which can be imposed:

- Rating reduction applied to Contractor or Engineering Service Provider
- Workload Restriction on Contractors, any impact on the Contractors' Maximum Workload Rating will be by formula in accordance with the provisions of the document "Qualification Procedures for Contractors"
- Workload Restriction on Engineering Service Providers and any characteristic of qualification, rating or registration such as complexity, geographic area, type of work etc.
- Revocation of all bidding privileges to Contractors
- Revocation of all bidding privileges to Engineering Service Providers
- Actions specific to the infraction (e.g. restrictions on type or complexity of work or number of contracts, Engineering Service Providers' disqualification, legal action initiation, etc.)
- Any other action or requirement that causes performance improvement, positive change and ensures compliance with the qualification system

In the case of an Infraction Report being issued because of a breach related to safety, environment, fraud, collusion, conflict of interest, deceit or falsifying documents, the Qualification Committee shall give consideration to imposing the sanction of suspending, revoking or restricting the bidding privileges of the Contractor or Engineering Service Provider to whom the Infraction Report was issued.

2.3.1.2. Duration and Effective Date of the Imposed Sanction:

Duration

- The Committee may exercise flexibility to adjust the duration of a sanction depending on the Contractor's / Engineering Service Provider's action to prevent the reoccurrence and mitigate impacts of the incident. An imposed sanction may be suspended, for a defined probationary period, by the Committee. If a similar incident occurs during the probationary period, howsoever reported to the Committee, the sanction will be immediately imposed.
- The duration of any sanction is at the discretion of the Committee, though the duration of a financial rating reduction will normally be one year. If there is a financial rating reduction in effect when a second financial rating reduction is imposed, the duration of the second financial rating reduction will normally be two (2) years from the effective date of the second sanction.

Effective date

- The Committee determines the effective date of the sanction which will normally be the date of the letter informing the Contractor/Engineering Service Provider

of the final decision of the Committee.

- In some cases, an imposed sanction may be suspended, for a defined probationary period, by the Committee. If a similar incident occurs during the probationary period a sanction may be imposed by the Committee.

The Committee, with the assistance of the issuing office and the Secretary may monitor the Contractor's / Engineering Service Provider's performance specifically related to the type of infraction sanctioned.

In the case of consortia, any sanction imposed by the Committee will be applied equally to all Contractors or Engineering Service Providers associated with the Tender Registration Form.

The written decision of the Committee regarding an infraction will include the following components and will be sent to the Contractor / Engineering Service Provider and to the Director and Manager responsible for the contract/agreement:

- i. Reason(s) for the decision and the basis for such findings
- ii. Reference to Contract Provisions, if applicable
- iii. If a sanction is imposed, a statement will be included confirming that Qualification Committee has given consideration to all other contractual consequences that have been or may be assessed against the Contractor or Engineering Service Provider

Decisions of the Committee are confidential and are available only to the Contractor or Engineering Service Provider, Committee members, Contract Award Section, and to the Director and Manager of the Office that issued the Infraction Report.

2.3.2. Bid Withdrawals / Disqualifications

The Committee will assess the Statement of Bid Withdrawal / Disqualification and associated supporting documents to determine the appropriate action. The available actions are:

- i. no further action
- ii. issue a warning
- iii. impose a sanction to cause positive change and compliance with the procurement requirements

2.3.3. Contractor / Engineering Service Provider Performance

Appeals

The Committee will consider a review of an appeal of a Contractor Performance Rating or an Engineering Service Provider Performance Appraisal for one or more of the following reasons:

- The ministry's issuing office has not followed the prescribed process for the

Performance Rating

- There is new or additional information to support the request for review

The Committee will consider any new information provided by the Engineering Service Provider or Contractor if relevant and not considered by the issuing Office but supports a challenge of a decision made at the Level One (1) Review. The Committee will not consider the sections of the performance appraisal that were not disputed in the request for the issuing Office review.

The Committee will instruct the Secretary or appropriate Functional Office in the Provincial Office to independently investigate the request, based on the information in the ministry files and the supporting documentation provided by the Engineering Service Provider or Contractor.

The appraisal review is discussed by the Committee, at the next scheduled meeting after completion of the review. Both the Contractor or Engineering Service Provider and the issuing Office ~~will be~~ informed ~~of~~ the decision of the Committee, ~~and~~ the decision ~~will be~~ immediately implemented with the effective date determined by the Committee.

Contractor Performance Index (“CPI”)

Every Contractor that completes ministry work will have its performance evaluated and receive a Contractor Performance Index rating bi-annually. The Contractor Performance Index is based on a scale of zero to one hundred and is calculated and administered in accordance with “Qualification Procedures for Contractors, Policy and Guidelines”. Contractors with a CPI of less than 70 will be reviewed by the Committee on an annual basis and any decisions made by the Committee will be as described in the “Qualification Procedures for Contractors, Policy and Guidelines” document.

The Committee’s decision to apply a sanction for substandard performance will normally start on or around April 1st each year for a period of twelve (12) months.

Construction Contractor Performance Rating

Every Contractor that completes ministry construction work will have its performance evaluated and be assigned a Contractor Performance Rating for each completed contract. The Contractor may appeal the rating in accordance with the procedures.

Engineering Service Provider Corporate Performance Rating (“CPR”)

Every Engineering Service Provider that completes ministry work will have its performance appraised and be assigned an Appraisal score for each completed assignment. The Service Provider may appeal the rating in accordance with the procedures.

Only “approved” performance appraisals are included in the CPR calculation. An appraisal

is "approved" if the Engineering Service Provider signs off the Performance Appraisal Form or does not respond within the fifteen (15) day time-limit (to request a formal review). In case of a request by an Engineering Service Provider for a formal review, the appraisal is not considered approved until the completion of the issuing Office Manager review stage or the Committee review stage, depending on how far the Engineering Service Provider chooses to proceed with the review.

Report of Poor Performance

A Director or Office Manager shall notify the Secretary of poor performance by a Contractor or Engineering Service Provider and submit a report which summarizes the performance concerns and actions by the contractor or Engineering service provider. The templates for the report of poor performance are provided in Appendices A and B. For the purposes of this section of the Procedures, poor performance is defined as any one or more of:

- (a) A Contractor Performance Rating score less than 65. The Contractor Performance Rating will not be assessed for poor performance by the Committee until the Contractor Performance Rating:
- is accepted by the Contractor, or
 - not appealed nor accepted by the Contractor during the prescribed appeal period, or
 - is decided by the Qualification Committee through a Level Two Review.
- (b) An attribute of a Contractor Performance Rating (i.e. Quality, Safety, Timeliness or Contract Execution) below the following threshold:
- Quality: 30
 - Safety: 10
 - Timeliness: 8
 - Contract Execution: 5

The thresholds will be reviewed by the Qualification Committee on an annual basis and may be adjusted. The attribute of the Contractor Performance Rating will not be assessed by the Committee for poor performance until the Contractor Performance Rating:

- is accepted by the Contractor, or
 - not appealed nor accepted by the Contractor during the prescribed appeal period, or
 - is decided by the Qualification Committee through a Level Two Review.
- (c) An Engineering Service Provider appraisal score less than 3.00. The appraisal score will not be assessed for poor performance by the Committee until the appraisal score:
- is accepted by the Service Provider, or
 - not appealed nor accepted by the Service Provider during the prescribed appeal period, or

- decided by the Qualification Committee through a Level Two Review.

The Qualification Committee will consider a report of poor performance and may seek written information from the Contractor or Engineering Service Provider. The Qualification Committee shall decide on an action to cause a Contractor or Engineering Service Provider to improve performance, make positive change or become compliant with the qualification system. The available actions are:

- i. no further action;
- ii. issue a warning; and
- iii. require the submission of an improvement plan.

Where two or more Directors or Managers notify the Secretary of poor performance by a Contractor or Engineering Service Provider within a 24-month period, the Qualification Committee will review the reports and may impose an administrative sanction on the Contractor or Engineering Service Provider.

2.3.4. Complaints to Professional Organizations

Qualification Committee shall decide if a complaint to a professional or technical organization against an individual or company is required. The Secretary shall prepare and submit the complaint.

2.3.5. Unbalanced Bids

The Director or the Manager responsible for the contract/agreement shall notify the Secretary of an unbalanced bid by a Contractor or Engineering Service Provider and submit a letter outlining the rationale for an unbalanced bid and impacts the unbalanced bidding has on the ministry. The Secretary will investigate the matter and prepare a Statement of Unbalanced Bid.

The Qualification Committee will consider an Unbalanced Bid from the perspective of determining an appropriate action and will assess the Statement of Unbalanced Bid and associated supporting documents to determine the appropriate action. The available actions are:

- i. no further action
- ii. issue a warning
- iii. impose a sanction to cause positive change and ensure compliance with the procurement requirements

2.3.6. Other Matters

A Director or a Manager may bring forward any matter involving a Contractor or Engineering Service Provider by writing to the Secretary and providing:

- The description or nature of the incident or issue

- The supporting information, facts or documentation
- A request for the Committee to consider the matter and determine the action necessary to cause performance improvement, positive change or ensure compliance with the qualification system

The Secretary shall review the request and table the matter at the next available meeting for consideration by the Committee. If the Committee wants to make a decision, the available actions are:

- i. no further action;
- ii. issue a warning;
- iii. require the submission of an improvement plan; and
- iv. impose a sanction provided the Contractor or Engineering Service Provider has been provided an opportunity to comment on the matter in writing and or provide an oral presentation to the Committee.

The decision-making criteria for all matters are the considerations and factors listed in Section 2.3.1.

2.3.7. Communication regarding Matters under Consideration

Matters affecting individual Contractors/Engineering Service Providers are considered confidential and commercially-sensitive.

As a body that weighs facts of an issue to arrive at a judgement, it is prudent for the Committee members to guard themselves against influence. Such influence can come from within the ministry or from Contractors or Engineering Service Providers. Such communication can have the unintentional consequence of creating a perception of bias.

The Committee members are however routinely interacting with ministry staff and Contractors and Engineering Service Providers who may have matters before the Committee. These guidelines are designed to assist the Committee members in communication with these parties.

The guidelines are:

- If possible avoid entering a conversation around any matter that has been, may be or is before the Committee
- If not possible, listen to the party's concerns and perspective. Remind the party to ensure they articulate their position clearly in written correspondence to the Secretary
- Members should not answer any questions prompting an opinion on the matter or facts of the matter

- Members should not make any commitments to look into any aspect of the matter, suggesting as above that the party clearly articulate their position in written correspondence to the Secretary
- Questions about the process or procedures shall be referred to the Secretary
- The Committee members should advise the Secretary or the Committee as a whole when there has been communication with an affected party with respect to a matter before the Committee

2.3.8. Notice of Termination and Notice of Default

The Qualification Committee shall be notified when a Service Provider is terminated. The Committee will assess the Notice of Termination and associated supporting documents to determine the appropriate action. The available actions are:

- i. no further action;
- ii. issue a warning;
- iii. impose a sanction to cause positive change and compliance with the procurement requirements.

When a Notice of Default is issued, the Secretary shall be notified, and the information will be kept on file.

2.4. Conflict of Interest

As with all public servants, the Committee members are bound by the following guidelines, directives and acts dealing with Conflict of Interests:

- The Public Service of Ontario Act
- Ontario Regulation 381/07 Conflict of Interest Rules for Public Servants and Former Public Servants
- Ontario Regulation 384/07 Integrity Commissioner: Powers, Duties and Functions
- Disclosure of Wrongdoing Directive
- Guide to Public Service Ethics And Conduct

The Committee members shall have no prior involvement with the day-to-day delivery of a matter that is before the Committee. If a member has had such prior involvement with the item, then they shall advise the Secretary and remove themselves from participation in discussion or decisioning for that item to avoid actual or perceived Conflict of Interest.

It is the responsibility of each the Committee member to advise the Secretary of any Conflict of Interest in a timely manner.

3. Secretary, Qualification Committee

3.1. Role of Secretary, Qualification Committee

The Secretary is responsible for the day-to-day administration of the Committee business and ensuring that associated policies and procedures are adhered to.

The Secretary is a non-voting advisor to the Committee.

3.2. Duties of Secretary, Qualification Committee

Qualification Committee Meetings and Decisions

The Secretary will plan, schedule and coordinate the Committee meetings under the direction of the Chair or Vice-Chair. The Secretary will prepare a confidential agenda and record confidential minutes which shall include the matters before the Committee and the key information, considerations, actions, decisions and directions of the Committee. The Secretary shall provide monthly updates on the status or scheduling of matters, e.g. Warnings, Infractions, Appeals or other correspondence.

The Secretary will introduce each item of business to the Committee members and ensure all reference materials and relevant correspondence is available for the viewing and perusal of the Committee members. In introducing each item, the Secretary will only note the facts and may highlight areas of contention, ambiguity or disagreements.

The Secretary will assist the Chair in ensuring that the Committee adheres to:

- Qualification Procedures for Contractors
- Procedures for Processing the Contractor Pre-Qualification Exclusion
- Contractor Performance Rating Guide
- Procedures for Processing the Contractor Infraction Report
- Procedures for Processing the Engineering Service Provider Infraction Report
- Engineering Services Performance and Selection System (ESPSS) Procedures Guide
- Performance Appraisals Procedures Guide
- Any other policies or procedures that may be established from time to time

In advance of the Committee meeting, the Secretary shall ensure that a Quorum will be available for the meeting. The Secretary shall ensure that irrespective of the number of members on the Committee, matters concerning Infraction Reports will be subject to a Quorum requirement that includes at least one of the two OPS non-MTO members.

The Secretary will communicate any decisions affecting Contractor or Engineering Service Provider sanctions to the Contract Award Section for implementation of sanctions into the appropriate administrative systems.

[When an improvement plan or report back is submitted, the Secretary will share the document with the ministry's issuing office for review and feedback.](#)

The Secretary shall ensure the final decisions of the Committee are administered and, subject to the direction of the Committee, monitored.

3.2.1. Infractions and Warnings of Infraction Reports

The Secretary will receive and record all Infraction Reports and Warnings of Infraction Reports. The Secretary will receive any responses from the issuing office, Contractor or Engineering Service Provider to any Infraction Reports.

The Secretary shall have no direct prior involvement with matters directly involving or associated with the subject of the Infraction Report before the Committee. If the Secretary had direct prior involvement with the item then the Secretary is to remove themselves from participation (investigation, preparation of the Statement of Facts, discussion or final decision) from the Committee to avoid a Conflict of Interest, and is to appoint an alternate to carry out the role of the Secretary for that item/matter.

Prior to investigating an Infraction Report, the Secretary shall ensure their independence and file a statement that confirms they were not involved in the day-to-day administration of the contract or issuing the Infraction Report. If an alternate resource performs the investigation, they shall file a statement that confirms the alternate resource was not involved in the day-to-day administration of the contract or issuing the Infraction Report.

The Secretary will investigate all Infraction Reports and prepare a Statement of Facts, which shall include the date and name of the person who prepares or revises the Statement of Facts. The Statement of Facts shall be free of opinion and be limited to scope of the Infraction circumstance only. During the investigation, the Secretary may collect additional, relevant facts, including documentation about any progressive action taken or notification given by the issuing Office prior to issuing the Infraction Report. If necessary to understand the circumstance, the Secretary will make site visits to observe conditions. The Statement of Facts and all accompanying/supporting documents provided to the Committee will also be provided to the Contractor or Engineering Service Provider, the ministry's issuing Office, including revisions made prior to being presented to the Committee.

The Secretary shall require all responses to Statement of Facts to be submitted in a timely manner. The Secretary shall not unreasonably deny a Contractor's or Engineering Service Provider's request for an extension to the time to respond given in the Infraction Procedures document, giving consideration to the nature and complexity of the matter as well as the risk and impact of undue delay. If required, the Secretary may seek assistance from the Chair, or the Committee members as necessary for determining responses to extension of time requests.

3.2.2. Bid Withdrawals / Disqualifications

The Secretary will investigate all Bid Withdrawals / Disqualifications and provide the Statement of Bid Withdrawal / Disqualification to the Committee. The Statement of Bid Withdrawal / Disqualification will be limited to scope of the Bid Withdrawal / Disqualification details. When additional details are required, the Contractor or Engineering Service Provider will be notified.

3.2.3. Contractor / Engineering Service Provider Performance Appeals

Within the deadline specified, the Contractor or Engineering Service Provider may submit for Level Two (2) Review by the Qualification Committee, in writing, based on substantial and reasonable grounds, to the Secretary. The Contractor or Engineering Service Provider must identify the sections of the performance appraisal that are disputed, and give detailed reasons with the supporting documentation provided.

Engineering Service Provider Performance Appraisal Appeals

The Secretary will provide all information for Engineering Service Provider performance appraisal appeals to the Committee.

The Secretary shall ensure that decisions on appeals are implemented into the associated administration system.

Engineering Service Provider Corporate Performance Rating (“CPR”)

The rating of the appraisal decided by Qualification Committee is applied in the Engineering Service Provider’s CPR at the next quarterly calculation.

Contractor Performance Rating Appeals

The Secretary will provide all information for Contractor Performance Rating appeals to Qualification Committee.

The Secretary shall ensure that decisions on appeals are implemented into the associated administration system.

Contractor Performance Index

The Secretary shall oversee the calculation of the annual Contractor Performance Index, performance thresholds and prepare a report on the Contractor Performance Index. The report will be normally completed in the early part of each year and shall be submitted to the Committee to determine the annual thresholds that define poor performance and the actions that may or will be applied for poor Contractor performance as indicated by the Contractor Performance Index.

The Secretary shall ensure that any actions or sanctions are implemented in the associated administration system.

3.2.4. Unbalanced Bids

The Secretary will investigate the Unbalanced Bid and provide a Statement of Unbalanced Bid to the Committee. The Statement of Unbalanced Bid will be based on the information and rationale provided by the Director or Manager responsible for contract/agreement. When additional details are required, the Contractor or Engineering

Service Provider will be contacted.

3.2.5. Complaints to Professional Organizations

Should the Committee decide to make a complaint to a professional or technical organization against an individual or company, the Secretary shall prepare and submit the complaint.

The Secretary will be the contact with the Professional or Technical organization, and shall provide for or address any requests from the Professional or Technical organization.

The Secretary shall ensure that the Committee is informed of any actions taken by the Professional or Technical organization.

3.2.6. Annual Report

The Secretary shall prepare an annual report on the activities of Qualification Committee which shall be presented to the Committee in the early part of the calendar year. The report shall note important statistics and provide analysis and comment on trends if appropriate. The report shall include commentary on timeliness for Infraction Reports (e.g. incident date, issue date, scheduling presentation, decision date) and appeals (prescribed dates, appeal date, decision date) and opportunities for improvement including resources and scheduling. The report should include commentary on the reasons for Infraction Reports, including opportunities to improve contract oversight, administration and performance. The Committee should note any observed trends, statistics or analysis. The minutes should record the Committee's discussion and any action items. The Committee may direct communication to Managers regarding the trends and observations, best practices or areas for process improvement.

3.2.7. Records

The Secretary shall be responsible for the keeping of all records relating to the business of the Committee. The Secretary shall ensure all information is dealt with confidentially.

The Secretary shall be enrolled in the Contract Management System and monitor notifications on a regular basis.

3.2.8. Policies, Procedures, and Guidelines

The Secretary is the custodian of all Policies, Procedures and Guidelines relating to the Committee.

The following are some of the documents currently in place:

- Qualification Procedures for Contractors

- Procedures for Processing the Contractor's Infraction Report
- Procedures for Processing the Engineering Service Provider Infraction Report
- Procedures for Processing the Contractor Pre-Qualification Exclusion
- Contractor Performance Rating Guide
- Engineering Services Performance and Selection System (ESPSS) Procedures Guide

When from time to time revisions to documents are required, the Secretary is responsible to implement such revisions.

3.2.9. ~~Biennial-Audit~~ Review of Qualification Committee Activities related to Infractions

An Infractions Process Auditor will carry out an ~~an biennial~~ independent review every five (5) years to determine whether the Committee has complied with the Procedures for Processing the Contractor's Infraction Report. The primary focus of the Infractions Process Auditor engagement is to ensure that there is procedural adherence by confirming that the Committee has complied with the policies and guidelines it has established and communicated to Contractors.

4. Reference Documents (available at Ministry's [Technical Publications](#) Site)

- Qualification Procedures for Contractors
- Procedures for Processing the Contractor's Infraction Report
- Procedures for Processing the Engineering Service Provider Infraction Report
- Procedures for Processing the Contractor Pre-Qualification Exclusion
- Contractor Performance Rating Guide
- Engineering Services Performance and Selection System (ESPSS) Procedures Guide Performance Appraisals Procedures Guide

APPENDIX A

Template for the Report of Poor Performance for Construction contracts

The report should be submitted in the letterhead of the Director or Manager responsible for contract.

The letter should be addressed to the Secretary, Qualification Committee

RE: Report of Poor Performance

Contractor's Name

Contract Number, location, description

In accordance with Section 2.3.3 of the ministry's Qualification Committee Procedures, the following describes performance concerns that reflect an overall Contractor Performance Rating of (enter CPR rating)

The summary of the Rating Attributes are as follows:

Quality / 60

Safety / 15

Timeliness / 15

Contract Execution / 10

Quality

Provide a summary of the contractor's performance (as stated in Forms A and B) resulting in the reported rating for this attribute.

Safety

Provide a summary of the contractor's performance (as stated in Forms A and B) resulting in the reported rating for this attribute.

Timeliness

Provide a summary of the contractor's performance (as stated in Forms A and B) resulting in the reported rating for this attribute.

Contract Execution

Provide a summary of the contractor's performance (as stated in Forms A and B) resulting in the reported rating for this attribute.

APPENDIX B

Template for the Report of Poor Performance for Engineering/CA Assignments

The report should be submitted in the letterhead of the Director or Manager responsible for the agreement.

The letter should be addressed to the Secretary, Qualification Committee.

RE: Report of Poor Performance
Engineering Service Provider's Name
Assignment Number, description

In accordance with Section 2.3.3 of the ministry's Qualification Committee Procedures, the following describes performance concerns that reflect an overall Engineering Service Provider's Appraisal Score: