

PETERBOROUGH PUBLIC HEALTH

Board of Health

POLICY AND PROCEDURE

Section: Board of Health	Number: 2-374	Title: Contractor Performance and Litigation
Approved by: Board of Health		Original Approved by Board of Health On (YYYY-MM-DD): 2013-02-13
Signature: <i>Original signed by Board Chair</i>		
Date (YYYY-MM-DD): 2020-09-09		
Author: Director of Operations		
Reference:		

NOTE: This is a **CONTROLLED** document for internal use only, any document appearing in a paper form should **ALWAYS** be checked against the online version prior to use.

Purpose:

To ensure the work of contractors meets the requirements of the tender or contract, and minimize risk to the organization

Definitions:

- a) “award” means the authorization to proceed with the purchase of goods, services or other deliverables;
- b) “bid” means an offer or submission from a vendor received in response to a request for quotation, tender, proposal or call for bids, which is subject to acceptance or rejection;
- c) “bidder” means any legal entity that submits a bid in response to a call for bids;
- d) “call for bids” means a formal request for bids and includes a request for quotations, a request for tenders and a request for proposals;
- e) “contract” means any form of binding agreement between Peterborough Public Health and another legal entity, awarded under purchasing policies for the purchase of deliverables;
- f) “contractor” means any legal entity to whom a contract is awarded;
- g) “litigation” means any dispute between the Peterborough Public Health and any other party or related party adverse in interest, including third party and cross-claims, where either a legal proceeding has commenced for an injunction, a mandatory order, a declaration for the recovery of money, or a threat of legal action has been made in writing;

Policy:

The Director of Operations shall be responsible for monitoring the performance of contractors and documenting evidence of such performance and shall advise the Medical Officer of Health where the performance of a contractor has failed to comply with the terms and conditions of the contract or other requirements.

For the purpose of this policy, unsatisfactory performance means past performance by a contractor under a contract with the organization that is inconsistent with the expected standard of service delivery including but not limited to any of the following:

- a) consistent or significant failure to meet specified schedules or delivery requirements; or
- b) consistent or significant failure to follow specified contract requirements or authorized direction; or
- c) consistent or significant failure to comply with legislative requirements.

Unsatisfactory performance is addressed as timely as possible after it occurs. To ensure the identification and appropriate response to escalating compliance issues:

1. The Program Manager responsible will inform the supplier/contractor of their non-performance and request the appropriate corrective action in writing. All communication with supplier/contractor should be documented.
2. If supplier/contractor response not satisfactory, the Program Manager should issue a formal letter, documenting the supplier/contractor specific non-performance and request for corrective action. A copy of the letter should be provided to the Director of Operations.
3. If supplier/contractor response or corrective action remains unsatisfactory, the Program Manager along with the Director of Operations, should arrange a meeting with the supplier/contractor. A formal letter should be issued by the Director of Operations, notifying the supplier/contractor of being in default of the contractual obligations.
4. If supplier/contractor does not respond or correct performance by the required date, the Director of Operations shall inform the Board or designated committee of the Board in writing of compliance issues in order to consider legal action against the supplier/contractor.

The Medical Officer of Health in consultation with the Board may prohibit a contractor whose performance has been unsatisfactory from submitting a bid in response to a call for bids in accordance with policies adopted by the Board. Unless otherwise permitted, no bid or proposal shall be accepted from, nor shall any contract be awarded or extended to any contractor or related party as determined in the discretion of the Medical Officer of Health, or any other party with whom the Board is engaged in unresolved litigation.

Review/Revisions

On (YYYY-MM-DD): 2013-02-03

On (YYYY-MM-DD): 2015-05-19 (Governance)

On (YYYY-MM-DD): 2017-11-08

On (YYYY-MM-DD): 2020-09-09