



DDC

STANDARD CONSTRUCTION OPERATING PROCEDURE

City of New York Department of Design and Construction
Division of Infrastructure Bureau of Construction

SUBJECT: CONTRACTOR'S PERFORMANCE EVALUATIONS AND UNSATISFACTORY QA RATINGS

APPROVED:


Assistant Commissioner - William F. Lipski, P.E.

SCOP..... : 98 - 008 G

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Commencing immediately, prior to submitting the midpoint and final contractor performance evaluations for each project, the Resident Engineer (R.E.) must contact Quality Assurance (QA) to determine if the average QA rating for either the "Construction Quality" or "Safety and Housekeeping" categories are unsatisfactory. If QA has rated a project overall unsatisfactory in either of these categories, the Resident Engineer must take this into consideration in completing the contractor's performance evaluation, especially question # 23 "Quality of contractor's work", # 26 "Quality of site maintenance", and # 27 " Compliance with safety standards". If there is an unsatisfactory QA rating for either of these two categories, the R.E. must document his rating, whether satisfactory or unsatisfactory on these three questions. All other unsatisfactory ratings given by the R.E. must be documented and all remaining responses on the evaluation must be documentable.

Instructions for the contractor's performance evaluation from the Mayor's Office of Construction dated May 6, 1986 are attached. These instructions describe what type of documentation is required as well as other information helpful in the preparation of these evaluations.

SUPERSEDED BY SCOP 03-002G

NOTE: CURRENT EVALUATION FORMS AND INSTRUCTIONS ARE AVAILABLE ON THE DDC INTRANET SITE UNDER "FORMS AND LETTERHEAD."

DDC99-1-20



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
OFFICE OF CONSTRUCTION

52 Chambers Street - Room 205
New York, New York 10007
Telephone: 212/566-3820

ROBERT P. LEMIEUX
Director

May 6, 1986

DIRECTIVE NO. 51

TO: ALL CONSTRUCTION AGENCIES
FROM: Robert P. Lemieux *R. Lemieux*
RE: CONSTRUCTION CONTRACTOR PERFORMANCE EVALUATION

Pursuant to Local Law 94 (1985) which added a new section 13.0 to title A of chapter thirteen of the administrative code of the City of New York, the performance of every construction contractor shall be monitored and information with respect to that performance shall be maintained by the City at a central location.

To develop consistent information and to monitor performance concerning contractors on city construction projects, the City will evaluate on a continuing basis the performance of these contractors for the purpose of assisting agency heads and the Board of Responsibility in their determinations as to whether a contractor is responsible or a poor performer. To accomplish this purpose, each agency shall complete a standard city-wide construction contractor performance evaluation (attachment #1) for all construction contracts (capital or expense) as provided herein or prior to warning a contractor that it is a poor performer.

Evaluations shall be made by the resident engineer and reviewed by the engineer, once upon the vouchering of fifty percent (50%) of the contract price and again at substantial completion. All responses must be supportable by documentation. Each agency shall insert a provision (attachment #2) in its construction contract specifying that an evaluation shall be made of the contractor's performance and that the contractor has an opportunity to comment in writing

subsequent to the evaluation. The written response shall be affixed to and be made part of the evaluation.

In some cases the resident engineer may be a consultant. Accordingly, each agency shall insert a provision (attachment #3) into its consultant contract requiring as a task the preparation of construction contractor evaluations.

The agency shall maintain as part of the contract file a record of the original evaluation form, contractor's responses, and supporting documentation.

Within fifteen (15) calendar days of the contract's attainment of the fifty percent (50%) vouchered and substantial completion levels, a copy of the evaluation (without contractor's response or documentation) shall be sent to the Mayor's Office of Construction which will be a central repository. Until on-line computer access is available, each agency must call the Office of Construction (Re: Contractor Evaluation) prior to awarding a contract to determine whether a contractor has been evaluated. Upon receipt of a contractor's overall evaluation, the agency shall consider this information in determining whether the contractor shall be awarded the contract.

Contractors performing current contracts not substantially complete shall be evaluated as follows:

1. if less than 50% is vouchered then two evaluations are required;
2. in all other cases, one evaluation at substantial completion is required.

This directive is effective immediately.

Instructions for Filling Out "New York City Construction
Contractor Performance Evaluation"

I. Introduction

This form is designed for the purpose of evaluating the performance of city-hired contractors doing construction projects. It should be completed by the resident engineer for all prime contracts (capital or expense) and signed off by both the resident engineer and the Engineer. On certain construction projects (highways, sewers, etc.) there is only one (1) contract; on others (buildings), there are multiple contracts. This form is to be used for contracts, not projects. The form shall be completed by the resident engineer for all contracts when they have reached substantial completion. In addition, for all contracts of award value greater than \$15,000, an evaluation form shall also be completed by the resident engineer when fifty percent (50%) of the contract's awarded value has been vouchered.

For many contracts, therefore, this form is to be filled out at two (2) points in the contract's history:

- a). When fifty percent (50%) of the contract's awarded value has been vouchered (midpoint evaluation): At this point, some questions will be easily and accurately answered; e.g., "Did the agency ever take action against the contractor due to contractor's nonperformance?" Other questions will involve answers containing estimates that will undoubtedly change as the contract progresses; e.g., "Estimated Actual Contract Duration". Whether answerable exactly or requiring estimation respond to all questions when completing the form. At the top of the form, under the title, be sure to check "Midpoint Evaluation." The form should be completed and a copy sent to the Mayor's Office of Construction (address given at the end of this "Introduction") within fifteen (15) calendar days of the contract's attainment of its fifty percent (50%) vouchered level.
- b). When the contract has reached substantial completion (final evaluation): The City understands "substantial completion" as the point in the contract's progress when only punch-list work remains. The percentage of the contract's work that has been completed at this point, however, is set at different levels from agency to agency. Conform to your agency's practice. Respond to all questions completely, even if some responses include information given when the evaluation was filled out at

the contract's fifty percent (50%) vouchered level. For example, "Give details (of contractor's delay)" should cover the entire contract's history and should include the responses given at the midpoint evaluation. The evaluation at this point should be for contract's entire history up to this point. At the top of the form, under the title, be sure to check "Final Evaluation." The form should be completed and a copy sent to the Mayor's Office of Construction (address given at the end of this "Introduction") within fifteen (15) calendar days of the contract's attainment of its substantial completion.

Under all of the above conditions, a contractor will be evaluated at least once and possibly twice during the contract. Construction projects as a whole will have therefore from one (1) to over eight (8) contractor performance evaluations completed during their history. Again it is emphasized, however, that this form is to be used for contracts, not projects.

Some of the questions in this form, e.g., "Quality of Contractor's Work," will have answers with a subjective element. To answer these questions the user of the form will rely on a combination of experience and professional and technical standards. However, the number of questions of this sort has been kept to a minimum. The answers to all questions, regardless, should be documentable. This documentation will include such items as are regularly found in a contract's file: memos, directives, minutes, attendance sheets, correspondence, photographs, etc. Any and all documentation supportive of the answers contained in this evaluation must be kept in the file dedicated to the contract and project. Since these evaluation forms may be used to select the lowest responsible bidder after the agency signatories have left governmental employ (or are otherwise not available), it is important that the forms be supportable in the absence of these individuals. Supportive documentation therefore must be complete and available.

The contractor shall be given an opportunity to respond in writing to the evaluation. Accordingly, a copy of the completed evaluation should be sent to the contractor within fifteen (15) calendar days of the contract's midpoint and substantial completions. The contractor will have fifteen (15) calendar days to send a written response to the agency. The agency should affix the response to the evaluation form and keep both in the contract file.

The Office of Construction will be the central city-wide repository of the evaluations. Certain elements from the form will be filed in a computer. Fill out the form legibly and clearly, and in ink. Remember also to sign and date the form.

The agency should keep the original completed form (plus contractor's response and all supporting documentation) and send a copy of the form (without contractor's response or supporting documentation) to:

Mayor's Office of Construction
52 Chambers Street, Room 205
New York, New York 10007
Attn: Contractor Evaluation

Forms are to be kept by the agencies as long as the contract and project files are kept.

II. Liability

The City, pursuant to the General Municipal Law, section 50-k, will defend and indemnify city employees in any civil action arising out of the completion of this form. Completion of the form is within the duties of the resident engineer and Engineer and must be done as part of the management process. The duty to indemnify shall not arise when there is intentional wrongdoing or recklessness by the employee or when the employee is in violation of any rule or regulation of the agency. The user of this form should give documentable responses and where subjective judgment is required should employ reasonable technical and performance standards as applied to identifiable events or conduct. The user of the form should not seek to give expression to personal feelings regarding the contractor's character. The user of the form is to evaluate only the contractor's performance of the contract.

III. Using The Form

The Construction Contractor Performance Evaluation form is composed of forty-eight (48) questions and two (2) signature lines. There are four (4) types of questions:

1. "fill-in-the-blank"
2. "yes-no"
3. "circle the appropriate response"
4. "give details or comments".

The first two types of questions are factual; the latter two sometimes require an informed judgment. All questions should be answered.

Twenty-six (26) questions are of the "circle the appropriate response" variety. There are four (4) possible responses. The users of this form should circle:

E ("Excellent") if the contractor met or surpassed all

contract requirements

S ("Satisfactory") if the contractor substantially met, yet may have occasionally deviated from, contract requirements

U ("Unsatisfactory") if the contractor deviated substantially from contract requirements

NA ("Not Applicable") if the question does not apply to the performance of the contractor.

Although the terms "excellent," "satisfactory," and "unsatisfactory" have subjective connotations, they are defined specifically by reference to contractual requirements. Some questions, however, will have an element of judgment in their answer. For example, "Quality of contractor's work" is not an evaluation which can be made solely on the basis of the contract's contents, but must consider how the contractor performed the contract's provisions. Reference to the contract's specifications concerning the quality of materials required and the timeliness of performance will enter into the answering of this question. But other elements such as "workmanship" will also enter into the picture, and these elements will be evaluated and "factored into" the overall answer based on the evaluator's own experience and considering industry and technical standards. These types of questions have been kept to a minimum, but are important and must be answered. The users of this form are expected to answer such questions in a thoughtful and accurate manner.

When more space is needed to answer a question, use a separate sheet of paper. Give the number of the question being answered, and write in ink. When a copy of the evaluation form is sent to the Mayor's Office of Construction, remember to send a copy of any responses written on the separate sheet of paper as well.

What follows is a question-by-question explanation of the evaluation form.

* * * * *

General

1. Contractor Name and Address: e.g., "XYZ Contracting, 123 Construction Row, Brooklyn, New York, 12345"
2. Contract Registration Number and Date: e.g., "XC12345 June 16, 1985"

3. Budget Number: give budget line number and subproject number as found in the capital commitment plan or expense budget; e.g., "HO145(031453255)," or "F175(FC3)," or "BR270(THBC270E)"

4. Project Description: give budget line description and subproject description as found in the capital commitment plan or expense budget; e.g., "Bellevue Hospital, New Building and Mental Health Center - Mental Health Reconstruction - 18th Floor BHC," or "Fire Department Buildings, Improvements -- Reconstruction of Bronx Fire Communication Office," or "Rehabilitation of Brooklyn Bridge - Brooklyn Bridge (#4) (Suspender and Stay Cables)"

5. Project Location: give borough(s); e.g., "Manhattan," "city-wide," etc.

6. IFMIS Number: give agency and project number as found in the capital commitment plan; e.g., "826-646" (which corresponds to the Department of Environmental Protection - Sanitary Sewer in Husson Avenue)

7. Type of Construction: check off "new" if the project is new; check off "rehabilitation" if construction consists of rehabilitation, reconstruction, renovation, resurfacing, etc.

8. Type of Contractor: give contractor's trade; use standard designations; e.g., "general contractor (G.C.)," "heating, ventilation, and air conditioning (HVAC)," "plumber," "electrician," etc.

9. Contracting and Sponsoring Agency: list appropriate bureau or division as well; e.g., "Department of Transportation, Bureau of Highway Operations;" if construction work is undertaken on behalf of a sponsoring agency, give both agencies; e.g., "Department of General Services/Bureau of Public Structures for Department of Correction"

10. Arch./Eng. and C.M./R.E.: if a design and/or construction manager/resident engineer consultant was used, give the name of the architectural or engineering firm which produced the design documents for the contract and the name of the construction management or resident engineering firm that was used; otherwise indicate "in-house;" do not list subconsultants; do not give address; e.g., "Design Inc.," "Manage Inc.," etc.

11. Subcontractors and Trades: give names of subcontractors employed on the job by the prime contractor as well as the trades of said subcontractors; do not give addresses; use separate sheet of paper if more space is needed; e.g., "ABC Co., landscapers," "DEF Co., roofer," etc.

Costs

12. Contract Award Amount: give contract award amount

13. Estimated Final Contract Amount: add all past, present and anticipated change order or overrun approximate amounts (including credits) to award amount of contract (as appears in question #12 above); do not include anticipated claims of any kind, even if they involve extra work done under protest by the contractor

Schedules

14. Original Contract Duration: give contract duration in consecutive calendar days (ccd's) as specified in the contract

15. Estimated Actual Contract Duration: add duration of actual and anticipated delays and extensions thus far, in consecutive calendar days (ccd's), to original contract duration (as appears in question #14 above)

16. Was contractor granted an extension of time?: the extension must be granted in writing

17. Reasons for difference between estimated actual and original contract duration: give reasons for difference between the estimated actual contract duration and the original contract duration, plus durations of delay due to each reason; use separate sheet of paper for response; A RESPONSE TO THIS QUESTION IS REQUIRED

18. Adequacy of CPM charts/progress schedules: evaluate against contract specifications with respect to quality and timeliness of submittals

19. Adequacy of revisions of progress schedules: evaluate against contract specifications with respect to quality and timeliness of submittals

20. Ordering of materials: evaluate against effect on job progress

21. Adherence to manpower schedule: evaluate against progress as affected by sufficiency of workers

22. Submission of subcontractors for approval: evaluate against contract specifications

Quality of Work

23. Quality of contractor's work: evaluate against contract and technical standards; consider, e.g., timeliness, workmanship, care shown, etc.

24. Quality of subcontractors' work: evaluate against contract and technical standards; consider, e.g., timeliness, workmanship, care shown, etc.

25. Quality of supervisory personnel: evaluate against professional and technical standards; consider, e.g., knowledgeableness, aggressiveness, care shown, etc.

26. Quality of site maintenance: evaluate against contract specifications; e.g., debris removal, orderliness of site, material storage, etc.

27. Compliance with safety standards: evaluate against compliance with OSHA and state and local law, taking into account violations or citations issued to the contractor, etc.

28. Responsiveness to agency orders: evaluate timeliness and accuracy of execution

29. Performance of change order work: evaluate against agency orders and/or change order specifications

30. Adequacy of shop drawings: consider, e.g., timeliness, rejections of drawings, modifications required, etc.

31. Prompt notice of discovery of any latent defects in plans: evaluate timeliness of such notifications

32. Has any delay caused by contractor been identified?: indicate "yes" only if delay was clearly contractor's responsibility in whole or in part

32a. If "yes" give details: include the duration and associated reason(s) for each delay; use separate sheet of paper for response; A RESPONSE IS REQUIRED IF THE ANSWER TO QUESTION 32 IS "YES"

Cooperativeness

33. Cooperation/coordination with other on-site contractors and subcontractors: evaluate coordination of work schedules with other contractors and subcontractors, amount of interference with the work of other contractors and subcontractors, etc.

34. Cooperation with agency personnel: evaluate contractor's accessibility, attentiveness, responsiveness to correspondence, etc.

35. Participation in scheduled job meetings: evaluate providing of information, answering of questions, forthrightness of replies, etc.

Record-keeping

36. Adequacy of daily report submissions: evaluate against contract or agency requirements with regard to quality and timeliness

37. Timeliness of payment requisitions: evaluate against contract or agency requirements

38. Compliance with required testing: evaluate against contract specifications; consider, e.g., number of rejections, number of modifications required, etc.

39. Timeliness in obtaining permits: evaluate against job schedule

40. Adequacy of time and material records: evaluate against contract or agency requirements

41. Fulfillment of Locally-Based, Women-Business, and Disadvantaged-Business Enterprise, and Training and Apprenticeship Programs, and other special requirements: evaluate against federal, state and city requirements

42. Giving of notice of any condition which did cause or might have caused delay: evaluate timeliness of notification

Contract Changes

43. Timeliness of change order proposals: evaluate against contract requirements and effect on the progress of the contract

44. Reasonableness in estimating and negotiating change orders: evaluate original prices against final costs

45. Percentage of change order costs that were Time and Material: give as a percentage of the sum of the total estimated change order costs to date plus estimated total anticipated change order costs; e.g., 100% if all change orders were Time and Material, or 50% if half of all change orders were Time and Material and the rest were lump-sum; do not give as a percentage of contract costs

Contract Enforcement

46. Did the agency take action against the contractor due to contractor's nonperformance?: such actions include assessment of

liquidated damages, notification to the bonding company, notification to the contractor regarding nonperformance, designation of the contractor as a "potential poor performer," initiation of default proceedings, default of contractor, etc.

46a. If "yes," give details of actions taken and reasons: cite contract specifications involved and actions taken; use separate sheet of paper for response; A RESPONSE IS REQUIRED IF THE ANSWER TO QUESTION 46 IS "YES"

Performance

47. Rate the contractor's overall performance in fulfilling contractual obligations as "Excellent," "Satisfactory," "Marginal," or "Unsatisfactory": overall performance rating should be chosen as follows:

Excellent: the contractor consistently met or surpassed all contract requirements

Satisfactory: the contractor occasionally deviated from contract requirements

Marginal: the contractor consistently deviated from contract requirements

Unsatisfactory: the contractor deviated substantially from contract requirements.

48. Additional Comments: give any required additional comments; e.g., information which mitigates or qualifies answers given above, or relevant information not requested on this form, etc.; use separate sheet of paper for response

Signatures:

The "resident engineer" is the agency or consultant engineer overseeing the contract in the field.

The "Engineer" is the person defined in the construction contract as representing the Commissioner and ordinarily is the director of design or construction.

The contracting agency only is to sign this form, regardless of whether work was done on behalf of a sponsoring agency; e.g., the Department of General Services will sign for all work done on behalf of the Department of Correction, or the Fire Department, etc.

ODC-CPE-4/86

NEW YORK CITY CONSTRUCTION CONTRACTOR PERFORMANCE EVALUATION

 Midpoint Evaluation Final Evaluation
(check as appropriate)

P L E A S E W R I T E L E G I B L Y !

Agency should keep the original evaluation.

A copy of the completed evaluation should be sent to the "Mayor's Office of the Director of Construction."

Answer all questions, even if only with "Not Applicable."

General Header Information

1. Contractor Name _____
Employee Identification Number (EIN) _____
Contractor Address _____
2. Comptroller's Contract Registration Number _____
Comptroller's Contract Registration Date ____/____/19____
Agency Internal Contract Number (if any) _____
3. Project Budget Number (Commitment Plan Number) _____
Project CAPIS Identification Number _____
4. Project Description _____
5. Project Location (Boroughs) _____
6. IFMIS Number ____ - ____ (3-number agency code & 3-number project code)
7. Type of Construction: new _____ rehabilitation _____
8. Type of Contractor (Trade) _____
9. Contracting Agency _____
Sponsor (Client) Agency (if appl.) _____
10. Designer: in-house _____ (check here if done in-house)
 consultant (firm name) _____
 consultant EIN _____
Resident/CM: in-house _____ (check here if done in-house)
 consultant (firm name) _____
 consultant EIN _____

11. <u>Subcontractors</u>	<u>EIN</u>	<u>Trades</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(use separate piece of paper if more space is needed)

Costs

12. Contract Award Amount \$ _____
13. Estimated Final Contract Amount \$ _____

Schedules

14. Original Contract Duration _____ **ccd**
15. Estimated Actual Contract Duration _____ **ccd**
16. Was contractor granted an extension of time? y n
17. Reasons for difference between estimated actual and original contract duration: (use separate sheet of paper for response)
18. Adequacy of CPM charts/progress schedules E S U NA
19. Adequacy of revisions of progress schedules E S U NA
20. Ordering of materials E S U NA
21. Adherence to manpower schedule E S U NA
22. Submission of subcontractors for approval E S U NA

Quality of Work

23. Quality of contractor's work E S U NA
24. Quality of subcontractors' work E S U NA
25. Quality of supervisory personnel E S U NA
26. Quality of site maintenance E S U NA
27. Compliance with safety standards E S U NA
28. Responsiveness to agency orders E S U NA
29. Performance of change order work E S U NA
30. Adequacy of shop drawings E S U NA
31. Prompt notice of discovery of any latent defects in plans E S U NA
32. Has any delay caused by contractor been identified? y n
- 32a. If "yes," give details: (use separate sheet of paper for response)

Cooperativeness

33. Cooperation/coordination with other on-site contractors and subcontractors E S U NA
34. Cooperation with agency personnel E S U NA
35. Participation in scheduled job meetings E S U NA

Record-keeping

36. Adequacy of daily report submissions E S U NA
37. Timeliness of payment requisitions E S U NA
38. Compliance with required testing E S U NA
39. Timeliness in obtaining permits E S U NA
40. Adequacy of time and material records E S U NA
41. Fulfillment of Locally-Based, Women-Business, and Disadvantaged-Business Enterprise, and Training and Apprenticeship Programs, and other special requirements E S U NA
42. Giving of notice of any condition which did cause or might have caused delay E S U NA

Contract Changes

- 43. Timeliness of change order proposals E S U NA
- 44. Reasonableness in estimating and negotiating change orders E S U NA
- 45. Percentage of change order costs that were Time and Material _____ % of all change order costs

Contract Enforcement

- 46. Did the agency take action against the contractor due to contractor's nonperformance? y _____ n _____
- 46a. If "yes," give details of actions taken and reasons:

Performance

- 47. Rate the contractor's overall performance in fulfilling contractual obligations as "Excellent," "Satisfactory," "Marginal," or "Unsatisfactory":
- 48. Additional comments: _____

Prepared by agency resident engineer:

Name (PRINT)	Signature	Date
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Reviewed by Engineer (agency director of construction or equivalent):

Name (PRINT)	Signature	Date
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CONSTRUCTION CONTRACTOR EVALUATION PROVISION

The following provision shall be inserted in the information for bidders and in the general conditions of the construction contract:

Construction Contractor Performance Evaluation Provision

The contractor's performance shall be evaluated by the City upon the occurrence of the vouchering of fifty percent (50%) of the contract price and substantial completion. A copy of the evaluation will be sent to the contractor not later than fifteen (15) calendar days after the occurrence of these events and the contractor may respond in writing to the performance report. Such responses shall be submitted to the engineer not later than fifteen (15) calendar days after a copy of the evaluation is sent to the contractor. The response will be affixed to the evaluation. Failure to respond may result in review of contractor's performance when a bid is evaluated without the benefit of contractor's response to the report.

CONSULTANT CONTRACTOR EVALUATION PROVISION

The following provisions shall be inserted in the consultant contract:

The consultant shall evaluate the performance of the prime construction contractors on this project by completing the City's construction contractor performance evaluation form. A form shall be completed when fifty percent (50%) of the contract is vouchered and at substantial completion. The form shall be submitted to the engineer no later than fifteen (15) calendar days after the occurrence of these events.