

**DATE:** January 13, 2011

**TO:** Region Engineers  
Region Delivery Engineers  
TSC Managers  
Resident/Project Engineers  
Region Construction Engineers

**FROM:** Gregory C. Johnson  
Chief Operations Officer

**SUBJECT:** Bureau of Highway Instructional Memorandum 2011-01  
Contractor Performance Evaluation (Supersedes BOH IM 2002-03)

This memorandum explains revisions in the Contractor Performance Evaluation (CPE) procedure, along with mailing instruction changes. The purpose of the CPE is to document and improve contractor performance, to ultimately improve quality in construction projects. The CPE procedures are to provide evaluation consistency and promote project management/contractor communication. A CPE is used as a basis for modifying the prequalification rating of the contractor. Any action to modify the contractor's prequalification ratings will be taken in accordance with duly promulgated prequalification rules.

A project let through the MDOT letting process will require the project management staff to evaluate the prime and subcontractor(s) performance at the completion of each project, or at the end of each year for multiple year projects. A final estimate cannot be produced until all CPEs are approved in FieldManager; therefore, timely evaluation of the contractor is important. A CPE must also be completed at the end of a warranty period or at any interim project date management staff deems appropriate. Instructions and rating criteria for completing the CPE are available in FieldManager.

Additionally, if the managing office is overseeing a warranty on a project where an evaluation is deemed necessary, the management staff must use the new form 1182W, Contractor Performance Evaluation – Warranty. The criteria described in the CPE form will be applied to make the recommendation. This form is available on MDOT's Web site at <http://mdotwas1.mdot.state.mi.us/public/webforms/>. The attached *Contractor Evaluation Factors and Rating Criteria* document provides guidance for filling out Form 1182W. Rate the contractor using any whole number from one to ten (ten being the highest rating).

Forward the completed CPE to the respective contractor or subcontractor(s) by regular or electronic mail if there are no ratings of seven or below. If there are any ratings of seven or below, forward the completed evaluations to the respective contractor and subcontractor(s) by certified mail. Send original CPEs to the Construction and Technology Division after it is approved in FieldManager, and in accordance with the following paragraph:

Within 21 days of the date of receipt of a performance evaluation, the contractor may make a written request to meet with project management staff to review an evaluation. As a result of this meeting, the evaluation may be left unchanged or revised as deemed appropriate by the engineer. The engineer will then give the contractor written notice with the final performance evaluation. If the meeting is not requested within the 21-day period, the original evaluation becomes final and will not be subject to later contest or appeal.

The engineer may require the contractor to submit a performance improvement plan to address needs identified in an interim CPE, and appear for a meeting to discuss the improvement plan. Upon the engineer's approval of the plan, the contractor will be required to immediately implement the plan.

If the contractor does not agree with an engineer's final performance evaluation or the engineer's requested changes to a contractor's improvement plan, the appeal process is as follows:

Within 14 days after the date a performance evaluation becomes final and is received by a contractor, they may file a written appeal of any rating of seven or below to the engineer. The written appeal shall contain documentation supporting the contractor's position that the rating is not warranted. If no appeal is filed within the 14-day period, the evaluation becomes final and will not be subject to later contest or appeal.

If the contractor files an appeal, the engineer shall contact the Construction and Technology Division's Construction Contracts Unit to schedule an appeal meeting. An appeal filed by a contractor will be considered by a Contractor Performance Evaluation Appeal (CPEA) Panel. The panel shall be composed of three licensed professional engineers from the department (following the format of a Central Office Review Panel) who were not directly involved in the management of the project. This panel will review appeals on all evaluations and/or performance improvement plan for this project. The contractor and the engineer must submit supporting documentation relevant to the appeal and will attend a formal appeal hearing. The panel may visit a project site and gather information to assist them in making an informed decision, if necessary. Upon concluding its review, the panel will confirm or modify the evaluation and/or improvement plan. The panel will send the contractor and engineer written notice of its decision within 30 days, along with a copy of the modified evaluation, if applicable. The decision of the panel constitutes the final department decision and is not subject to further contest or appeal.

Interim CPEs cannot be appealed to the CPEA Panel.

If a contractor fails to honor a request by project management staff to submit a performance improvement plan, meet to discuss such a plan, or implement an approved performance improvement plan, the failure may be used as a basis for modifying the prequalification ratings of the contractor. Any action to modify the contractor's prequalification ratings will be taken in accordance with the duly promulgated prequalification rules.

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Chief Operations Officer

Attachment

BOHD:C/T:CR:mnn

Index: Contractor Evaluations

cc:	C & T Division Staff	C. Rademacher	APAM
	M. DeLong	P. Sebenick	CRAM
	J. Gutting	D. Calabrese, FHWA	MAA
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**Contractor Evaluation Factors and Rating Criteria**  
**October 2006**

**A. Organization and Management**

- 1. To what degree are the Contractor's project management personnel available and given the authority to execute the directions of the Engineer?**

**Ratings**

- 10** Management personnel are always available and execute the directions of the Engineer.
- 8** Management personnel are usually available and comply with the directions of the Engineer.
- 5** Management personnel are sometimes available and sometimes offer resistance to the directions of the Engineer prior to compliance.
- 1** Management personnel are routinely not available and disagree or disregard the directions of the Engineer most of the time.
- 2. To what degree are the Contractor's management personnel competent and effective in scheduling the work and organizing construction operations, including being punctual in starting and completing the work on the project and meeting critical intermediate phases in accordance with the contract?**

**Ratings**

- 10** The Contractor is very competent in scheduling work and is very punctual starting the project and meeting all contract dates. The Contractor always informs the Engineer of his schedule of operations. The Contractor always provides updates to the progress schedule and/or critical path as required by the contract.
- 8** The Contractor schedules work operations carefully and meets all contract dates. The Contractor usually informs the Engineer of his work schedule. The Contractor usually provides updates to the progress schedule and/or critical path.
- 5** The Contractor schedules the work, but often fails to follow the schedule. Contract dates are not always met. Updates to the progress schedule and/or critical path are provided only after requests from the Engineer.
- 1** The Contractor does not use a work schedule or if one exists it is seldom used or followed. Contract dates are not met.

3. **To what degree does the Contractor furnish required documentation and reports in a timely manner? This includes, but is not limited to, certification of materials, delivery tickets, invoices, progress schedule, shop drawings, material sampling, requests for extensions of time, contractor staking, and Contractor Quality Assurance/Quality Control (QA/QC) plans and documentation.**

**Ratings**

- 10 The Contractor always furnishes all paperwork, documentation, reports, information, plans, etc., as required on time without MDOT request.
- 8 The Contractor furnishes all paperwork, documentation, reports, information, plans, etc., as required on time with minimal request.
- 5 The Contractor must be asked numerous times to furnish required paperwork, documentation, reports, information, plans, etc. Paperwork is sometimes late.
- 1 The Contractor typically does not furnish the required paperwork, documentation, reports, information, plans, etc., or is usually late and must be asked in writing.
4. **To what degree does the Contractor comply with the direction of the Engineer and follow the project authority as detailed in Division 1 of the Standard Specifications for Construction?**

**Ratings**

- 10 The Contractor always follows chain of authority and always complies with the directions from the Engineer. The Contractor actively and cooperatively participates in the resolution of issues on the project.
- 8 The Contractor follows the chain of authority and complies with the directions from the Engineer.
- 5 The Contractor usually follows the chain of authority and complies with the direction from the Engineer after repeated notification.
- 1 The Contractor occasionally follows the chain of authority and complies only upon written direction from the Engineer.

5. **To what degree does the Contractor comply timely with all appropriate wage rates, labor, EEO, and D.B.E. laws and regulations, submit accurate certified payrolls and promptly pay all subcontractors?**

**Ratings**

- 10 The Contractor always complies with the MDOT contract specifications relating to Labor Standards/Wage-Rate Compliance, prompt payment, EEO laws and regulations, and appropriate D.B.E. regulations. Payrolls and other required documentation are accurate and submitted on time.
- 8 The Contractor complies with MDOT contract specifications relating to Labor Standards/Wage-Rate Compliance, prompt payment, EEO laws and regulations, and appropriate D.B.E. regulations. The Contractor promptly resolves any issues after notification by the Department. Payrolls and other required documentation are accurate and submitted on time.
- 5 The Contractor usually complies with the MDOT contract specifications relating to Labor Standards/Wage-Rate Compliance, prompt payment, EEO laws and regulations, and appropriate D.B.E. regulations. The Contractor resolves any issues only after repeated notification by the Department.
- 1 The Contractor occasionally fails to comply with the MDOT contract specifications relating to Labor Standards/Wage-Rate Compliance, prompt payment, EEO laws and regulations and appropriate D.B.E. regulations. Areas of noncompliance are not resolved.

**B. Resources**

6. **To what degree does the Contractor have adequate and sufficient equipment to keep the project on schedule? Does the equipment meet the requirements of the specifications and efficiently provide a quality product?**

**Ratings**

- 10 The Contractor has sufficient equipment to complete the project ahead of schedule. All equipment meets or exceeds the specification requirements.
- 8 The Contractor has sufficient equipment to complete the project on schedule. All equipment meets the specification requirements.
- 5 The Contractor usually has adequate and sufficient equipment to complete the project on schedule. On some occasions, the Contractor has to be notified to provide equipment that meets the specification requirements.

**1** The Contractor does not have adequate and sufficient equipment to complete the project on schedule. The Contractor has to be given written notification to provide equipment meeting the specification requirements.

**7. To what degree does the Contractor have competent and sufficient personnel to keep the project on schedule?**

**Ratings**

**10** The Contractor has competent and sufficient personnel to complete the project ahead of schedule.

**8** The Contractor has competent and sufficient personnel to complete the project on schedule.

**5** The Contractor usually has competent and sufficient personnel to complete the project on schedule. Occasionally, the Contractor's personnel demonstrate lack of knowledge and skills.

**1** The Contractor does not have competent and sufficient personnel to complete the project on schedule.

**C. Work Performance**

**8. To what degree does the Contractor have good safety practices? Does the Contractor comply with MIOSHA requirements and follow their own safety program?**

**Ratings**

**10** The Contractor takes the initiative to ensure the safety and health of the employees. They always comply with and sometimes exceed MIOSHA requirements. Safety equipment and devices are in excellent condition and are used by all the Contractor employees. MIOSHA issued no citations. The Contractor always follows their safety program.

**8** The Contractor ensures the safety and health of the employees and complies with the MIOSHA requirements. Safety equipment and devices are in good condition and are used by the Contractor's employees. The Contractor immediately carries out any requests by MDOT or MIOSHA for changes in safety measures. MIOSHA issued no citations. The Contractor follows their safety program.

**5** The Contractor usually ensures the safety and health of the employees and usually complies with the MIOSHA requirements. Safety equipment and devices are in average condition and are sometimes not used by Contractor's employees. The

Contractor carries out requests by MDOT or MIOSHA for changes in safety measures after written notification. MIOSHA may have issued citations.

- 1 The Contractor's safety and health practices are unsatisfactory. MIOSHA issued the Contractor citations. The Engineer imposed stoppages of work for safety issues. The Contractor only reluctantly makes changes requested by MDOT or did not make the change.

**9. To what degree did the Contractor comply with contract requirements for maintaining traffic?**

**Ratings**

- 10 Traffic control devices are in excellent condition, in proper position, clean and serviced regularly. The Contractor continually monitors and meets all traffic control requirements. Any job site conditions which affect the traveling public are addressed immediately (even after hours) with no direction from the Engineer. Traffic regulators are competent and effective.
- 8 Traffic control devices are in good condition, placed properly, maintained and working effectively. The Contractor monitors and meets all traffic control requirements. Deficiencies are immediately corrected with minimal notification by the Engineer. Traffic regulators are competent and effective.
- 5 Traffic control devices usually meet the minimum requirements. The Contractor usually monitors and meets the traffic control requirements. The deficiencies are only corrected upon notification from the Engineer. Traffic regulators are usually competent and effective.
- 1 The Contractor has numerous traffic control deficiencies which are corrected only upon written notification from the Engineer. Safety shut downs may be issued for non compliance.

**10. If applicable, to what degree does the Contractor meet the contract requirements for Contractor Quality Control (CQC)?**

**Ratings**

- 10 The Contractor exceeds the contract requirements. The Contractor exceeds the approved CQC plan. The Contractor documentation is excellent and always provided on time.
- 8 The Contractor meets the contract requirements. The Contractor always follows the approved CQC plan. The Contractor's documentation is satisfactory and is provided on time.

- 5 The Contractor meets the contract requirements only after notification of deficiencies by the Engineer. The Contractor follows the approved CQC plan after notification by the Engineer. The Contractor documentation is poor and/or is not timely.
- 1 The Contractor does not comply with contract requirements even after notification of non-compliance from the Engineer. The Contractor follows the approved CQC plan after notification by the Engineer. The Contractor documentation is unsatisfactory and/or is not timely.

**11. To what degree does the Contractor provide a quality product?**

**Ratings**

- 10 The quality of the materials and workmanship exceeds the contract requirements and is excellent.
- 8 The quality of the materials and workmanship meets the contract requirements.
- 5 The quality of the materials and workmanship meets the minimum contract requirements after notification from the Engineer.
- 1 The quality of the materials and workmanship may not meet the minimum contract requirements even after notification from the Engineer.

**12. To what degree does the Contractor properly notify and coordinate work with utility companies, railroads, property owners, local units of government, and Contractors working on adjacent projects?**

**Ratings**

- 10 The Contractor exceeds expectations on project coordination. The Contractor always schedules and conducts operations in a timely manner that does not interfere with the work or damage the property of others. The Contractor always provides advance notifications to all potentially affected parties prior to commencing work and does whatever is necessary to cooperate with them and to protect their existing facility or property.
- 8 The Contractor meets expectations on project coordination. The Contractor schedules and conducts operations in a timely manner that does not interfere with the work or damage to the property of others. Any problems created are immediately corrected. The Contractor provides proper notification and cooperates with each affected party.
- 5 The Contractor usually meets expectations on project coordination. The Contractor usually schedules and conducts operations in a timely manner that

does not interfere with the work or damages the property of others. Corrections are made only after notification from the Engineer. The Contractor does not cooperate fully with or give proper notification to all affected parties.

- 1 The Contractor does not schedule and conduct operations in a timely manner. The Contractor's operations frequently interfere with the work or damages the property of others. The Contractor does not provide the proper notification nor make an effort to cooperate with the affected parties.

**13. To what degree does the Contractor submit the necessary documentation to permit timely closeout and finaling of the project?**

**Ratings**

- 10 All required documentation is accurate, concise, complete. The Contractor exceeds expectations for submitting timely documentation.
- 8 All required documentation is accurate, concise, complete and submitted timely.
- 5 All documentation is submitted for project close out after notification of deficiencies.
- 1 Notification for project documentation is required and delays project close out.

**14. To what degree does the Contractor meet the environmental requirements of the contract?**

**Ratings**

- 10 The Contractor exceeds the environmental requirements and provides required documentation without prompting by the Engineer.
- 8 The Contractor meets the environmental requirements and provides required documentation without prompting by the Engineer.
- 5 The Contractor meets the environmental requirements and provides required documentation only after notification by the Engineer.
- 1 The Contractor meets environmental requirements only after repeated notification from the Engineer. The Engineer may issue orders to stop work, hold up payments, or have work completed by others.

**D. Subcontractor Management**

- 15. To what degree does the Contractor coordinate work with Subcontractor's work, exercise authority over Subcontractors, provide notice of Subcontractor work schedule and ensure that Subcontractors are in compliance with contract requirements?**

**Ratings**

- 10** The Contractor exceeds expectations in exercising authority, coordinating and monitoring work operations of their Subcontractors to ensure the schedule and specifications are met and that all documentation is submitted in a timely manner.
- 8** The Contractor always exercises authority, coordinates and monitors work operations with their Subcontractors to ensure the schedule and specifications are met, and that all documentation is submitted in a timely manner.
- 5** The Contractor usually exercises authority, coordinates and monitors work operations with their Subcontractors to ensure the schedule and specifications are met, and that all documentation is submitted in a timely manner. Any problems are corrected immediately upon notification by the Engineer.
- 1** The Contractor does not sufficiently exercise authority, coordinate or monitor work operations with their Subcontractors to ensure the schedule and specifications are met, and that all documentation is submitted in a timely manner. Problems are corrected only upon notification by the Engineer.