

Date: June 24, 2024
To: YCA Board of Directors
From: Denny Kobayashi, Kennedy Communications
Re: **Briefing Note – Vendor Performance Review Program**

I have been working closely with the HPW Procurement Support Centre (PSC) on the Vendor Performance Review program (VPR) with ongoing direction and support from Terry and Murray. I am happy to report some significant progress has been made, but there is some critical work that needs to be done in the coming weeks that will require active participation from Board members or interested industry representatives on the VPR. I am providing this Briefing Note to summarize activities to date, progress and what comes next.

Background

- Industry asked the Yukon Government (YG) to implement a Vendor Performance Review (VPR) program several years ago motivated by the desire to create consequences for ‘bad actors’ in the construction-related sectors who continued to be awarded YG contracts in spite of previous poor performance.
- YG explored similar programs in Canada. While there are a variety of programs across the country and in the USA. Only two somewhat robust programs were found:
 - Canadian federal government: (<https://www.canada.ca/en/public-services-procurement/services/acquisitions/better-buying/simplifying-procurement-process/vendor-performance.html>) which is still in testing mode.
 - Alberta: Vendor Performance Management System: (<https://open.alberta.ca/dataset/193e6a38-3cbb-4818-9a7b-61d02bb70c61/resource/197bbd30-9a4a-43d7-a3bd-8614cda21498/download/infra-vendor-performance-management-program-2021.pdf>).
 - See the FAQs for the AB program: http://albertaconstruction.net/wp-content/uploads/2020/02/2019-12-16_Vendors-Questions-and-Answers.pdf
- Yukon developed its VPR and soft launched the program in October 2021, started doing select reviews in October 2022, and state they formally launched the program in October 2023. See: <https://yukon.ca/en/doing-business/government-contracts/learn-about-vendor-performance-review-program>.
- YCA has been engaging with YG through the PSC on developing, evaluating and modifying the VPR over the past 2+ years.



What has YCA Been Doing Most Recently?

- YCA called for a 'pause' to the program in 2023 in response to widespread concern by its members and industry that the VPR criteria and assessments were being applied inconsistently, evaluated contractors did not understand how their assessments would impact future bidding, contractors wanting to know how to 'recover' from a poor project rating, feedback from YG Project Managers concerned about resources and training on conducting VPRs, and concerns about the subjectivity of the assessment criteria and scoring system.
- The Yukon Chamber of Commerce (YCC) assembled a Working Group (WG) of representatives from Yukon companies actively bidding and performing work on YG contracts. The WG has been meeting with the PSC on a frequent basis advocating for changes to the VPR program.
- YCA engaged a consultant in April 2024 with funding support from YG to enable YCA to undertake an enhanced level of monitoring and assessment of both the VPR program and the Yukon First Nations Procurement Policy (YFNPP). Currently these services are being provided by Denny Kobayashi of Kennedy Communications (the 'YCA Consultant').
- After efforts to make material changes to the VPR through the PSC failed, the YCA requested a meeting with Premier Pillai on May 16th to table a number of issues that included seeking a pause on the VPR program. The Premier and his team committed to review all of the issues raised and a formal response is expected very soon.

Recent Developments

- The YCA Consultant has met several times with the PSC including two meetings with the ADM and three meetings with the PSC Director. At a recent meeting on June 20th significant progress was made on the approach to the VPR evaluation scoring system and criteria. The YCA Consultant will be working with YCA to share information, collect feedback and formulate a formal response to PSC. ***The door has been opened for an industry-led review and input to amending the program criteria. ***
- Mike Rogers (Cobalt Construction) recently attended an industry event in Alberta and is meeting with the YCA Consultant on June 25th to share what he heard from Alberta contractors about their recently implemented Vendor Performance Management system. YCA will benefit from the experience and recommendations of the Alberta industry.
- YCA suggested to YG that the current VPR is too narrow and that project evaluations should include a performance review of the Owner and the Consultant(s) if the objective is to deliver quality projects on time and on budget. Alberta has developed a Consultant Performance Review program, and we will be reaching out to them to learn more.
- Confirmed that **Goods** are NOT part of the current VPR and will have independent vendor performance review criteria.
- PSC developed and shared updated criteria, developed in collaboration with YG project managers, removing the vast majority of subjective criteria and incorporating more objective criteria that closely mirror the contract deliverables. This is huge WIN!



- New industry members have indicated a desire to join the YCA advocacy efforts. This is clear evidence that the advocacy work of the YCA is not going unnoticed and could serve to increase awareness and support for the YCA moving forward!

The Next Three Months...

- Firm up industry membership on the VPR Working Group (WG).
- Brief the WG on the revised evaluation criteria, objective measures and approach to evaluation scoring.
- Meet with the WG to seek amendments to the VPR program starting with the evaluation criteria and scoring system.
- Follow-up on the response from Premier Pillai to YCA's issues tabled on May 16th.
- Explore the concept of Consultant and Owner performance evaluations and share with YCA members for feedback.
- Participate in the development of the VPR for Goods.

Other Work...

This Briefing Note focuses on the VPR program. YCA and the YCA Consultant continue to work diligently on making best-practise amendments to the YG CCDC documentation, the YFNPP incentives and policies that are enabling gaming the system and market disruption, lobbying for the return to public tender openings, more transparency in contract disputes and appeals, increasing direct award thresholds, definition of a Yukon business, and a much-needed review of YG procurement practises. Terry and Murray are tireless Board members working on your behalf and their leadership and passion have been invaluable.

Respectfully submitted,

Denny Kobayashi, MA CAE
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