

Evaluating vendor post-award performance

Sit down, take a deep breath, sip a beverage, open your mind and stay awhile while we chat with:



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Time to fess up. When my long-suffering, insightful, patient and tolerant editor, Anne Phillips suggested to me that we collaborate and do a "Chatroom" on vendor performance evaluation, (something she was researching for a panel at the CPPC Forum), I responded in my own high falutin' style: "duh – sounds rather dull to me," but agreed to have a look.

Then, Consulting and Audit Canada sent me a notice of consulting opportunities and I discovered that the fine print referred to vendor performance evaluation. The PWGSC Internet page further defined the principle of vendor performance evaluation: "Public Works and Government Services Canada (PWGSC) ... within the framework of its policy that procurement be open, accessible and fair, has the same right as other purchasers in the market to assess a vendor's performance, and may take action to prevent future problems, based on the vendor's past performance. The discretion to take such action must be exercised in a fair and reasonable manner within the policy... Vendor Performance Corrective Measure (VPCM): means a condition or limitation placed on a vendor's ability to contract with PWGSC on the basis of PWGSC's assessment of their reliability. A VPCM can be applied to a vendor overall or only in respect of certain products or services. There are three types: (a) Debarment is the refusal by PWGSC to do business with a vendor for a specified period ... generally not to exceed three years; (b) Suspension is the refusal by PWGSC to do business with a

vendor pending the outcome of an investigation ... or until the vendor meets conditions set for re-instatement, such as remedying a problem; (c) Conditions can be imposed on vendors seeking to do business with PWGSC, for a specified period ... generally not to exceed three years, or until the vendor meets conditions set for re-instatement, such as remedying a problem."

Coincidentally, headlines then were detailing how GroupeAction had been very poorly assessed by a federal review earlier than anyone previously knew. Hmmm... vendor performance evaluation... so, I called a couple of fellows who struck me as particularly frank and thoughtful: Howard Grant in Ottawa and Syl Parry in Manitoba. Their discussion proved so interesting and linked to so many things I had pondered that I couldn't resist participating myself. So I declare (with tail firmly between the legs) that this "Chatroom" is truly a collaboration with Anne. Let's chat!

The why and wherefore

Parry: What problem is vendor performance evaluation intended to resolve? We need to start there and it is not completely clear. We do need information on poor performance as a trouble avoidance tool, though even that is difficult because of the changes that can happen both out there and in here. When I worked in private industry, it was a relatively simple thing to rate your vendors. You got direct feedback from internal clients on site – either the product or service was delivered appropriately or worked well or was lacking. People were pretty quick to bend your ear. However, the size and scope of government operations often prevents that. A buyer may well be purchasing something they will never see for someone they will never meet in a workplace they will never be in. The procurement authority often is not aware whether the right stuff was received, if it was delivered on time or successfully addressed the need.

Grant: It comes down to why you want to know about vendor performance. Is it because you want to penalize them or do

you want to take a broader view of performance by looking at the performance of the project itself? Citizens expect governments not to do business with someone who is not going to deliver properly. However, we really need to understand the nature of the bad performance. Was it vendor incapability, poor project design or a flaw on the part of the client? This requires independent third party assessment. Does vendor performance indicate that at some time in the future you cannot get a piece of business because you made some mistake here, or does it focus on lessons learned to get a better outcome in the future? I'm in favour of the latter.

It's the KISS principle

Newman: Vendor performance is not, then, just a layer that can be applied to the existing procurement process. It must be part of overall project design to be fully consistent with requirements and fair to suppliers. To be effective, performance evaluation must be based on agreed standards, applied consistently, and on real and realistic consequences or incentives. But where does that leave us?

Grant: The private sector's biggest fundamental concern is whether they will be penalized for things that are not their fault. What emerges is that post-contract award performance criteria are part of the pre-contract award scope of work. If there is no standardized way of dealing with vendor performance across functions of an organization, or even across jurisdictions, a vendor risks being penalized relative to another company based on how an evaluation was conducted in a different project rather than based on actual performance. We're looking for balance. If one province has a different approach to vendor performance than another, a bidder with references in one province can be advantaged or disadvantaged from a bidder in another. The UK has a 'Gateway Process' that addresses vendor performance evaluation and

the project – from identification of requirements continuously through project existence – to provide continuous feedback and improvement. This is fundamentally different from an 'Auditor General' approach that looks at and analyzes projects that have already gone 'wrong.' Through a series of independent periodic reviews during the complete timeline of the project, the Gateway Process is designed to help a project go 'right'.

Parry: Vendor evaluation is subjective by its nature and may be more of an audit function than a procurement function. To begin, we need a template to keep people within the bounds of what we want and need to know. We then need to be sure of what we do with that evaluation. Should it last for three months or six months? If so, are the same people or quality processes still there with that vendor? What loading should the evaluation have in future bidder selection? Has the flaw been corrected?

Two minutes or ten!

Parry: An important issue is if, and to what degree, a vendor should be penalized for any given instance of poor performance. This is not related to penalty clauses and other direct contractual matters – rather we are talking about the reputation, selection and track record of the supplier in the ongoing supply relationship. There is even a legal question as to whether an individual procurement specialist would be legally liable for passing an evaluation on to a colleague within government, let alone between governments. There are many ways any procurement can go wrong, from mis-identifying a requirement to wrongly loaded criteria to supplier capacity to client obligations to changes in circumstance.

Grant: If we recognize, as we should, that vendor performance measurement is a difficult issue, we must build in to the project from the beginning to delivery, strategies to mitigate – or at least limit – any opportunity for failure. And, how quickly

should and would a supplier turn the tap off on a vendor or a project if they are not performing? For large projects, the process may take years and huge investments in staff and resources. Abandoning such an undertaking and selecting another supplier from the beginning is a very serious decision indeed. On the other hand, in a situation where a vendor finds that a client is not meeting their agreed obligations, there must also be penalties or options. [That situation] can happen for many reasons in government – policy change, political change or even decision change.

Newman: So the whole penalization aspect is not just how long you have to sit in the penalty box but also how long do you have a record for what? Does a single screw-up with a client who doesn't like you take you out of the game entirely? Perhaps, this is where independent third party oversight – internal or outsourced – comes in.

Repeat after me

Newman: How transparent or public a vendor assessment can or should be, and whether that results in an increasingly litigious supply relationship is a good question. Part of the broader perspective, then, is the nature of public procurement: the vulnerability of being under the public and political microscope; the duty to be careful with someone else's money; the need to be fairer than fair; and the requirement to justify every move. So the question is less should you do this – it is more can you afford not to.

Parry: With changes in government procurement, issues become even more complex. The diffusion, and occasionally resulting confusion, of delegating the authority of the actual buying process to clients has changed the role of the procurement specialist to focus more on policy and process. That is very different in larger purchases and projects where procurement experts are much more involved. But what it means generally is that vendors may well be dealing with many more people in government with widely varying degrees of expertise

and knowledge. Perhaps vendor performance evaluation could not be done on all contracts. A line would need to be set according to contract value and the threshold would have to be pretty high. That in turn would tend to limit the kinds of suppliers subject to evaluation, and many of them would be more used to complex procurement processes and requirements. Those are also the projects that are already under intense and increasing scrutiny. It could well be that the greater performance costs to government are in the sum of the smaller contracts. A truly effective vendor assessment system will have to take into account some very difficult choices.

Grant: The irony of vendor performance assessment relates to vendor reputation and experience. For example, a vendor with lots of experience is more likely to run into performance problems, learn from them and improve. If their performance problem is held against them, they can be deselected in favour of a firm that has not yet run into such problems, and may be less experienced and qualified. If not applied with care, vendor performance evaluation and tracking can act as prejudice against the qualified. Third party independent assessment will increasingly become an important part of identifying, evaluating and doing the project. On balance, even if vendor performance evaluation means more time, process, effort and money spent on the procurement process, it is something governments must engage in and they should do it now. It is an issue of due diligence and fiduciary responsibility. The basis of public sector procurement is public trust. Governments must use every reasonable tool at their disposal to increase the probability of success.

Next chatroom
The strategic importance
of procurement