Reaching for Success

46th Annual Conference
May 19 – 22, 2013- Daytona Beach, Florida

NON-PERFORMING VENDORS; CORRECTION, TERMINATION, & RE-INSTATEMENT

Neil Appel C.P.M. Purchasing Manager, Martin County School District
GOALS OF THIS PRESENTATION

1. How to turn around a non-performing vendor
2. How to terminate a vendor
3. How to possibly avoid having to do steps 1 and 2
4. How to re-instate a terminated vendor
“Ms. Purchasing Manager, we need to terminate this vendor for poor performance.”

“Ok, what have you done to get to this point?”
I Did the following:

- I’ve documented the problems
- I’ve checked the contract for responsibilities
- I’ve given written, verifiable notice to the vendor
- I’ve given a written, verifiable opportunity to cure the problem
- I’ve also given a written verifiable final compliance date
What really happened?
STAFF: - “Ms. Purchasing Manager, we need to terminate this vendor for poor performance.”

P. M.: - “Okay, what have you done to get to this point?”
The Conversation Continues:

STAFF: - He didn’t do what he was supposed to do, so I told him what he needed to do.

P.M.: - In writing?

STAFF: - Why? I told him half a dozen times over the last three months.

P.M.: - Did you check the contract?

STAFF: - We have a contract? I forgot, but don’t worry, we farmed out their work to other vendors.

P.M.: - So that’s why Commissioner Smith wants to see me!

Okay, here’s what we're going to do:
TASK 1- VERIFY THE PROBLEM

STEP 1
- GET IT IN WRITING!

STEP 2
- GATHER ANY DOCUMENTATION
TASK 2 – DEFINE RESPONSIBILITIES

STEP 1

- READ THE CONTRACT
  - What is the contract for?
  - Is the performance problem within the contract scope?
  - Who is responsible for what?
  - Is dispute resolution included?
PRELIMINARIES (3)

TASK 3 COMMUNICATION

STEP 1

Notify the vendor

- Verbally, in a spirit of goodwill
- Follow up in writing to verify
- Set up a cure time
STEP 2 (if the problem persists)

- Stronger, written communication
- Face to face meeting
- Have an agenda; stick to it
- Listen to their response
- Include additional staff as
  - Witnesses
  - Scribe
- Set up a cure date
PRELIMINARIES (5)

TASK 4-FOLLOW UP

STEP 1
- Determine why the problem still exists

STEP 2
- Consult with legal:
  - The choice of additional cure time is yours

STEP 3
- Verify that it still isn’t fixed

STEP 4
- Terminate
CONGRATULATIONS!

- You have successfully terminated a poorly performing vendor
- You’re also scheduled to explain this to your commissioners
- Since it’s not forever, how do you bring them back?
WHAT IS THIS?
Vendors who have been providing unacceptable performance shall be given one opportunity for a “FRESH START” with the entity.

HOW DO WE DO THIS?
Step 1
The department head shall complete the approved “FRESH START” form and review with Purchasing and Administration.
<table>
<thead>
<tr>
<th>No.</th>
<th>Performance Issues and/or Concerns</th>
<th>Firm Responses and Corrective Action</th>
<th>Fresh Start Meeting Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Lack of Detail:</td>
<td></td>
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<td></td>
<td>1. Computation errors</td>
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<td>2. Multiple Requests for Information</td>
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<td></td>
<td>3. Specification errors/Omissions</td>
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<td>4. Faulty design</td>
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<td></td>
<td>5. Cost vs. Deliverables</td>
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<td></td>
<td>6. Follow-up</td>
<td></td>
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<tr>
<td>2.</td>
<td>Late submittal of deliverables:</td>
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<tr>
<td></td>
<td>1. Missed deadlines</td>
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<td></td>
<td>2. Inadequate time for staff review</td>
<td></td>
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<tr>
<td>3.</td>
<td>Management of Resources:</td>
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<tr>
<td></td>
<td>1. Inadequate staffing provided</td>
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<td></td>
<td>2. Designing in field</td>
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<td></td>
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<td></td>
<td>3. Uncooperative/difficult staff</td>
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<td></td>
<td>4. Poor communication</td>
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<td></td>
<td>5. Staff Turnover/Change in Project Managers</td>
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<td></td>
<td>6. Management of subcontractors</td>
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</tr>
</tbody>
</table>
### FRESH START ASSESSMENT

### PROFESSIONAL SERVICES

<table>
<thead>
<tr>
<th>No.</th>
<th>Performance Issues and/or Concerns</th>
<th>Firm Responses and Corrective Action</th>
<th>Fresh Start Meeting Outcome</th>
</tr>
</thead>
</table>
| 4.  | Quality of Request for Qualifications Response:  
1. Failure to submit requested information  
2. Poor proposal quality  
3. Vague, imprecise information supplied |                                       |                             |
| 5.  | Regulatory Compliance/Other:  
1. Permits not obtained  
2. Punch list completion  
3. Cost effective problem solving |                                       |                             |
Step 2
The Fresh Start form shall reflect the substandard performance issues contained in the project evaluations.

Step 3
After approval by administration, the Fresh start form shall be presented to the vendor in a meeting setting.
Step 4

The vendor shall then be given seventy two (72) hours to return the form to the department head with their responses and corrective actions listed on the form.

Step 5

Staff has 72 hours to respond to the vendor
Step 6

If an accepted FRESH START initiative still results in substandard vendor performance:

- Staff shall also recommend debarment
- All debarments shall be in effect for up to 36 months
How can we keep from going this far?

- Appropriate contract terms and conditions
- Conscientious contract administration
- Vendor evaluations
What are the costs of poor vendor performance?
- Cost of the work/project
- Cost of time
- Cost of lost credibility
- Political cost
Vendor Evaluations during and after contract performance will:

- Identity issues before they reach “critical mass”
- Start the “solution dialogue”
- Prevent a problematic vendor from getting additional work until they are up standard
- Let vendors know contract award is not “automatic”
VENDOR EVALUATION FORM

TYPE UNLESS OTHERWISE INDICATED

Vendor Name: ___________________________ Date Prepared: ____________

Representative: ___________________________ School/ Department: ________

Title: ___________________________ Evaluator: ____________

Contract/P.O.#: ___________________________ Title: ____________

Contract/P.O. Name: ___________________________

Performance Rating Scale

5 Outstanding Performance 4.75-5.0 Points
   Goods/services provided on time and/or completed with no issues. Exceeded requirements, worked proactively. Recommended for future contracts.

4 Above Satisfactory Performance 4.45-4.74 Points
   Goods/services provided on time and/or completed with no issues. Recommended for future contracts.

3 Satisfactory Performance 3.75-4.44 Points
   Goods/services provided on time and/or completed with minor issues. Resolution required little effort. Met all requirements. Recommended for future contracts.

2 Below Satisfactory 2.50-3.74 Points
   Goods/services provided with numerous and/or significant issues. Resolution required significant effort, discussions, meetings and/or replacement or re-work. May be recommended for future contracts after significant corrective action has been taken.

1 Unacceptable 2.49 Points and below
   Goods/services not provided as required. Problems were encountered on an ongoing basis. Performance was substandard, and requirements were not met. Not recommended for future contracts.

TOTAL SCORE

Name Printer/ Signature Date

District Contract Administrator

Vendor Representative Signature Date

Title Date

Operations Manager Date
### GENERAL EVALUATION CRITERIA

**Instructions:**
For each numbered item below, please select a numerical score from 1-5 in accordance with the performance rating scale. Select N/A if the item is not applicable. Comments may be entered below.

<table>
<thead>
<tr>
<th>Quality Criteria</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Delivery (s) of goods/services made on the correct date, at a satisfactory time</td>
<td></td>
</tr>
<tr>
<td>2. Delivery (s) made to correct school/department</td>
<td></td>
</tr>
<tr>
<td>3. Correct items delivered.</td>
<td></td>
</tr>
<tr>
<td>4. Correct quantities delivered</td>
<td></td>
</tr>
<tr>
<td>5. Product and/or service quality as ordered/required</td>
<td></td>
</tr>
<tr>
<td>6. Invoice price matched quoted/bid price</td>
<td></td>
</tr>
<tr>
<td>7. Vendor’s employees behaved in a courteous manner.</td>
<td></td>
</tr>
<tr>
<td>8. Vendor’s employees dressed appropriately.</td>
<td></td>
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<tr>
<td>9. Work completed in a timely and satisfactory manner.</td>
<td></td>
</tr>
</tbody>
</table>

Average Score (Total Score/ Number of sub criteria used)

**Comments:**
Attach documentation if applicable.
Use a vendor complaint form

Why?

- Easy to complete
- Time saver versus narrative
- Takes away the objection “I don’t have time”
- Make it adaptable for various disciplines
- The vendor must respond!
# Vendor Complaint Form

**Vendor Name:**

**Date Prepared:**

**Address:**

**Date Goods Received/Service Performed:**

**School/Department:**

**District Staff Originator:**

**Purchase Order #:**

<table>
<thead>
<tr>
<th>DELIVERY PROBLEM</th>
<th>REMARKS (use additional sheets if necessary)</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ 1. Delivery was not made on correct delivery date</td>
<td></td>
</tr>
<tr>
<td>☐ 2. Delivery was made at an unsatisfactory hour:</td>
<td></td>
</tr>
<tr>
<td>☐ 3. Delivery was made to wrong school/department:</td>
<td></td>
</tr>
<tr>
<td>☐ 4. Non-delivery of order/item on order:</td>
<td></td>
</tr>
<tr>
<td>☐ 5. Delivery in damaged condition (dented, broken, thawed, etc.):</td>
<td></td>
</tr>
<tr>
<td>☐ 6. Other</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>EVALUATION OF PRODUCT QUALITY</th>
<th>REMARKS</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ 1. Quality of Product is inferior (be specific and list brand):</td>
<td></td>
</tr>
<tr>
<td>☐ 2. Unauthorized substitution: (List item substituted)</td>
<td></td>
</tr>
</tbody>
</table>

**Contractor/Manufacturer Item # Ordered:**

**Contractor/Manufacturer Item # Delivered:**

<table>
<thead>
<tr>
<th>OTHER</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ 1. Invoice price did not match bid price:</td>
</tr>
</tbody>
</table>

**List incorrect price charged:** $______________

☐ 2. Incorrect quantity delivered

# over delivered: # short

☐ Other evaluation (positive or negative i.e., driver behavior; condition of boxes, condition of truck, etc.): 

**TO VENDOR:** The above complaint has been submitted by a District school/department. In this space or via attachment kindly respond within _______ days. Failure to respond may result in any or all of the following: withholding invoice payment, termination of the current contract or could be cause for disqualification from future District business opportunities.

**Vendor Representative:**

**Printed/signature**

**Title/****

**DATE RESOLVED:**

**OPERATIONS MANAGER:**

**PURCHASING MANAGER:**
CONSULTANT / CONTRACTOR EVALUATIONS

It is the policy of (your entity) to evaluate consultants and contractors performing major projects (those projects exceeding the formal bid limit or issued using continuing type contracts) on a project by project basis.

A. all evaluations shall be prepared in writing using the approved (YOUR ENTITY) evaluation format for the applicable discipline.

B. The consultant / contractor being evaluated shall sign acknowledging the evaluation and shall have the option of responding in writing within forty eight (48) hours of receiving the evaluation.

C. Not responding within the allotted time frame will be interpreted by the ENTITY as agreement with the evaluation.
QUESTIONS