



DEVRY SMITH FRANK *LLP*  
Lawyers & Mediators

*michael.farace@devrylaw.ca*  
416.446.5094

By Delivered/Email

June 9, 2014

Toronto City Council  
Toronto City Hall  
100 Queen Street West  
Toronto, ON, M5H 2N2

Email: [mayor@toronto.ca](mailto:mayor@toronto.ca) / [clerk@toronto.ca](mailto:clerk@toronto.ca)

Your Worship and Council:

Re: June 10/11 Council Meeting. Public Works Committee Item PW31.18  
Trisan Construction  
Proposed 1 Year Suspension from Bidding or Awarding Contracts

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We are lawyers for 614128 Ontario Ltd., which operates as Trisan Construction.

As you may be aware, the Public Works and Infrastructure Committee voted on May 14, 2014 to declare Trisan ineligible to bid on or be awarded construction tender calls for a period of 1 year. Council will be voting on the proposed suspension at the upcoming meeting (item PW31.18).

The proposed suspension relates to allegations of poor performance in the execution of two Basement Flooding Protection Program contracts in Councillor Carroll's ward (Contract 12FS-14WP awarded September 19, 2012 and Councillor Mammoliti's ward (Contract 12FS-22WP awarded January 16, 2013). Staff's report provides more detail about the allegations.

The purpose of our letter is to request that Council depart from the Committee and staff recommendation and instruct staff to address their concerns through the dispute mechanisms in the contracts.

We believe after you have read this letter and the enclosed materials, you will find there are compelling reasons to support given:

- the nature of the alleged issues and lack of opportunity for Trisan to respond to the allegations,
- the complex nature of the Basement Flooding Program Contracts, and limited number of contractors actually working on that program.
- Trisan's history of reliable performance on \$285 Million worth of work for the City, and
- The inappropriate and harshness of the suspension, and harm it will cause the City, Trisan, and residents.

### The Proposed Suspension and Basement Flooding Contracts

The Basement Flooding Protection Program contracts are generally complex, and require prequalification to demonstrate the contractor has the necessary technical skills. Attachment 1 explains this in greater detail.

As with 5 Basement Flooding Protection contracts Trisan previously completed, the two recent contracts involved sewer and water main upgrades. As staff have acknowledged, both involved “challenging sewer construction” that was required in order to protect residents from basement flooding due to sewer surcharging. .

As with all of the City’s contracts, the contract documents form the basis of the relationship, set out responsibilities, consequences of failure, and provide for a system of dispute resolution in the event of disagreements over job performance and other matters. They do not provide the City with the right to suspend Trisan from future bidding opportunities.

With respect to the two basement flooding contracts at issue, our client acknowledges that issues arose and concerns were expressed. Most of concerns were relatively common matters on large construction projects, and resolved quickly without further concern. There was, however, unexpected basement flooding during work in Councillor Carroll’s ward that remains an ongoing concern for Councillor Carroll and some of her constituents.

Trisan has worked diligently to address all concerns. With the exception of the basement flooding issue, which was promptly responded to, Trisan has not been presented with a notice of default under either contract in relation to any other allegations of poor performance. As such Trisan was very surprised to learn about the proposed suspension on May 7<sup>th</sup>, and that it would be debated only 7 days later at the May 14 Public Works and Infrastructure Committee meeting.

The Staff report was written and the Committee date was scheduled without any prior discussion with Trisan about the allegations of poor performance and proposed suspension. Attachment 2 is a preliminary response to the allegations against Trisan. Despite presenting this response to the Public Works Committee, the City has still not sat down and discussed the allegations or Trisan’s response.

### Contractor Performance Evaluation Program and Alleged Performance Deficiencies

As set out in the staff report, the recommendation for a 1 year suspension is based on the Contractor Performance Evaluation program (CPE Program) adopted by Council approximately 6 months ago at the November 2013 Council meeting. Attachment 3 is copy of the staff report on the purpose and implementation of the CPE Program, which is to form part of all contracts put to tender after November 2013. It was not implemented retroactively, or imposed on existing contracts.

The two key features of the CPE program are (i) the use of performance evaluations to monitor contractor performance determine if remedial steps, such as suspension, are warranted (i.e. if the performance evaluation score is low), and (ii) use of the contract dispute resolution processes to resolve any disagreement about the performance evaluation score.

With respect to Trisan and the two Flooding Protection Program contracts,

- the CPE was not part of the contracts.
- no performances evaluations were ever completed, and
- Trisan has not been afforded an opportunity to dispute the allegations of poor performance in accordance with the contracts.

In the circumstances, the proposed suspension is both manifestly unfair and of questionable legality. Our client has strong and valued working relationship with the City and Staff. If there are issues related to these two contracts, our client will answer for them, but it should be pursued through the mechanisms provided for in the relevant contracts.

#### Trisan is a Reliable and Specialized Contractor with an Enviably Performance History

Trisan has successfully completed at least 85 contracts with the City since 2001. These contracts include construction and remediation work on roads, sewers, and utilities through the City. Attachment 4 is an itemized list of Trisan's work for the City.

On every project, Trisan has delivered on its commitments and received favourable performance evaluations. This is a solid and enviable track record that stands in marked contrast to the allegations in the staff report that Trisan has a "record of poor performance" warranting a 1 year suspension. Attachment 5 provides a review of Trisan's contract performance record.

Staff have suggested adopting the suspension recommendation will send a message to Trisan "and the wider construction industry that poor performance will not be tolerated on City contracts". Unquestionably the suspension will send a message about the way that City contracts are administered and executed, but that message won't be about poor performance it will be about the risks and uncertainty of doing business with the City.

It is neither fair nor appropriate to suspend Trisan's based on allegations of poor performance that have not been documented or pursued under the terms of the contract.

#### Suspension is Unfair and will Hurt Trisan, the City, Employees and Residents

Trisan is one of a limited number of firms with the specialized expertise required to complete the complex underground construction called for on many City contracts. The suspension will not only unfairly deny Trisan business opportunities, it will decrease the already small pool of bidders prepared to work on these contracts with the resulting increase in contract prices for the City. These are not inconsequential impacts for Trisan or the City.

However, the suspension will be hardest on employees who both live and work in the City of Toronto. Given the scope of work Trisan has been doing with the City over the last several years, Trisan typically employees nearly 100 people full time in the City of Toronto, and over 70 of Trisan's employees are residents of the City.

These are dedicated hard working individuals, who contribute to the City's economy. A 1 year suspension of Trisan from bidding will actually result in Trisan not performing any work in the City for a much long period as they will only be allowed to pursue further work once that suspension has been

a much long period as they will only be allowed to pursue further work once that suspension has been lifted. This will dramatically affect Trisan's over all business, and unfortunately, it will likely require Trisan to reduce its payroll until business resumes.

### Conclusion

The proposed 1 year suspension has been hastily proposed based on a CPE Program that is not part of Trisan's contracts, and was not followed by the City. It is neither fair nor reasonable and stands completely at odds with Trisan's long standing record of solid performance.

Our client strongly disagrees with the allegation that its performance has been substandard on the two contracts, and if forced to, will take remedial steps to protect its reputation and business. Recognizing the positive working relationship between Trisan and the City, our client would prefer to work with the City to resolve any outstanding concerns.

Staff unquestionably have expressed concerns about Trisan's performance that need to be addressed, but a 1 years suspension is not the appropriate sanction. The contract documents provide the City with many avenues of recourse if Trisan's performance on these two contracts has not been adequate. The contract processes are the appropriate means of resolving those issues and concerns.

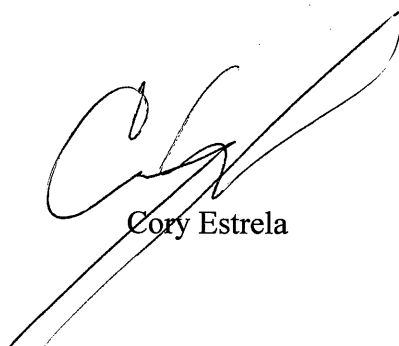
**We therefore request that the proposal for ineligibility to bid not be ratified, and Council refer this issues to staff to address any issues in accordance with the contracts.**

Yours very truly,

DEVRY SMITH FRANK *LLP*



Michael Farace  
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Encl.

cc: client



## CITY OF TORONTO PRE-QUALIFICATION PROCESS

### Introduction

The City of Toronto has stated on their Information on Purchasing Policies and Practices that pre-qualifications are used by the City on complex or large projects where specific skill sets may be required. The intention of pre-qualifying contractors is so that the more experienced and qualified contractors for specialty works are used.

A pre-qualified project is one that is above and beyond routine construction practices which only skilled contractors can perform. Trisan Construction was accepted as being one of the top skilled and qualified contractors to perform the requirements involved with Request to Pre-Qualify 3907-09-7256 with respect to Basement Flooding Improvement Projects.

If Trisan Construction was suddenly deemed to be failing with respect to performance under the Pre-Qualified Tender then the City of Toronto under their Contractor Performance Evaluation Procedure had the responsibility to evaluate Trisan formally throughout any projects so that Trisan understood the City of Toronto's stance with respect to current performance.

The work that Trisan Construction has been accused of poor performance on is specialty work tendered through a pre-qualification process then the utmost of any possible suspension should be under the umbrella of the prequalification work. Routine construction work Trisan has consistently proven to complete successfully over their 13 year tenure as a company. Trisan Construction knows by its past and present work that they are more than qualified to do the work under these contracts.

### Background

The City of Toronto issued Request to Pre-Qualify 3907-09-7256 which closed on December 8, 2009. The pre-qualification was to improve chronic basement flooding during severe storm events as outlined on Page 4 of the Request to Pre-Qualify.

Both projects which City staff has accused Trisan Construction of having demonstrated poor performance have been a part of the Basement Flooding Protection Program projects that have been tendered out using the pre-qualified contractors from Request to Pre-Qualify 3907-09-7256.

In "Information on Purchasing Policies and Practices" which can be found at <http://www.toronto.ca/legdocs/mmis/2014/gm/bgrd/backgroundfile-66790.pdf>

it is stated that, "Pre-qualifications are used by the City on complex or large projects, or where specified skills sets may be required. Pre-qualifications are generally designed to qualify bidders or proponents for a specific project that will be subject to a Tender or RFP. The City's Procurement Processes policy suggests that pre-qualifications should be used where it is deemed that the nature and complexity of the work involved warrants the time and effort required to pre-select the most experienced and qualified bidders. PMMD also recommends pre-qualification as a potential step in novel situations where we have not done previously. The majority of work done each year in construction is routine and does not require the use of a pre-qualification".



The Request to Pre-Qualify 3907-09-7256 states on Page 6 under Section 3.3, "Based on the above background, the City herewith invites Contractors with superior specialized skills and abilities required to execute the described work to apply for pre-qualification for this Project". Under Section 3.4, also on Page 6, it states, "Submissions are requested from experienced General Contractors. The contractors must have experience and expertise, and proven track record in undertaking construction of storm and sanitary sewers and watermains works or similar comparable projects. Page 6 also has Section 3.5 which says, "Contractors submitting pre-qualification documents shall have completed work similar in scope, size and complexity to this project, and shall be able to refer to projects of comparable character completed by them. Any contractor previously pre-qualified for other works must re-submit for this project". It is even mentioned on Page 10 under Section 5.6 that, "Contractors who have previously submitted tenders for similar work must resubmit for this pre-qualification.

It is clearly demonstrated in the sections of Request to Pre-Qualify 3907-09-7256 that the scope of work included specialty and complex projects which were not normal and routine as far as construction projects go. The City of Toronto clearly deemed Trisan Construction fit and able to perform these pre-qualified projects by qualifying Trisan Construction through the Request to Pre-Qualify.

Trisan Construction has completed five previous Basement Flooding Projects prior to Contract 12FS-14WP (Tender 141-2012) and Contract 12FS-22WP (Tender 230-2012) which are the two projects where Trisan Construction is being accused of performing poorly.

### Summary

It would be absolutely unfair and unwarranted to suspend Trisan Construction on all future City construction contracts for performances that are related to specialty work that only a select few General Contractors can even perform. The entire purpose of a pre-qualification process is to set apart a certain style of work from another. If the City of Toronto suspends Trisan Construction from competing on any work for a one year period of time it is completely undermining the entire process of a pre-qualification process.

If this suspension is passed there will be a precedence set that it does not matter how many or few projects, how large or small a project, or how simple or complex a project is that a General Contractor completes with the City of Toronto because one report stating there has been a bad performance will be means for suspension on any and all work in the City of Toronto for a period of time regardless of the General Contractor's overall experience, evaluations, and historical work. These means of suspending a General Contractor will most definitely deter other contractors on bidding on future projects and have a serious financial impact on the City of Toronto, as well as inhibiting the City from completing planned projects in the future.



**REBUTTAL OF STAFF REPORT "TEMPORARY SUSPENSION OF TRISAN CONSTRUCTION"**

Trisan has reviewed the staff report, dated April 30, 2014, which was posted on the City of Toronto website on May 7<sup>th</sup>, 2014. Trisan has not seen this report or statements previous to this date. Notice of these actions was not received until May 8<sup>th</sup>, 2014, only six days before the scheduled Committee meeting. Trisan believes that the statements made within this report to be completely biased to sell their argument to the Public Works & Infrastructure Committee and, as these statements are being provided out of context, it is believed to be at risk of slander as outlined in the Libel and Slander Act

The following statements are responses to the statements provided in the staff report, "Temporary Suspension of Trisan Construction";

- *"In both contracts Trisan's performance to date has clearly demonstrated that they are neither equipped nor sufficiently experienced to undertake this type of work"*
  - In 2009 Trisan was selected as 1 of 3 contractors through City of Toronto document, Tender Call 123-2009 or Contract 12FS-71WP. This contract was referred to as General Services Contract 1. During this contract over a period of 10 months, Trisan successfully completed \$10,417,384.19 of sewer upgrades related to the Basement Flooding Protection Program. These projects were all very difficult and carried numerous challenges. Trisan completed all of these projects successfully and on schedule.
  - Following the completion of General Services Contract 1, City of Toronto issued the document Request to Pre-Qualify No. 3907-09-7256. Trisan submitted this document and was pre-qualified with a short list of other Contractors to perform work under the Basement Flooding Protection Program. Under this pre-qualified list of contractors, Trisan Construction was further selected to form part of a shorter list of task order Contractors which performed work under General Services Contract 2. Trisan completed \$2,291,424.87 of sewer upgrades through this project.
  - It is noted by the author of this Staff Report that both these contracts involve challenging sewer construction; one due to the size of the pipe and the second due the depth. Trisan would like to point out these project would be challenging for any Contractor qualified for this work. On contract 12FS-14WP Trisan has completed all underground works well ahead of Milestone dates of the contract which deems to discredit the above statement. On contract 12FS-22WP, the two low bidders of this contract backed out of work and the City awarded this contract to Trisan Construction. Although Trisan may have had some challenges on this project we are proceeding with the works successfully as per the contract documents.

**SAFETY AND COMPLIANCE- LAWS AND STANDARDS COMMENTS**

We would like to provide the following comments related to the Ministry of Labour visits. Trisan Construction on this and all project works closely with the Ministry of Labour to ensure compliance with OHSA. Although stop work orders being issued by the MOL are never intended, different interpretation of OHSA requirements can be made depending on the Officer that visits the site. The issuance of a stop work order does not necessarily mean that Trisan Construction was working unsafe, but in the Officers view something could be done safer. It can also be noted that on both these projects there has been no



loss time injuries. We would like to provide the following comments to points being made in the Staff Report;

- “Lack of adequate barriers (guardrails) and signage around their open excavation”
  - Trisan was at this point in construction excavating a shaft for the construction of a large poured in place manhole. Trisan had modular fencing in place at this time around the excavation. When the MOL visited the site, they felt that a fixed railing would serve as a safer barrier. Trisan immediately complied with this request and the order was lifted.
- “Open manholes that were not adequately covered and marked to prevent a fall”
  - The manhole that was discussed with the Ministry was a manhole being utilized for the bypass system to discharge into. A steel plate was in place, along with a traffic barrel. This did not pose any danger. The representative from the MOL thought it would be safer to place modular fencing around the location. Trisan immediately complied and the order was lifted.
- “Lack of written measures and procedures on-site for working around live overhead electrical conductors”
  - Trisan and its subcontractors were working within close proximity of hydro lines to construct a large poured in place manhole. Trisan, prior to working at this area of Brian Drive and Old Sheppard, consulted with members from Toronto Hydro, ESA, and Powerline Plus to plan and expedite the work. Meetings were held onsite between Trisan and these organizations to plan and execute the work. Trisan had wires covered and protected ahead of construction and ensured smaller equipment was being utilized to ensure required distance from live power lines was being maintained. Site meetings were held with staff to review the safety requirements prior to work commencing. Significant planning went into this work as the City and their consultant would be aware. The MOL did come onsite and requested additional written procedures to be provided specific for this task. This was immediately complied with and the order was lifted.
- “Lack of a copy of engineered drawings on-site for the shoring/piling being installed for trench support.”
  - All shoring being utilized on this project was engineered by Keewatin Group or Tarra Engineering Inc., and were designed specifically for various areas on the site. Copies were always provided to staff working with equipment. At the time of the MOL visit, a copy could not be located but was immediately turned over to them and the order was lifted.
- “City staff observed Trisan’s employees working within the trench but outside of the shoring system”
  - Trisan’s staff are all provided with safety equipment, shoring, training, and are experienced with this type of work. Trisan has rigid safety policies in place to enforce the requirements of our Safety Policy and the OHSA. Any employee that works unsafe is reprimanded immediately and would escalate if occurrences happen again.





- "In an effort to protect workers and mitigate safety risks, a letter was issued to Trisan on January 30, 2014, which notified Trisan that they were at risk of default of the contract if the noted safety concerns were not addressed."
  - Trisan acknowledges that during the month of December and January on Pearldale Avenue, although the shoring system was designed and engineered for the project, the conditions onsite created challenges that prevented progress of the sewer works. Shoring was being utilized but failures of the existing watermain and soil conditions prevented Trisan from moving forward. Trisan later modified their shoring method and is proceeding successfully. This letter being mentioned in this report was never delivered or received by any Trisan members.

### PROTECTION OF EXISTING UTILITIES

- "Throughout the course of the contract to date Trisan has caused seven gas leaks between March 2013 and August 2013. The leaks were a result of inadequate support of excavation and/or inadequate protection of an existing utility. With each break public was placed at risk and existing infrastructure was damaged which required repair by a third party."
  - It is understood by Trisan that working around utilities is a major part of the work and creates a major challenge. This project brought exceptional challenges as a result of the size of infrastructure being installed in a limited space with various utilities required to be worked around. The breaks were not from lack of support and poor workmanship, but were merely accidents as a result of the type of work that was being performed. As these challenges continued it was coordinated with Enbridge to loop the gas services around the work area to prevent such damages. This was not the standard way that work would proceed, but given the size and nature of the work, this was the safest way to move forward.
  - The seven gas breaks that did occur on this project were all ½" plastic gas lines that are very delicate. When the break did occur appropriate actions were taken to ensure safety of workers and residents. The authorities were immediately notified for the repairs. Trisan compensated Enbridge for these repairs.
  - As something to note, when Trisan bid on this project, the contract drawings provided by CH2M Hill and the City showed gas mains on both sides of Brian Drive which would mean that gas services would not have to be crossed. However, when work began, it was discovered that that not the case.
- "On January 23<sup>rd</sup>, 2014, Trisan was sent a written notice from the Consultant who noted that a length of watermain had been left exposed in an unsupported area of the excavation, and request immediate action."
  - This section of watermain was carefully worked around and supports were installed as work progressed and installation of support system could permit. Failure of watermain occurred well beyond Trisan's excavation and is, in Trisan's opinion, in relation to the fragile condition of the existing watermain which is believed to be 40-50 years old. Flanged fittings were exposed in numerous locations which showed fittings with bolts were almost completely corroded away. Thrusts blocks were never present along the watermain which is not to City of Toronto specifications. Concerns were raised by CH2M



Hill and City of Toronto in regards to installation of deep sewer (8-10 metres deep) directly beside an existing watermain that was in poor condition. These concerns were ignored by both parties. Samples of watermain were provided for City of Toronto to inspect but were neither picked up or examined.

- “Additional effort by both Toronto Water District Operations and Engineering & Construction Services staff were required onsite to coordinate the repairs and ensure further damage was not caused by the construction activities.”
  - Efforts were required by Toronto Water District Operations to shutdown watermain as crews were working in close vicinity. It should be noted that during these required shutdowns, existing valves failed to properly close which added to challenge of crossing these utilities and aided in the failures that occurred. It should also be noted that there was infrastructure that was in the ground which CH2M Hill or the City failed to identify on the contract drawings which were not.
  - Engineering and Construction staff did not participate in coordinating the repairs.
  - On numerous occasions Toronto Water District Operations who Trisan relied on for valve operations, failed to attend the site for scheduled valve turn on or turn off. These problems created frustration from residents as they were without water for extended periods. Trisan took pro-active measures to mitigate the situation by having a water trucks there to reduce the frustration of residence at apartment building.

#### PROPER EXCAVATION SUPPORT

- “Trisan was requested to submit a proposed contact-compliant alternate shoring system for approval and implementation. Tabulated data for the installed shoring system was only submitted by Trisan on September 24, 2013.”
  - On September 23<sup>rd</sup>, 2013, an email from Adam Banting was received which requested updated tabulated data. This was provided the following day as per his request. These drawings are always readily available at the site office for CH2M Hill’s inspector and Trisan staff.
  - Various site specific drawings were designed by either Tarra Engineering or Keewatin Group which were utilized throughout various stages of construction depending on depth of excavation and width of excavation. These drawings were all in compliance with the OHSA.
- “The City Project Manager visited the site on January 24<sup>th</sup>, 2014, observed the same unsupported excavation, and notified the Ministry of Labour to report the concerns.”
  - Ministry of Labour did visit the site and no report was provided. Trisan has and will be working closely with MOL to ensure compliance with OHSA. The work on Pearldale was very deep and soil conditions were very poor. Existing infrastructure created challenges but sewer was installed. As sewer got deeper Trisan decided to re-engineer the shoring system to better suit the conditions onsite and has been moving forward successfully since then.



## EXECUTION – WORK PERFORMANCE

- “On August 26 and August 28, 2013, Trisan’s neglect during execution of Contract 12FS-14WP caused basement flooding at 25 homes in the construction area, which resulted in 33 damage claims.”
  - The storm event that occurred on August 26 was a major storm event, and the amount of flow that required to be dealt with was extreme. Flows like this had not been dealt with on this project and unfortunately had expectantly shifted the shoring that was in place between new and old sewers and caused some backup within the system. Trisan did respond to the site immediately which mitigated further damage that could have been caused. The issue was referred to our insurance company who handled the investigation and the resolution. Other flooding beyond the limits of our construction that occurred which was deemed to be the result of poor infrastructure and not related to our construction. Trisan twice throughout this project assisted Toronto Water in their investigation into the poor condition of the sanitary sewer along Pleasantview that led to flooding of residences. Trisan offered to replace this sewer under this contract, but it was decided by the City and/or Consultant to leave it in place for replacement at a later date, a decision that could contribute to addition flooding in this area.
- “Due to the flooding events on August 26 and 28, 2013, the City requested that the Consultant work extra hours each working day to document the state of the excavation each prior to leaving the job site for the day. This was to ensure that no sewers had been left blocked, and to make certain that excavation site was left in an appropriate state.”
  - Additional time should not have been required on behalf of the Consultant, as Trisan always worked a typical 50 hour work week throughout the duration of the project. As per RFP No. 9117-10-7310 6.2.14 (f), 50 hours per week should be anticipated.
- “Trisan only provided part-time site supervision and this lack of supervision may have contributed to the cause of the flooding events”
  - This is not true. Trisan at all times throughout this project had full time site supervision. Trisan did change Supervisors mid-way through project as the current supervisor retired.
- “On September 9, 2013, City and Consultant observed a significant blockage at the existing storm outlet once again, and notified Trisan of their observations and concerns.”
  - The Consultants email was received at 9:00pm on the September 9<sup>th</sup>, 2013, Trisan was already on site monitoring the weather conditions. Flows were being maintained through the excavation as previously discussed and approved. Since these major storms that occurred in August, no other issues arose throughout this project, and all underground works were completed ahead of schedule.



- “On November 26<sup>th</sup>, 2013, the sewage bypass pumps that Trisan was using during construction failed, causing basement flooding at an apartment building within the construction area. City staff and the Consultant visited the apartment building to observe the extent of flooding damage and discuss the situation with the superintendent. The City required Trisan to investigate the cause of the bypass pump failure and produce a report of the incident, and has been reminded of this request at each subsequent site meeting, yet, to date, Trisan has not submitted a report of the flooding incident.”
  - The failure that occurred was the result of a frustrated home owner manually turning off pumps, Trisan immediately responded to activate the bypass system to prevent further backup. The backup that did occur was in the parking garage area of the apartment building. Trisan assisted the Superintendent with the cleanup and reimbursed him for a few articles that were damaged. The report on this incident was forwarded to CH2M Hill contrary to the statement made in the report.

#### **ADMINISTRATION- CONTRACTOR PERFORMANCE AND DILIGENCE**

- “City and Consultant staff have been required to spend significant additional time and resources to elicit response and action from Trisan on various contractual issues.”
  - Trisan is unaware of what additional efforts would have been required of City staff and/or Consultant beyond what would have been usually expected for this type of work.
  - Trisan believes that the inexperience on behalf of the City and the Consultant led to much of the issues on these projects which are further documented.
- “Extra staff time and resources were also required to provide two (2) additional public meetings for Contract 12FS-14WP (one for the flooding incident, and one for the multiple street closures and to address many questions and concerns from residents and the Councillor’s office).”
  - It should be noted that as per RFP 9117-10-7310, which forms CH2M Hill contract with the City of Toronto, within their base scope, five (5) public meetings/presentations should be expected for each assignment. Trisan is unaware of how many public meetings were actually required but a meeting in relation to multiple street closures should be expected for this type of work.

#### **CLOSING COMMENTS**

Construction work at its very nature is extremely risky and every particular project carries its own challenges whether it be the depth of excavation, size of pipes being installed, maintenance of traffic, etc. Every project is different in its own way. We are not arguing with the Staff Report that these two projects being highlighted to the Public Work and Infrastructure Committee were challenging, we concur that this is a fact but need to assert that Trisan Construction is more than qualified to perform this type of work. Trisan’s past history needs to be reviewed beyond what the management and administration of these two projects appears to suggest. When issues have arisen throughout these contracts, Trisan has always acted in a responsible manner to better fulfil its contractual obligations to the City. The works on Contract 12FS-14WP (Briand Drive and Old Sheppard), the underground works were completed ahead of Milestone dates, and Trisan has moved beyond some of the challenges faced on 12FS-22WP (Navenby Crescent Area) and is proceeding with the work successfully. Trisan Construction has successfully completed all projects for City of Toronto since 2001, and will continue to do so into the future.



## STAFF REPORT ACTION REQUIRED

### Contractor Performance Evaluation Procedure

<b>Date:</b>	October 3, 2013
<b>To:</b>	Public Works and Infrastructure Committee
<b>From:</b>	Director, Purchasing and Materials Management General Manager, Toronto Water
<b>Wards:</b>	All
<b>Reference Number:</b>	P:\2013\Internal Services\pmmd\pw13009pmmd (AFS 17901)

#### SUMMARY

This report provides information regarding the implementation of the Contractor Performance Evaluation ("CPE") Procedure on all City construction projects. As part of the CPE Procedure, the CPE Form is designed to summarize a contractor's performance by the City's project manager, to encourage the contractor to improve its performance. The CPE Form also serves as documentation to support the suspension of a contractor from bidding on future projects for a period of time where the City is dissatisfied with the work undertaken by the contractor. The CPE Form will be included in all construction call documents commencing October 1, 2013. The CPE Form may be modified from time to time in consultation with other Divisions, and approved by the Director of Purchasing and Materials Management Division ("PMMD").

PMMD will work with City Divisions to create other evaluation forms and procedures for other types of goods and services procured.

In addition, this report addresses AU11.9, Toronto Water – Review of Construction Contracts recommendation 12, adopted by Council at its July 2013 Council meeting:

*City Council request the General Manager, Toronto Water, in consultation with the Deputy City Manager, to consider including the frequency of reviews, time of final evaluation, opportunities for feedback and required action as part of his current review of contractor performance management practices.*

## **RECOMMENDATIONS**

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The Director, Purchasing and Materials Management, and the General Manager, Toronto Water recommend that:

1. Public Works and Infrastructure Committee receive this report for information.

### **Financial Impact**

The recommendation in this report has no financial impact.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

### **DECISION HISTORY**

At its meeting held on September 25, 26 and 27, 2006, City Council adopted Administration Report 11 Clause 6 entitled "Contractors, Consultants and Supplier Performance Evaluations" which outlined various recommendations with respect to the City's approach to vendor performance evaluation. To view this report on-line follow the link below: <http://www.toronto.ca/legdocs/2006/minutes/council/cc060925.pdf>

At its meeting held on June 11, 12, and 13, 2013, City Council adopted AU11.9, "Review of Construction Contracts", requesting the General Manager, Toronto Water to implement 12 recommendations to strengthen controls, and improve the overall effectiveness of contract management and payment processes and also requesting the Deputy City Manager, Cluster B and the Director, Purchasing and Materials Management to report to the Public Works and Infrastructure Committee on October 21, 2013 on the proposed Contractor Evaluation Procedure and how it is being implemented for Toronto Water and Transportation Services Projects. To view this report on-line follow the link below: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.AU11.9>

### **ISSUE BACKGROUND**

Divisions who oversee construction contracts are responsible for maintaining records on the performance of contactors to ensure they perform in accordance with the terms and conditions of the contract. If a contractor does not do so, evidence of poor past performance can be used to justify not awarding future contracts and/or suspending that contractor from being eligible to bid on future construction calls for a period of time.

In the 2006 report to City Council mentioned above, the need for proper contract management was recognized. The report also identified that consistent evaluations conducted across all Divisions would assist the City in dealing with poor performing contractors.

In the fall of 2009, Toronto Water began the process of developing a contractor performance evaluation form for use on construction projects. Toronto Water met with

other Divisions for input on this centralized form and to attain general support for the new format, in consultation with Legal Services. Over the course of two and a half years, various Divisions were included in meetings for input on the form and feedback from testing it on projects. Toronto Water requested and PMMD agreed to be the liason between Divisions, including further developing, formalizing and implementing the form and procedure, as its success is dependent on City-wide use.

In June 2012, PMMD conducted a kick-off meeting with Division Heads of key divisions in construction and representation from Legal Services. The main purpose of the meeting was to discuss how to further develop the contractor performance evaluation form and ensure that the appropriate procedures were created to apply that form. While it was recognized that a standardized form was needed, Divisions also recognized that it was part of their responsibility to ensure that each contract was properly managed even if a standardized form was not created.

To implement this system, two working groups were created compromised of staff from various City Divisions, PMMD and Legal Services. One working group was tasked with further developing the form and the other working group was tasked to develop the appropriate procedures for contractor performance evaluation.

## **COMMENTS**

### **The CPE Form and Procedures**

The CPE Form (Attachment 1) includes a number of criteria that can be evaluated. The scores reflect the contractor performance and the form may link to documents, but the form is not meant to replace the project file.

The project manager will evaluate performance in five categories:

- A. Safety & Compliance – Laws & Standards
- B. Quality – Compliance with Contract Standards & Specifications
- C. Organization – Work Plan and Management
- D. Execution – Work Performance
- E. Administration – Contractor Performance and Diligence

The working group, following the rational Analytic Hierarchy Process<sup>1</sup>, created a hierarchy of categories and questions that encompassed all essential elements of contractor performance. The working group then conducted pair wise comparisons on the five categories and thirty questions. Each criterion was compared to each other in turn and considered of equal importance, slightly more importance, or much more importance. A unique numerical weight was then derived for each category and each question and the entire process recorded for transparency and review. (Attachment 2 - Contractor Performance Evaluation Pair wise Matrix)

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<sup>1</sup> [http://en.wikipedia.org/wiki/Analytic\\_hierarchy\\_process](http://en.wikipedia.org/wiki/Analytic_hierarchy_process)

Each category has its own set of questions that require ranking as follows:

- 1 – Unsatisfactory
- 2 – Improvement Needed
- 3 – Meets Expectations
- 4 – Exceeds Expectations
- 5 – Exceptional

The discrete numerical weighting for each category and question allows for sub-scores for each category and a final score for the entire slate of questions.

The median score is 3. A score of 2.5 is considered a very modest threshold below which a warning would result. A total or aggregate score below 2 means performance is in the Unsatisfactory range as a whole and is grounds for suspension.

Definitions, developed by the working group, are provided for each question to guide the project manager in selecting an appropriate ranking that will be consistent across all Divisions.

Project managers are responsible for completing the CPE Form in consultation with the site supervisor and/or Contract Administrator. All criteria must be evaluated or marked N/A. Weighting is automatically adjusted for those questions marked N/A.

The project manager must submit completed interim CPE Forms to their manager for approval and completed final CPE Forms to their Director for approval. The approved CPE Forms must be saved by the Division in electronic pdf format with references to all relevant documents. After approval, project managers shall (i) forward an electronic copy of the CPE Forms to PMMD, who will store the score in a database; and (ii) provide the first page of the CPE Form to the contractor immediately in accordance with the contract notice provisions.

The project managers will review the performance of the contract with the contractor at progress review meetings and shall ensure this item is on the agenda. Any concerns or issues raised by the contractor should be recorded by City staff or its Contract Administrator. City staff may amend the CPE Form. If the contractor has further concerns with the evaluation, the contractor may utilize the dispute resolution mechanism in the contract, with necessary modifications.

The number of CPE Forms to be completed by the project manager is dependent on the complexity and duration of the project. Project managers are expected to adhere to the guidelines below when determining the number of CPE's to conduct for interim and final evaluations:



<b>Project Duration</b>	<b>Evaluations</b>
up to 1 month	A final evaluation to be conducted.
1 – 3 months	A final evaluation at the end of the project with the option to conduct an interim evaluation.
3 – 6 months	A final evaluation at the end of the project with the option to conduct one to two interim evaluations.
6 – 12 months	A final evaluation at the end of the project with the option to conduct one to three interim evaluations.
over 12 months	A final evaluation at the end of the project; one mandatory interim evaluation per year, with the option to conduct up to three interim evaluations per year.

### **Suspending Contractors for Poor Performance**

The following action is to be taken after a completed CPE Form is approved:

<b>Score</b>	<b>Action</b>
Interim/Final Score below 2.5 (out of 5)	A warning letter indicating areas of improvement needed and, in rare circumstances, risk of suspension if not corrected
Final Score of 2 or less	May initiate a report to Council recommending suspension for a minimum of one year
Two Interim/Final Scores below 2.5 within 5 years	May initiate a report to Council recommending suspension for a minimum of one year
Two criterion checks (Interim or Final) of Improvement Needed (I) or Unsatisfactory (U) within 5 years for A.1 "Did the contractor comply with the Occupational Health and Safety Act (OHSA) requirements?"	May initiate a report to Council recommending suspension for a minimum of one year.
One criterion check (Final) of Unsatisfactory (U) for A.1. "Did the contractor comply with OHSA requirements?"	May initiate a report to Council recommending suspension for a minimum of one year

Once a contractor has reached or exceeded the poor performing threshold score, the Division will submit all documentation supporting the CPE score to PMMD and Legal Services. If the Division, PMMD and Legal Services agree that the documentation and other evidence is sufficient to support the unsatisfactory score, a joint report will be

prepared for Council approval (through the appropriate standing committee), to suspend the contractor for a period of one or more years from being awarded future contracts. The report will set out the following:

- i. the recommended duration of the suspension;
- ii. the scope of projects included in the suspension, which may include a total suspension all City projects including subcontractor work;
- iii. the reason(s) for suspension;
- iv. that the suspension will not relieve the contractor of performing any existing contracts;
- v. Any legal entity that is related to or has the same operating mind as the contractor may also be prohibited from bidding or from being awarded construction contracts for the duration of the suspension, where PMMD (in consultation with Legal Services) determines that such entity was created or its being used for the purpose of avoiding the City's decision to suspend the contractor; and
- vi. any other matter deemed pertinent to the recommended suspension.

PMMD will notify the contractor of the report, and their right to depute at the appropriate standing committee. If Council approves the suspension PMMD shall issue a formal suspension letter to the contractor, confirming the decision of Council and its effective date. At the end of the suspension period, the contractor will again be eligible to bid on City construction contracts, subject to any conditions City Council may have imposed when initially suspended.

#### **Bypassing Low Bidder**

PMMD, in consultation with the Division and Legal Services, may use the CPE Form to supplement a report to Council to bypass the low bidder on a procurement call based on past poor performance.

#### **Purchasing and Materials Management**

PMMD shall be responsible for maintaining approved interim and final CPE Forms and scores received from Divisions in a centralized electronic database. This will allow PMMD to monitor the performance status of contractors to ensure suspension thresholds have not been exceeded, ensuring bids from suspended contractors are rejected or not accepted at the tender closing, and expiry dates of suspensions. In addition, PMMD will be assisting the Divisions in collaboration with Legal Services to prepare written notifications and store electronic records of all correspondence sent to the poor performing contractor(s) such as warning letters. Furthermore, upon request from the contractor, PMMD will be able to provide their status.

#### **Training**

Project managers from all Divisions who oversee construction projects were identified to be trained on the CPE Form and procedures. Over the summer, eight information sessions were held for those project managers. To date, 295 out of the 310 staff identified, have attended the sessions. PMMD will be arranging one more session to

accommodate the remaining staff whom have yet to attend the presentation and will be working with Human Resources to set up a webinar training tool to accommodate any future training requirements.

#### **Discussions with the Associations**

PMMD along with the Executive Director of Engineering & Construction Services, and Toronto Water, held two meetings with various construction associations (April 18 and September 9, 2013). At these meetings, staff provided information to the construction associations on the implementation of the CPE Procedure, its importance, how it works, and the potential for suspension of contractors that are poor performing. Staff made it clear to the industry/association that the intention of the CPE Procedure was not to suspend contractors but instead to ensure that contracts were performed properly. The industry had some concerns which were addressed either by the CPE Form itself, or will be dealt with through the dispute resolution provision in the contract that allows escalation, with necessary modifications. In addition the associations requested the City to have more direct consultation with them regarding the CPE Form. Staff are in agreement with this request and the CPE Form will be a regular agenda item to address any questions and concerns brought forward at the quarterly Construction Services meetings held by Engineering & Construction Services.

#### **Roll-Out and Communication**

A communication was prepared and sent September 18, 2013 to all construction firms registered with PMMD's Vendor Registration System notifying them of the implementation of the CPE Procedure and that the CPE Form will be inserted in each construction related call document commencing October 1, 2013. The notification also included a link to the CPE Form. In addition, notification of the CPE Form was also posted on PMMD website under "What's New". Finally, an e-mail address has been established so that contractors can ask any questions directly relating to the CPE Form.

PMMD has also met with Toronto Transit Commission, Toronto Police Services, Toronto Public Libraries, Exhibition Place and Toronto Community Housing in our joint co-operative purchasing meeting and provided a copy of the CPE Form and Procedures. In addition, PMMD requested participation from these agencies in the upcoming development of performance evaluation tools for other procured goods and services.

#### **Next Steps**

PMMD will continue to work with City Divisions to establish standardized evaluation forms for other types of goods and services procured that will integrate with the database that has been developed. This will further enhance the City's ability to properly evaluate contractor performance. As part of PMMD's e-Procurement Project, staff will be investigating whether there is a more robust database or other types of services that can host the data collected from the CPE Forms than the current ACCESS database that PMMD is utilizing.

**CONTACT**

Garry Boychuk,  
Manager, Operational Support  
Toronto Water  
416- 397-0936  
[gboychu@toronto.ca](mailto:gboychu@toronto.ca)

Elena Caruso,  
Manager, Goods & Services  
Purchasing & Materials Management  
416-392-7316  
[ecaruso@toronto.ca](mailto:ecaruso@toronto.ca)

**SIGNATURE**

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Lou Di Gironimo  
General Manager, Toronto Water

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Michael Pacholok  
Director, Purchasing and  
Materials Management Division

**ATTACHMENTS**

Attachment 1: Contractor Performance Evaluation Form  
Attachment 2: Contractor Performance Evaluation Pair wise Matrix



# Attachment 1 Contractor Performance Evaluation

30-Sep-13

Final  
 Interim # 1

DATE:

CONTRACTOR:												
PROJECT NAME:												
DESCRIPTION:												
CONTRACT No.:			START DATE:									
CONTRACT VALUE:			COMPLETION DATE:		U	I	ME	EE	EX	N/A		
<b>A. SAFETY &amp; COMPLIANCE - Laws &amp; Standards</b>							sub-score		3.00		Weight 25%	
1 Did the contractor comply with OHSA requirements?										✓		
2 Did the contractor adhere to environmental, (non-OHSA) safety requirements, and other laws & policies?										✓		
3 Did the contractor take adequate precautions with any hazardous materials and designated substances?										✓		
<b>B. QUALITY - Compliance with Contract Standards &amp; Specifications</b>							sub-score		3.00		Weight 25%	
1 Did the contractor comply with standards and specifications in the contract?										✓		
2 Was the quality and workmanship in compliance with the contract documents?										✓		
3 Did the contractor promptly & effectively correct defective work as the project progressed?										✓		
<b>C. ORGANIZATION - Work Plan and Management</b>							sub-score		3.00		Weight 12.5%	
1 Did the contractor submit a satisfactory baseline schedule in compliance with the contract?										✓		
2 Did the contractor commence the work on time?										✓		
3 Did the contractor submit schedule updates in accordance with the contract?										✓		
4 Did the contractor adequately staff and resource the project in compliance with the contract?										✓		
5 Did the contractor provide adequate & competent site supervision?										✓		
6 Did the contractor effectively coordinate and manage the work of its subcontractors?										✓		
7 Did a person with decision-making authority represent the contractor at pay/progress meetings?										✓		
8 Did the contractor submit timely, relevant requests for information (RFIs) as needed?										✓		
9 Were shop drawings submitted according to shop drawing schedule and in compliance with the contract?										✓		
<b>D. EXECUTION - Work Performance</b>							sub-score		3.00		Weight 25%	
1 Did the contractor complete the project on time?										✓		
2 Did the contractor follow the approved schedule and meet milestones?										✓		
3 Did the contractor provide effective quality control?										✓		
4 Did the contractor keep the site clean and free of trash and debris in compliance with the contract?										✓		
5 Did the contractor promptly comply with change orders, change directives, site instructions, and RFQs?										✓		
6 Did the contractor seek authorization to perform extra or additional work?										✓		
7 Did the contractor adequately address disputes, damages and claims with third parties to City PM's knowledge?										✓		
8 Was the quality and submission timelines of the following items acceptable?												
8.1 Look ahead schedules or work plans										✓		
8.2 Accurate and complete record documents (as-builts)										✓		
8.3 Complete operations and maintenance manuals and closeout documents										✓		
8.4 Secure and/or closed applicable municipal permits										✓		
8.5 Startup testing and commissioning reports										✓		
8.6 Training plan and manuals										✓		
<b>E. ADMINISTRATION - Contractor Performance and Diligence</b>							sub-score		3.00		Weight 12.5%	
1 Did the contractor communicate, cooperate, collaborate with the contract administrator, project team & stakeholders?										✓		
2 Did the contractor participate in resolving project problems and display initiative to implement solutions?										✓		
3 Did the contractor demonstrate accountability for problems for which they were responsible?										✓		
4 Did the contractor submit accurate, complete invoices in a timely manner?										✓		
5 Did the contractor provide competitive change order pricing?										✓		
6 Did the contractor accept responsibility for the full scope and extent of the contract?										✓		
7 Did the contractor coordinate to minimize disruption to the public and City operations?										✓		
Note: if the contractor disagrees with the evaluation, it is to follow the claims dispute procedure in the contract with necessary modifications							3.00		Total Score (weighted)			
	Name			Signature			Date					
Project Manager:												
Manager:												
Director: <small>(required for Final only)</small>												

# Attachment 2

## Contractor Performance Evaluation Pairwise Matrix

1 slightly more important  
 2 more important  
 3 much more important

SAFETY & COMPLIANCE - Laws & Standards											25%	TOTALS	Subweight	Total Weight	Sub %
	A	B	C	D	E	F	G	H	I	J					
Did the contractor comply with OSHA requirements?	A										A	2	50%	0.125	12%
Did the contractor adhere to environmental, (non-OSHA) safety requirements, and other laws & policies?	B	AB									B	1	25%	0.063	5%
Did the contractor take adequate precautions with any hazardous materials and designated substances?	C		BC								C	1	25%	0.063	5%
											4	1	0.250		
QUALITY - Compliance with Contract Standards & Specifications											25%				
Did the contractor comply with standards and specifications in the contract?	A										A	2	40%	0.100	10%
Were the quality and workmanship in compliance with the contract documents?	B	AB									B	2	40%	0.100	10%
Did the contractor promptly & effectively correct defective work as the project progressed?	C		BC								C	1	20%	0.050	5%
											5	1	0.250		
ORGANIZATION - Work Plan and Management											12.5%				
Did the contractor submit a satisfactory baseline schedule in compliance with the contract?	A										A	5	10%	0.012	1.2%
Did the contractor commence the work on time?	B	AB									B	4	15%	0.019	1.9%
Did the contractor submit schedule updates in accordance with the contract?	C		BC								C	3	6%	0.007	0.7%
Did the contractor adequately staff and resource the project in compliance with the contract?	D			CD							D	3	15%	0.019	1.9%
Did the contractor provide adequate & competent site supervision?	E				DE						E	3	15%	0.019	1.9%
Did the contractor effectively coordinate and manage the work of its subcontractors?	F					EF					F	3	15%	0.019	1.9%
Did a person with decision-making authority represent the contractor at project meetings?	G						FG				G	2	4%	0.005	0.5%
Did the contractor submit timely, relevant requests for information (RFIs) as needed?	H							GH			H	2	4%	0.005	0.5%
Were shop drawings submitted according to shop drawing schedule and in compliance with the contract?	I								HI		I	2	15%	0.019	1.9%
											52	1	0.125		
EXECUTION - Work Performance											25%				
Did the contractor complete the project on time?	A										A	7	20%	0.050	5%
Did the contractor follow the approved schedule and meet milestones?	B	AB									B	4	11%	0.029	3%
Did the contractor perform effective quality control?	C		BC								C	7	30%	0.050	5%
Did the contractor keep the site clean and free of trash and debris in compliance with the contract?	D			CD							D	3	9%	0.021	2.1%
Did the contractor promptly comply with change orders, change directives, site instructions and RFIs?	E				DE						E	3	17%	0.043	4%
Did the contractor seek authorization to perform extra or additional work?	F					EF					F	3	14%	0.036	3.6%
Did the contractor adequately address disputes, damage and claims with good faith to City PM's knowledge?	G						FG				G	3	14%	0.036	4%
Was the quality and submission timeliness of the following items acceptable?	H							GH			H	5	n/a	n/a	
* Look ahead schedules or work plans											35	2%	0.0080	0.6%	
* Accurate and complete record documents (as-builts)												2%	0.0080	0.6%	
* Complete operations and maintenance manuals and closeout documents												2%	0.0080	0.6%	
* Secure and/or closed applicable municipal permits												2%	0.0080	0.6%	
* Startup testing and commissioning reports												2%	0.0080	0.6%	
* Training plan and manuals												2%	0.0080	0.6%	
											1	0.250			
ADMINISTRATION - Contractor Performance and Diligence											12.5%				
Did the contractor communicate, cooperate, collaborate with the contract administrator, project team & stakeholders?	A										A	6	19%	0.023	2.3%
Did the contractor participate in resolving project problems and display initiative to implement solutions?	B	AB									B	3	9%	0.012	1%
Did the contractor demonstrate accountability for problems for which they were responsible?	C		BC								C	6	19%	0.023	2%
Did the contractor submit accurate, complete invoices in a timely manner?	D			CD							D	2	6%	0.008	0.8%
Did the contractor provide competitive change order pricing?	E				DE						E	3	9%	0.012	1%
Did the contractor accept responsibility for the full scope and extent of the contract?	F					EF					F	3	19%	0.023	2%
Did the contractor coordinate to minimize disruption to the public and City operations?	G						FG				G	6	19%	0.023	2%
											32	1	0.125		
OVERALL											100%				
SAFETY & COMPLIANCE - Laws & Standards	A										A	4	25%	0.250	25%
QUALITY - Compliance with Contract Standards & Specifications	B	AB									B	4	25%	0.250	25%
ORGANIZATION - Work Plan and Management	C		BC								C	2	13%	0.125	13%
EXECUTION - Work Performance	D			CD							D	4	25%	0.250	25%
ADMINISTRATION - Contractor Performance and Diligence	E				DE						E	2	13%	0.125	13%
											16	1	1		



**TRISAN CONSTRUCTION'S COMPLETED CITY OF TORONTO PROJECTS AND FINANCIAL IMPACTS**

Since 2001, Trisan has been a great force in the City of Toronto in performing work related to civil construction, maintenance and repairs of existing underground infrastructure, winter maintenance of roads, sidewalks, paths, etc. Trisan Construction has always strived to provide excellent product paired with competitive pricing. Trisan has completed hundreds of millions of dollars of work while saving the City of Toronto taxpayers millions of dollars through the bidding process.

Trisan Construction has completed over \$275,000,000 of work for the City of Toronto spread over 85 different projects. Due to the competitive bidding process, Trisan's presence alone has saved the City of Toronto taxpayers over \$20,000,000.00 over the years. A breakdown is attached and lists projects year by year; backup is provided to verify the amounts listed in Appendix H.

With the above being said, it is crucial to understand that Trisan Construction is one of very few contractors in the region capable of handling some of the work put out by the City of Toronto. By eliminating Trisan Construction from bidding, even for one year, it is intuitive to understand that costs for projects will increase due to the removal of competition for the work. Over 13 years, Trisan has saved the City of Toronto over \$20,000,000; that's approximately \$1,500,000 a year of taxpayer money saved. Assuming this pattern is consistent, a one year suspension of Trisan will be the equivalent of paying \$1,500,000 more for projects in the 2014-2015 years.

To put things into perspective, Trisan Construction was recently the low bidder on two Basement Flooding Protection Program, Cartright Avenue (14FS-06WP) and Sunnycrest Road (13FS-36WP). The next lowest bid prices are \$111,568.00 and \$83,934.00 higher than Trisan's, respectively. If Trisan is not awarded those two contracts, it's an automatic additional cost of \$195,502.00 of tax money to award the contracts to the next lowest bidders.

Trisan Construction is also the employer of approximately 100 tax paying residents of the City of Toronto. By passing this suspension, there is a high risk that it may essentially eliminate a lot of those positions.

To conclude, in the staff report issued on April 30, 2014, there is a statement that claims there is no financial impact from Recommendation No. 1 and Recommendation No. 2. This claim is misleading and not representative of the true implications that will follow if the suspension is allowed. Trisan has provided services to the City of Toronto for over 13 years and would like to continue to do so.

City of Toronto Contracts History

Tender Closing Date	Contract # or PO #	Call # or RFQ#	Description of Work	Price of Awarded Bidder (Trisan Construction)	Price of Next Lowest Bidder	Difference From Next Bidder (\$ CITY SAVED)
	<b>2001</b>					
	01D2-20WP		King Georges/Kingsway Sewers	\$ 264,627.68	**Information Not Available	
	01D2-29WS		The Queensway - Hwy 27 Underground Work	\$ 161,463.72	**Information Not Available	
			<b>2001 Total:</b>	<b>\$ 426,091.40</b>		
	<b>2002</b>					
	02D1-95WP		Winchester Street & Parliament Street Underground Work	\$ 105,187.17	**Information Not Available	
	02D3-16WP		Faywood & Chalkfarm Sewers	\$ 894,319.00	**Information Not Available	
	02D3-20WP		Honeywood Sewers	\$ 288,737.64	**Information Not Available	
	02D1-74WP		74 Adair Road Sewer Work	\$ 77,506.52	**Information Not Available	
			<b>2002 Total:</b>	<b>\$ 1,365,750.33</b>		
	<b>2003</b>					
	03D2-133TW	170-2003	Winter Maintenance 2003-2008 of Wards 7, 8, 9, 11, 12	\$ 4,859,091.81	**Information Not Available	
	03D3-20RD		Hedgewood Road Reconstruction	\$ 490,061.71	**Information Not Available	
	03D3-19WS		Cherrylawm Watermain Construction	\$ 962,807.40	**Information Not Available	
			<b>2003 Total:</b>	<b>\$ 6,311,960.92</b>		
	<b>2004</b>					
	04D1-531WS		Cement Mortar Lining York	\$ 1,719,690.75	**Information Not Available	
	045D-128TU		Ward 28 Utility Cuts	\$ 723,381.82	**Information Not Available	
	04D2-09RD		Toronto Sidewalk Construction - Various Locations	\$ 176,189.74	**Information Not Available	
	045D-101TR		Toronto Manholes	\$ 111,205.39	**Information Not Available	
			<b>2004 Total:</b>	<b>\$ 2,730,467.70</b>		
	<b>2005</b>					
	05WD-16RD	214-2005	Valley Crescent Watermain, Sewers, Pavement, Hyde Avenue Watermain	\$ 1,344,434.45	**Information Not Available	
	05ED-304WS	56-2005	Catholic Protection of Existing Watermains at Various Locations	\$ 1,249,650.75	**Information Not Available	
	05ED-300WS	62-2005	Cleaning & Cement Mortar Lining of Existing Watermains in East District	\$ 2,711,957.91	**Information Not Available	
	WW46118		Ellesmere Yard Fill Removal	\$ 244,200.00	**Information Not Available	
			<b>2005 Total:</b>	<b>\$ 5,550,243.11</b>		
	<b>2006</b>					
2/01/06	06EY-17WS	6-2006	Watermain Replacements on Holmesdale Crescent	\$ 751,756.97	\$ 845,097.04	\$ 94,340.07
	06NY-18RD	13-2006	Beecroft Road Extension, Road Modifications to Blakeley Road, Kempford...	\$ 4,363,035.96	**Information Not Available	
	06SC-330WS	131-2006	Catholic Protection of Existing Watermains in Wards 35, 36, 37, 40, 43, 44	\$ 1,298,787.40	**Information Not Available	
3/23/06	06EY-312WS	72-2006	Cleaning & Cement Mortar Lining of Existing Watermains - Etobicoke/York	\$ 3,324,891.25	\$ 3,350,394.70	\$ 25,503.45
			<b>2006 Total:</b>	<b>\$ 9,738,471.58</b>		<b>\$ 119,843.52</b>
	<b>2007</b>					
	5038-06-3476		Hired Vacuum Excavation Services Complete with Operator	\$ 748,000.00	**Information Not Available	
	075C-313WS	117-2007	Cleaning and Cement Mortar Lining of Existing Watermains Wards 35/40	\$ 2,445,533.70	**Information Not Available	
4/11/07	07NY-01RD	107-2007	Bathurst Street Reconstruction and Widening	\$ 5,278,361.55	\$ 6,126,510.94	\$ 848,149.39
	07EY-05RD	83-2007	Caledonia Road Pavement Reconstruction, Waterman and Storm Sewer...	\$ 2,639,899.90	\$ 2,863,570.09	\$ 223,670.19
	075C-329WS	221-2007	Catholic Protection of Existing Watermains in Wards 34, 37-42, 44	\$ 1,178,669.00	\$ 1,276,399.00	\$ 97,730.00
			<b>2007 Total:</b>	<b>\$ 12,290,464.15</b>		<b>\$ 1,169,549.58</b>
5/29/08	6032-08-0187		Winter Maintenance, 2008-2015, Scarborough District Southwest Quadrant	\$ 12,801,292.44	\$ 13,504,870.75	\$ 703,578.31
6/11/08	08TE-75RD	134-2008	Jameson Avenue Reconstruction of Watermain, Pavement, Sidewalk, Street...	\$ 2,851,843.40	\$ 3,587,802.75	\$ 735,959.35
2/29/08	08EY-13WS	44-2008	Weston Road Watermain Replacement and Installation	\$ 1,699,010.78	\$ 2,032,161.29	\$ 333,150.51
5/15/08	08SC-316WS	107-2008	Catholic Protection of Existing Watermains in Toronto	\$ 891,905.70	\$ 1,040,001.90	\$ 148,096.20
8/12/08	08NY-06RD	152-2008	Bvg Avenue to Finch Avenue East Extension, Including Modifications...	\$ 4,284,439.31	\$ 4,961,021.63	\$ 676,582.32



2009		2010		2011		2012		2013	
5/08/09	09EY-11W5	110-2009	Scarlet: Road Under the Black Creek	\$ 398,792.10	\$ 22,528,491.63	\$ 468,860.70	\$ 2,597,366.69		
5/08/09	09EY-24RD	106-2009	Road and Watermain Replacement on Arrow Road and Emery Village	\$ 4,217,491.64		\$ 4,297,601.58	\$ 70,068.60		
6/03/09	09TE-24RD	116-2009	Reconstruction of Watermain, Water Services, Pavement... on Eglington...	\$ 820,164.98		\$ 821,449.00	\$ 80,109.94		
8/26/09	10FS-52WS	123-2009	BFP - General Services Contract #1 for Sewers and WM	\$ 23,394,946.05		\$ 26,535,931.20	\$ 1,284.02		
		6038-09-7069	Hired Vacuum Excavation Services with Operator on Demand	\$ 629,380.00		**Information Not Available	\$ 3,140,985.15		
		<b>2010 Total:</b>		<b>\$ 29,450,774.77</b>			<b>\$ 3,292,447.71</b>		
6/10/10	10FS-73WP	97-2010	BFP - General Services Contract #2 for Sewers and WM in Ward 14, 28, 29, & 30.*	\$ 2,291,424.87		\$ 3,152,166.32	\$ 870,741.45		
2/22/10	10FS-52WS	05-2010	Stand Alone Watermain Replacement Program General Services Contract	\$ 65,621,551.33		\$ 68,658,369.00	\$ 3,036,817.67		
3/31/10	10TE-105TU	43-2010	Permanent Repairs to Utility Cuts - Toronto and East York District	\$ 1,559,061.00		\$ 1,797,587.00	\$ 238,526.00		
3/31/10	10NY-05WP	65-2010	Sanitary Sewer Replacement on Leslie Street	\$ 194,741.40		\$ 234,654.00	\$ 39,912.60		
6/04/10		6033-10-7138	Load, Remove, Transport, Dispose Fill, Concrete, Asphalt from City Yards	\$ 5,592,370.00		**Information Not Available			
6/07/10	10SC-14RD	149-2010	Kennedy Road - New Concrete Sidewalk, Curb, Gutter	\$ 289,398.03		\$ 296,838.57	\$ 7,440.54		
7/07/10	10NY-12RD	189-2010	Road Reconstruction on Old Forest Hill Road and Avenal Drive	\$ 1,196,833.29		\$ 1,269,772.00	\$ 72,938.71		
8/27/10	10TE-19RD	258-2010	Full Depth Road Reconstruction on Eastwood Road	\$ 1,596,149.41		\$ 1,668,856.00	\$ 72,706.59		
8/27/10	10SC-12RD	237-2010	Kennedy Road - Road Improvements, Storm Drainage Improvements...	\$ 238,085.35		\$ 271,702.85	\$ 33,617.50		
9/01/10	10TE-21WS	262-2010	Construction of Watermain and Water Services	\$ 1,891,592.88		\$ 1,918,125.28	\$ 26,532.40		
11/26/10	10FS-63WP	326-2010	Coatsworth Cut Conveyance Controls - Kingston and Dundas Storage Tank	\$ 4,186,188.96		\$ 4,429,600.00	\$ 243,411.04		
		<b>2011 Total:</b>		<b>\$ 84,657,396.52</b>			<b>\$ 4,642,644.50</b>		
1/31/11	11TE-127TU	09-2011	Permanent Repairs to Utility Cuts - Toronto and East York District	\$ 1,934,362.25		\$ 1,993,278.78	\$ 58,916.53		
3/30/11	10EY-01RD	65-2011	Burnhamthorpe Road Storm and Sanitary Sewers, Watermain Upgrades	\$ 6,440,675.48		\$ 7,188,512.80	\$ 747,837.32		
4/15/11	11EY-05RD	90-2011	Road Resurfacing on Brampton Road and Montgomery Road	\$ 1,189,817.70		\$ 1,215,929.48	\$ 26,111.78		
5/05/11	N/A	89-2011	Civil Improvements at Traffic Control Devices	\$ 676,525.35		\$ 767,748.22	\$ 91,222.87		
5/13/11	11SC-05RD	105-2011	Daves Road Intersection Improvement at Victoria Park, Streetscaping...	\$ 698,167.77		\$ 733,050.61	\$ 34,882.84		
5/20/11	10EY-10RD	120-2011	Reconstruction of Royal York Road, Including Sewers, Watermain, Servicing...	\$ 3,198,549.19		\$ 3,370,616.50	\$ 172,067.31		
5/06/11	11NY-07RD	132-2011	Watermain and Road Resurfacing on Finch from Yonge to Bayview	\$ 2,596,962.61		\$ 4,135,778.50	\$ 1,538,819.89		
6/07/11	11NY-01RD	142-2011	Beecroft Road Streetscaping, Watermain, Sanitary & Storm Sewers Install	\$ 5,796,759.65		\$ 5,890,271.90	\$ 93,512.25		
		<b>2012 Total:</b>		<b>\$ 22,531,820.00</b>			<b>\$ 2,763,366.79</b>		
3/21/12	10EY-12RD	56-2012	Lanry Road & Sidewalk Reconstruction	\$ 4,599,033.00		\$ 4,934,348.00	\$ 341,315.00		
4/05/12	12SC-14WS	57-2012	Kirkhams Road Utility Replacement & Road Reconstruction	\$ 4,348,995.00		\$ 4,486,100.00	\$ 137,105.00		
4/12/12	12EY-01RD	84-2012	Burnhamthorpe Road Pavement Reconstruction	\$ 2,846,015.00		\$ 2,993,024.00	\$ 147,009.00		
5/28/12	12SC-11RD	114-2012	Toronto New Sidewalk Installation	\$ 729,746.00		\$ 761,546.00	\$ 31,800.00		
6/07/12	12NY-10RD	144-2012	Toronto North York District Sidewalk Reconstruction	\$ 238,995.00		\$ 297,964.00	\$ 58,969.00		
6/13/12	12SC-10RD	98-2012	Toronto Road & Laneway Reconstruction	\$ 1,148,222.00		\$ 1,247,156.00	\$ 98,934.00		
7/04/12	SC018-2012	3907-12-7101	1659 Victoria Park Avenue Underground Work	\$ 25,086.00		\$ 53,957.50	\$ 28,871.50		
7/31/12	12SC-316WS	178-2012	New Residential Water & Sewer Connections - Scarborough District	\$ 960,579.10		\$ 1,080,585.00	\$ 120,005.90		
8/01/12	NV030-2012	3907-12-7101	1911 Finch Avenue Underground Work	\$ 53,410.58		\$ 61,638.11	\$ 8,227.53		
8/03/12	12NY-03RD	170-2012	Allen & Lawrence Ave Intersection Modifications	\$ 1,479,006.00		\$ 1,541,028.00	\$ 62,022.00		
8/08/12	12FS-14WP	141-2012	BFP - Sewer & Watermain Improvements on Pleasant View Dr, Brian Dr...	\$ 16,688,231.00		\$ 18,181,798.00	\$ 1,493,567.00		
9/07/12	12TE-126TU	204-2012	Greektown Permanent Repairs to Utility Cuts	\$ 1,128,169.00		\$ 1,233,296.00	\$ 105,127.00		
11/21/12	EY055-2012	3907-12-7101	30 Weston Road Phase 2 Underground Work	\$ 488,150.50		\$ 559,350.00	\$ 61,189.50		
11/23/12	12FS-22WP	230-2012	BFP - Sewer and Watermain Improvements on Seaciff Blvd, Finch Ave...	\$ 19,293,296.82		\$ 20,320,013.78	\$ 1,026,716.96		
12/04/12	13SC-304WS	257-2012	Scarborough District Water & Sewer Connection Repairs	\$ 2,735,492.00		\$ 3,587,750.00	\$ 852,258.00		
		<b>2013 Total:</b>		<b>\$56,766,437.00</b>			<b>\$ 4,573,117.39</b>		

2/20/13	EY002-2013	3907-12-7101	115 Black Cree Drive Underground Work		582,864.03	\$ 125,995.00	\$ 43,330.97
3/18/13	13EY-104TU	65-2013	Permanent Repairs of Utility Cuts - Wards 13 & 17		\$ 1,691,691.43	\$ 1,748,754.10	\$ 57,062.57
6/26/13	TE068-2013	3907-12-7101	1 Hanson Street Underground Work		\$ 95,534.72	\$ 119,215.00	\$ 23,680.28
9/18/13	NV2007-2013	3907-12-7101	Water and Sewer Disconnects		\$ 548,879.42	\$ 562,767.12	\$ 13,887.70
12/09/13	13TE5C-330WS	330-2013	Repl of curb boxes & stops by vacuum excav, East York & Scarborough		\$ 1,217,857.00	\$ 1,596,972.00	\$ 379,115.00
12/09/13	13EYNY-329WS	331-2013	Repl of curb boxes & stops by vacuum excav, Etobicoke & North York		\$ 1,630,138.00	\$ 2,060,555.00	\$ 430,417.00
12/11/13	NY047-2013	3907-12-7101	88 Sheppard Avenue East Watermain and Sewer Relay		\$ 188,281.73	\$ 198,484.50	\$ 10,202.77
12/11/13	TE129-2013	3907-12-7101	55 Howie Underground Work		\$ 41,814.52	\$ 48,025.00	\$ 6,210.48
12/18/13	13FS-36WP	319-2013	BPPP - Sewer Improvements on Sunnycrest Road Easement***		\$ 1,097,865.00	\$ 1,344,920.00	\$ 247,055.00
12/20/13	TE127-2013	3907-12-7101	1675 Lake Shore Boulevard East Waterworks Work		\$ 214,761.02	\$ 241,368.50	\$ 26,607.48
12/01/13	6038842		2013 Ice Storm Tree Cleanup - Tree Removal/Heavy Equipment Services		\$ 475,000.00	**Information Not Available	
		<b>2014</b>	<b>2013 Total:</b>		<b>\$ 7,284,686.87</b>		<b>\$ 1,237,369.35</b>
1/08/14	14SC-120TE	334-2013	Toronto Scarborough District Emergency Repairs		\$ 209,247.00	\$ 242,931.00	\$ 33,684.00
1/28/14	MCPL3-12WP	165-2013	Toronto Valleywide Sewage Pumping Station & New Twin Forcemain***		\$ 3,787,736.00	\$ 3,842,501.00	\$ 54,765.00
2/21/14	14EY-100TU	37-2014	Permanent Repairs to Utility Cuts, Wards 1, 2 & 7, Etobicoke		\$ 1,098,374.00	\$ 1,127,793.00	\$ 29,419.00
3/14/14	14TE-126TR	71-2014	Queen Street West Accessibility Ramps Sidewalk & Road Repairs		\$ 2,597,279.00	\$ 2,705,163.00	\$ 107,884.00
4/16/14	TE030-2014	3907-12-7101	616 Yonge Street Underground Work		\$ 17,357.93	\$ 18,475.50	\$ 1,117.57
4/16/14	SC013-2014	3907-12-7101	6039 Kingston Road Underground Work		\$ 90,772.90	\$ 93,281.50	\$ 2,508.60
4/03/14	14FS-06WP	70-2014	BPPP - Sewer Improvements & Watermain Relocation on Camwright Avenue***		\$ 7,893,303.00	\$ 7,977,437.00	\$ 83,934.00
			<b>2014 Total:</b>		<b>\$ 15,694,269.83</b>		<b>\$ 313,312.17</b>
			<b>Total Value of Work for Toronto</b>		<b>\$ 277,337,325.81</b>	<b>2012-2014 SAVINGS:</b>	<b>\$ 20,709,017.70</b>

**AMOUNT TRISAN SAVED THE CITY OF TORONTO TO DATE ON PROJECTS: \$ 20,709,017.70**

**Notes:**

\* Number based on GSC2 results, and actual work completed. Actual tender results were 1. Trisan: \$92,341,759.53 2. Drainstar: \$127,841,820.50 3. North Rock: \$130,993,019.60

\*\* Information not available due to age or circumstances where information would skew results and inaccurate information will be provided.

\*\*\* Denotes projects Trisan is currently low bidder, but no awards have yet been made. If Trisan is not awarded, the City must pay the difference amount to award next bidder.



**CITY OF TORONTO CONTRACTOR PERFORMANCE EVALUATION PROCESS AND TRISAN CONSTRUCTION'S PAST & CURRENT CONTRACTOR PERFORMANCE EVALUATIONS**

**Introduction**

The City of Toronto has adopted a Contractor Performance Evaluation Form. The Contractor Performance Evaluation Form is to be done formally alongside the contractor as per the Contractor Performance Evaluation Procedure. Furthermore the Contractor Performance Evaluation Form is to be signed by the contractor. Trisan Construction has never seen, been a part of, or signed any Contractor Performance Evaluation Form for the two Basement Protection Flooding Projects which the City of Toronto is accusing Trisan Construction of performing poorly on.

The Contractor Performance Evaluation is supposed to be completed as many times as necessary throughout a project depending on the current performance of the contractor. Since the City of Toronto staff thought Trisan was performing so poorly on two of the Basement Flooding Protection projects then a Contractor Performance Evaluation should have been completed regularly. A perfect example for a time and place to formally conduct a Contractor Performance Evaluation regularly would be at the bi-weekly site meetings that takes place on both projects.

Trisan Construction does have Contractor Performance Evaluation Forms completed for the years 2012, 2013, and 2014 when the two Basement Flooding Projects were taking place but the completed Contractor Performance Evaluation Forms were not for the two projects where Trisan is being accused of performing poorly but rather for many other projects and City Toronto Divisions where Trisan performed as well as possible which the completed Contractor Performance Evaluation Forms will establish

**Background**

**2006 Contractor Performance Evaluation Policy**

City Council adopted "Contractors, Consultants and Supplier Performance Evaluations" as part of Administration Committee Report 6 on September 25, 26, and 27, 2006. The link <http://www.toronto.ca/legdocs/2006/minutes/council/cc060925.pdf> will bring up the minutes where this was adopted. Administration Committee Report 6 contains the "Contractors, Consultants and Supplier Performance Evaluation"

One of the main purposes of the Contractor Performance Evaluation Form as mentioned in Administration Committee Report 6, Clause 11 on Page 3 is that, "A formal and robust consultant/contractor/supplier performance evaluation system is considered to be a contract management best practice. It can serve a number of purposes: Document issues for discussion with the contractor and consultant to facilitate two way communication".

The Administration Committee Report 6, Clause 11 on Page 4 states, "The performance evaluation should be available to the consultant, contractor or supplier as the work progresses to afford them the opportunity to take corrective action".



Page 4 also states, "The Procurement Processes Policy includes provision regarding vendor performance. This provision states that the City shall maintain records of vendor performance on all contracts...staff have not used this policy to award to other than the lowest bidder because performance evaluations are not always completed for each contract and those that are have typically not included the information required to withstand a legal challenge".

The Administration Committee Report 6, Clause 11 on Page 8 the City of Toronto approached two construction associations, TARBA and GTSWCA, to receive feedback regarding contractor evaluations and it is recorded as, "These organizations stated that they believed that contractors performance could not be done in an objective manner."

### **2013 Contractor Performance Evaluation Policy**

The link <http://www.toronto.ca/legdocs/mmis/2013/pw/bgrd/backgroundfile-62265.pdf> is referenced to City of Toronto's "Contractor Performance Evaluation Procedure" ("CPE").

City of Toronto staff is stating in their "Temporary Suspension of Trisan Construction" recommendation to Council that they are using this CPE as part of the suspension and by-pass of low award criteria of Trisan Construction.

On Page 1 of "Contractor Performance Evaluation Procedure" it states, "As part of The CPE Procedure, the CPE Form is designed to summarize a contractor's performance by the City's project manager, to encourage the contractor to improve its performance." Page 2 also states, "The report also identified that consistent evaluations conducted across all Divisions would assist the City in dealing with poor performing contractors".

"Project managers are responsible for completing the CPE Form in consultation with the site supervisor and/or Contract Administrator. All criteria must be evaluated or marked N/A. The project manager must submit completed interim CPE Forms to their manager for approval and completed final CPE Forms to their Director for approval. The project managers will review the performance of the contract with the contractor at progress review meetings and shall ensure this item is on the agenda. Any concerns or issues raised by the contractor should be recorded by City staff or its Contract Administrator. City staff may amend the CPE Form. If the contractor has further concerns with the evaluation, the contractor may utilize the dispute resolution mechanism in the contact, with necessary modifications". All this is stated on Page 4 of "Contractor Performance Evaluation Procedure".

Also on Page 4 it is stated, "The number of CPE Forms to be completed by the project manager is dependent on the complexity and duration of the project. Project managers are expected to adhere to the guidelines below when determining the number of CPE's to conduct for interim and final evaluations: A final evaluation at the end of the project; one mandatory interim evaluation per year, with the option to conduct up to three interim evaluations per year".

The "Contractor Performance Evaluation Procedure" even mentions on Page 6, "the scope of projects included in the suspension..." which identifies that a suspension does not have to include every future City project.

During two meetings between City of Toronto staff and various construction associations the City of Toronto confirmed on Page 7 that, "Staff made it clear to the industry/association that the intention of



the CPE Procedure was not to suspend contractors but instead to ensure that contracts were performed properly".

#### **Contractor Performance Evaluation User Instructions**

Under User Instructions, which is attached to a Contractor Performance Evaluation Form it states under question one, "Performance evaluation is a formal communication tool between the City and a contractor to manage the performance of contractor on a construction contract. It provides a proactive means of dialogue and indentifying areas where performance improvements are required".

Question 2 mentions, "The purpose of the form is to provide a standard way of recording evaluation data. It can also be used as a guide for discussion with contractors on performance issues. "Contractor performance evaluation should be performed on all construction contracts regardless of contract value" is cited in Question 3.

#### **Summary**

The only Contractor Performance Evaluations by the City of Toronto that have been completed properly as per "Contractor Performance Evaluation Procedure" and/or "Contractors, Consultants and Supplier Performance Evaluations" Trisan Construction has performed satisfactorily for any project since Trisan's beginning of 2001. What is ironic is that Trisan has received Contractor Performance Evaluation Forms from all City of Toronto from all other Divisions except the Basement Flooding Protection Division which is the division where the poor performance is related too.

The entire purpose of the Contractor Performance Evaluation is to rate the contractor on performance so that the contractor knows if they are performing well or not. The evaluation is performed with the contractor so that the contractor can improve on their performance and also defend any uncharacteristic low scores that might be presented by the City. The Contractor Performance Evaluation is supposed to be completed in an objective manner which is impossible if it is not done together with the City staff and Contractor staff.

This is Trisan Construction's first knowledge of any poor performance evaluation that Trisan Construction has ever received over Trisan Construction's entire career working on projects with the City of Toronto since 2001. Trisan Construction has not even done a Contractor Performance Evaluation with the City Staff that are managing the Basement Flooding Projects which are the projects that are in review with respect to Trisan Construction's poor performance.

The real question is how can a contractor be suspended based on poor performance when no, whether new or old, Contractor Performance Evaluation was performed with the contractor on any of the poor performance projects in question; especially when there are only satisfactory Contractor Performance Evaluation Forms completed by other divisions that Trisan Construction has completed work with during the same years that the questionable poor performance projects with Basement Flooding Protection Division have taken place?