

SERVICE PROVIDER PERFORMANCE EVALUATION PROGRAM

I. POLICY

On September 27, 2011, the African American Chamber of Commerce of Greater Milwaukee (AACC), representing its members, executed a Memorandum of Understanding (MOU) with the Milwaukee Inner City Congregations Allied for Hope (MICAHA), acting on behalf of its member churches and their congregants. Together, the AACC and MICAHA, through an assumed moral responsibility and relationship with various governmental entities, corporate and private citizens of the Great State of Wisconsin, agreed through their MOU to ensure to the best of their ability, that all church, private resident, commercial and public works improvement projects that are ultimately awarded to AACC members through an agreed upon quality assurance and referral process are completed by entities which are "Certified Professional Grade[®]" (CPG) Service Providers or Contractors. Such firms agree to perform in accordance and in compliance with both the spirit and written elements of their contract documents, applicable federal, state and local laws, and regulations. Moreover, all Contractors certified under the CPG Program shall be Good Corporate Citizens. The Project Owner – a MICAHA church or church member, non-MICAHA church, resident, contractor, governmental entity or developer, reaching out to the AACC to reach CPG Service Providers, shall act in Good Faith and pay for all services rendered in accordance with the terms of their signed contracts, for work completed in a professional manner -- as recognized by general industry practices -- and in accordance with the terms and signed contract agreement.

IMPORTANT NOTE: It shall be the responsibility of the Project Owner and Service Provider to perform their own due diligence to insure themselves, as neither the AACC nor MICAHA is responsible for guarantying the work of the Contractor nor payment by the Owner.

To assist the Project Owner in evaluating a Contractor's responsibility, as well as its performance on contracts with other Owners, the SERVICE PROVIDER PERFORMANCE EVALUATION PROGRAM has been developed. The implementation of a mandatory, standardized system of evaluating Contractors' performance is expected to yield consistency, objectivity, fairness, and accountability.

This program policy is subject to change in order to build the best program possible. It is anticipated that change will become less frequent as the program matures. Those who agree to participate must accept all changes within 30 days after their initiation to remain in the CPG[®] Service Provider Program.

II. PURPOSE

The purpose of the Service Performance Evaluation Program is to better ensure that Service Providers (Contractors) considered for contract award on churches, residential, commercial property or public works projects either possess, or will likely possess at the time contract performance is set to begin, all qualifications necessary to successfully complete the project on time. Among other things, the Program is intended to:

- A. Assist the Owner in exercising its discretion to determine a Contractor's qualifications and abilities to successfully perform a particular contract.
- B. Provide the Owner with a rational basis for determining that a Contractor is or is not responsible.
- C. Provide Contractors with a means of enhancing their qualifications and reputation by receiving recognition for high standards of performance.
- D. Encourage better working relationships between Project Owners and Contractors.
- E. Provide official, verifiable references for Contractors which may be under consideration for award of, or approval on, contracts to be awarded by other Project Owners.
- F. Provide a history and an assessment of a Contractor's performance on prior contracts of various Owners for use in suspension or debarment proceedings.

The Service Provider Performance Evaluation Program is not intended to determine whether a Contractor has breached a contract with any Project Owner, or to determine the acceptability of any particular noncompliance with Contract requirements.

III. PERFORMANCE CATEGORY EVALUATION GUIDE

The Performance Category Evaluation Guide establishes criteria to be used in evaluating the Contractor's performance in connection with each Performance Category, and describes five Performance Levels, which range in ascending order of merit from "Inadequate" to "Superior,"

The "Standard" Performance Level is considered a baseline; it characterizes the level of acceptable performance normally associated with a reasonably prudent, diligent, and skilled Contractor working on projects of the same general type and size. Both the "Good" and "Superior" Levels characterize performance levels that exceed the baseline; they respectively connote consistent and substantial positive contributions to the overall project. Both the "Deficient" and "Inadequate" Levels characterize levels of performance that fall below the baseline, and respectively connote substantial and serious detriment to the overall project. The "No Evaluation" Level is to be used only where the Contractor had no direct or indirect responsibility for performance or the reviewer is unable to evaluate certain aspects of the Contractor's performance for whatever reason.

The five Performance Levels are more specifically described below, and the criteria set forth for each shall be applied in evaluating the Contractor's performance in connection with each of the Performance Categories listed in Section III of the SERVICE PROVIDER PERFORMANCE EVALUATION Report:

A. Superior. To merit an evaluation of "Superior" in any Performance Category, the Contractor must have consistently demonstrated:

- (1) Command or virtual mastery of the Contract Documents related to that Performance Category;
- (2) Performance of the work or activity being evaluated under that Performance Category that always exceeded or surpassed the material requirements of the Contract;
- (3) A highly cooperative attitude in dealing with Owner's employees, consultants, and the public in connection with that Performance Category, which attitude made a substantial, positive contribution to the Project; and
- (4) Initiative in carrying out its duties in connection with that Performance Category in a responsive, thorough, and timely manner without prompting by the Owner's Representative.

If the Contractor fails to satisfy any one of the Performance Level criteria set out above, then its performance will be re-evaluated under the "Good" Level by applying the criteria for that Level.

B. Good. To merit an evaluation of "Good" in any Performance Category, the Contractor must have demonstrated:

- (1) Thorough knowledge of Contract Documents related to that Performance Category;
- (2) Performance of the work or activity being evaluated under that Performance Category that always met, and often exceeded, the material requirements of the Contract;
- (3) A cooperative attitude in dealing with Owner's employees, consultants, and the public in connection with that Performance Category, which attitude made a positive contribution to the project; and
- (4) Initiative in carrying out its duties in connection with that Performance Category in a responsive, thorough, and timely manner with only minimal prompting by the Owner's Representative.

If the Contractor fails to satisfy any one of the Performance Level criteria set out above, then its performance will be re-evaluated under the "Standard" Level by applying the criteria for that Level.

C. Standard. To merit an evaluation of "Standard" in any Performance Category, the Contractor must have demonstrated:

- (1) Acceptable knowledge of the Contract Documents related to that Performance Category;
- (2) Performance of the work or activity being evaluated under that Performance Category that met all material Contract requirements;

- (3) A generally cooperative attitude toward Owner's employees, consultants, and the public in connection with that Performance Category; and
- (4) Initiative in carrying out its duties in connection with that Performance Category in a responsive, thorough, and timely manner with only moderate prompting by the Owner's Representative.

If the Contractor fails to satisfy any one of the Performance Level criteria set out above, then its performance will be re-evaluated under the "Deficient" and "Inadequate" Levels by applying the criteria for those Levels.

- D. Deficient. To merit an evaluation of "Deficient" in any Performance Category, the Contractor must have demonstrated:

- (1) Marginal knowledge of the Contract Documents related to that Performance Category;
- (2) Performance of the work or activity being evaluated under that Performance Category that did not always meet the material Contract requirements, and such failures were not excusable as the sole fault and responsibility of one or more other parties;
- (3) An occasionally uncooperative attitude toward Owner's employees, consultants, or the public in connection with that Performance Category; or
- (4) Performance of its duties in connection with that Performance Category in a moderately unresponsive, inattentive, or dilatory manner, or after frequent or repeated prompting by the Owner's Representative.

- E. Inadequate. To merit an evaluation of "Inadequate" in any Performance Category, the Contractor must have either: (a) failed to satisfy the criteria listed for the Performance Levels of "Superior", "Good", "Standard", and "Deficient" set out above and did not qualify for treatment under Section III.F below; or (b) must have demonstrated:

- (1) Inadequate knowledge of the Contract Documents related to that Performance Category;
- (2) Performance of the work or activity being evaluated under that Performance Category which seldom met the material Contract requirements, and such failures were not excusable as the sole fault and responsibility of one or more other parties;
- (3) A seriously uncooperative attitude toward Owner's employees, consultants, or the public in connection with that Performance Category; or
- (4) Performance of its duties in connection with that Performance Category in a seriously unresponsive, inattentive, or dilatory manner, or only after frequent prompting by Owner's Representative.

- F. No Evaluation. This rating should only be used in those circumstances where the Contractor had no contractual responsibility, either directly or through its subcontractors, suppliers, or material men, for performance related to that Performance Category or if the Evaluator does not have sufficient knowledge of the Contractor's performance in a particular category.

IV. OVERALL EVALUATION GUIDE

The Contractor's Overall Evaluation can be determined by placing the Overall Percentage Score calculated on the SERVICE PROVIDER PERFORMANCE EVALUATION Report within the numerical ranges of the following narrative ratings in the Overall Evaluation Guide:

- A. SUPERIOR (Overall Percentage Score of 90% or above)

The Contractor exceeded the Contract requirements and expectations in most or all of the areas evaluated. The Contractor was extremely or completely knowledgeable regarding Contract requirements and applicable laws and regulations. A consistently high level of cooperation, project management, and job site control appreciably contributed to an unusually good result. The Contractor is commended for excellent performance.

B. GOOD (Overall Percentage Score of 70% to 89%)

The Contractor met Contract requirements evaluated, and exceeded them in some areas. The Contractor was generally cooperative, and performed its work with a minimum of prompting. The results of the performance were very good.

C. STANDARD (Overall Percentage Score of 50% to 69%)

The Contractor generally satisfied the minimum requirements of the Contract as evaluated. The Contractor occasionally had to be prompted or reminded of Contract requirements, but overall management of the Project was good, producing a good result.

D. DEFICIENT (Overall Percentage Score of 30% to 49%)

Even though the Project may have been accepted, the Contractor's performance as evaluated was marginal overall. While the Contractor performed some tasks satisfactorily, most elements evaluated reflected a less than satisfactory response to Contract requirements.

E. INADEQUATE (Overall Percentage Score of 29% or below)

The Contractor's performance as evaluated did not meet minimum Contract requirements, or so otherwise detracted from the Project as to seriously call it into jeopardy. While the Project may have been accepted by the Owner, the effort expended by the Owner's Representative in prompting the Contractor to perform was excessive. The Contractor's poor or uncooperative performance created serious unnecessary or avoidable difficulties in achieving contract completion.

A Contractor's Overall Evaluation, being based upon an averaged rate on a discrete number of Performance Categories, should not be read or interpreted as a measure of whether the Contractor did or did not breach the contract in question. The Evaluation shall not be used in any litigation proceedings.

V. **PERFORMANCE EVALUATION REPORTS**

Each SERVICE PROVIDER PERFORMANCE EVALUATION Report shall be prepared by the Project Owner (Church Trustee, Church Administrator familiar with the Project or Pastor; Home owner; Developer; or Project Engineer familiar with the Project in the case of a governmental or private industrial or commercial client). The Service Provider can ask that the Owner take the time to perform an evaluation, but must not be present when the evaluation is being performed and cannot complete or direct anyone under their influence to assist or complete the Evaluation for the Project Owner. The Project owner may be asked to provide one or more narratives which describe the Contractor's performance.

Every SERVICE PROVIDER PERFORMANCE EVALUATION Report containing Performance Level evaluations of "Deficient" or "Inadequate", and all Overall Evaluations on projects the total cost of which is \$2,500 or more, shall contain one or more narratives which provide details substantiating the evaluations. Narratives may be provided for other Performance Categories as the evaluator deems necessary.

Narratives provided with a SERVICE PROVIDER PERFORMANCE EVALUATION Report on non-residential and church projects shall be based upon documentation prepared during the life of the project, e.g., project diaries, inspectors' reports, and other pertinent documents. Such documentation shall constitute a major portion of the administrative record to be used for any review, or appeal that may arise from the evaluation process.

Every SERVICE PROVIDER PERFORMANCE EVALUATION Report shall be signed by the Owner or the Owner's Representative before a copy of the Report shall be transmitted to the Contractor. The Report shall not be considered final until such time as the review/appeal periods described in Section VI herein have been completed.

Generally, only one Contractor Performance Evaluation Report shall be issued, following completion of the contract Work. However, in addition to a final Report, one or more interim Reports may be issued at the discretion of the Owner when:

- A contract is of long duration, particularly those in excess of two months.
- An individual charged with primary responsibility for administration of the Contract will cease his or her involvement with the Project prior to completion of the Work.
- Contractor's performance at 50% completion is deficient or inadequate.

Interim SERVICE PROVIDER PERFORMANCE EVALUATION Reports shall be considered and designated preliminary, but shall be processed administratively in the same manner as a Final Report. A Contractor may request review of an Interim Report from the AACC CPG Service Provider Office and appeal to the AACC CPG Service Provider **Platinum Contractor Board** Chair or his/her designee pursuant to the provisions of Section VI below. All Interim Reports shall be attached to, and considered when preparing, the Final Report.

If a SERVICE PROVIDER PERFORMANCE EVALUATION Report is an Interim Report, the Report should indicate on its face that it is Interim, and shall contain the following language:

This Performance Evaluation Report is not the final report on this Contractor on this Project. The Contractor may dispute the Report or any part thereof, and need not seek review or appeal until completion and acceptance of the Project.

VI. NOTICE, REVIEW, AND APPEAL

- Notice.** Contractors shall be mailed or emailed a copy of their SERVICE PROVIDER PERFORMANCE EVALUATION Report within a reasonable time after completion of the Report. The Owner will be advised to mail the Evaluation to the AACC within 3 business days of the completion of the work, or within 48 hours of any recognized "Deficiency" or "Inadequacy" of work by the Contractor. A Contractor which is given an Overall Evaluation of "Deficient" or "Inadequate" in connection with a project shall also be provided with a copy of the Contractor Performance Evaluation Report via certified mail (return receipt requested). The Contractor will be given a Corrective Action Plan Survey to complete along with a Corrective Action Evaluation form to give to the Project Owner.
- Correction.** A Contractor notified of a "Deficient" or "Inadequate" rating will have two full business days following receipt of notice to contact the Project Owner and make arrangements to correct any deficiencies in its work – when not an emergency. In the case of an emergency, faster action will be warranted and expected. The Contractor will notify the AACC when contact is made and describe what arrangements have been made to correct the deficiency or inadequacy, within three (3) business days of receiving notice of the deficiency. In the case of a customer emergency or imminent danger, three days may not be prudent. The Service Provider will be required to use its best judgment to determine what is prudent, given the level and extent of Owner's emergency. The Service Provider may be judged on its ability to discern the level of Emergency present.
- Re-Evaluation.** A Contractor may be re-evaluated by the Owner, based upon its handling of a "Deficient" or "Inadequate" original rating; however, such re-evaluation will be at the discretion of the Project Owner.
- Review.** A Contractor which disputes, or is otherwise dissatisfied with, its SERVICE PROVIDER PERFORMANCE EVALUATION Report may request review of the Report by the CPG Service Provider Platinum Contractor Board. The request must be submitted in writing within thirty (30) calendar days of receipt by the Contractor of the Final SERVICE PROVIDER PERFORMANCE EVALUATION Report. The request must also state, with specificity, all bases for the requested review.

The CPG Service Provider Platinum Director Board, upon receipt of a proper and timely request, shall review the Contractor Performance Evaluation Report and any documentation submitted by the Contractor with its request. The applicable project Director shall, on the basis of his or her review, issue findings which may affirm, correct, or modify all or any part of the Report. A copy of the findings shall be mailed to the Contractor via certified mail, return receipt requested.

- E. Appeal. Within ten (10) calendar days of receipt by the Contractor of the applicable project Director's findings on review, the Contractor may appeal therefrom to the AACC Board of Directors or its designee. Any such appeal shall be in writing, and shall state with specificity the bases or grounds for the appeal.

The First Vice Chair of the AACC BOD or his/her designee shall review and consider the objectivity, accuracy, completeness, and fairness of the SERVICE PROVIDER PERFORMANCE EVALUATION Report, together with the applicable project Director's findings, owner and contractor notes, engineers' diaries – if applicable, job records and other documentation, including such documentation as the Contractor may provide with the appeal.

Upon hearing and review of the applicable project Director's findings, the AACC First Vice Chair or his/her designee shall issue a determination and findings which may affirm or modify the Contractor's Contractor Performance Evaluation Report and/or may require the Contractor to participate in training before begin re-admitted to the CPG program or any number of other measures to assist the Contractor to better perform and to maintain the integrity of the Program. The AACC First Vice Chair or his/her designee shall notify the Contractor of his/her determination and findings by certified mail (return receipt requested).

VII. NOT RESPONSIBLE DETERMINATION FOR WORK ON SPECIFIC PROJECT

The AACC First Vice Chair or his/her designee may determine, from SERVICE PROVIDER PERFORMANCE EVALUATION Reports and other public documents relating to the project in question, that a Contractor which has received one or more Overall Evaluations of "Deficient" or "Inadequate" is not a responsible bidder and not able to successfully perform a specific project for which the Contractor seeks referrals, and is therefore ineligible to receive referrals through the Certified Professional Grade Service Provider Program.

When, on that basis, the AACC First Vice Chair believes that the Contractor is not a responsible bidder and not able to successfully perform a project, the AACC shall notify the Contractor in writing of its determination that the firm's name will no longer be recommended for such work for a given period of time (suspension period). The Contractor may appeal the determination within the time period specified by the first Vice Chair. The Certified Professional Grade Service Provider Platinum Board of Contractors shall consider the additional information before issuing its final determination. In evaluating the additional information, the AACC may or may not meet with the Contractor to hear additional information. If the final determination affirms that the Contractor is not responsible, the First Vice Chair will order the Contractor's name be removed from further referral consideration within two business days after the Contractor has been notified of the final determination.

After the suspension period, the contractor may re-apply for the CPG® Service Provider program, to perform the work that caused the suspension. If the project is not accepting new applicants, the contractor will not be allowed to return to the program until an opening exists.

VIII. DEBARMENT OF CONTRACTOR

The AACC First Vice Chair or his/her designee, after conducting a hearing with the Contractor and evaluating the evidence, may debar a Contractor from all referrals for a period of up to two years if a Contractor has received overall evaluations of its performance of "Deficient" or "Inadequate" on three or more projects physically completed during the preceding five (5) year period, that have not been successfully corrected or resolved.

IX. RELEASE OF INFORMATION

SERVICE PROVIDER PERFORMANCE EVALUATION Reports are not typically public documents and therefore are not typically subject to disclosure to governments and to the public. If government funds are used to manage the CPG Service Provider program, the records may become subject to Open Records requests. Because the Reports and the Overall Evaluations they contain may be used as a basis for contract award and may reflect upon the Contractor's reputation, care must be taken to ensure that only accurate, complete, and current information is released. If Release of Records is required by law:

- A. Final Reports. SERVICE PROVIDER PERFORMANCE EVALUATION Reports may generally only be released when:
 - (1) The Report becomes final as set forth in Section V herein; or
 - (2) A court has ordered release of the Report.

- B. Interim Reports. Interim SERVICE PROVIDER PERFORMANCE EVALUATION Reports may generally only be released when:
 - (1) The Contractor has consented in writing to the release; or
 - (2) The Contractor has requested and received final administrative review of an Interim Report; or
 - (3) A court has ordered release of the Report.

- C. Termination for Cause and Pending Litigation. In the event that the Contract is terminated by an Owner for cause, this fact shall be noted on the Contractor's SERVICE PROVIDER PERFORMANCE EVALUATION Report. In the event that a Contractor commences suit against the Owner, that Contractor's Performance Evaluation Report shall not be released without approval from the AACC Board of Directors.

X. INSTRUCTIONS FOR COMPLETING EVALUATION FORMS

The Project Owner shall complete Sections I (Contractor Data) and II (Project Data), and then evaluate the Contractor's performance in each of the Performance Categories listed in Section III (Performance Data) of the SERVICE PROVIDER PERFORMANCE EVALUATION Report, and shall assign points for each category based on the Performance Level applicable for the Contractor's performance.

The descriptions provided on the SERVICE PROVIDER PERFORMANCE EVALUATION Report form for each Performance Category will not necessarily match precisely with the Contractor's actual performance of the task(s) on a given portion of the project.

The Owner should consider the general character of the Contractor's performance for each Performance Category evaluated and select the Performance Level that most closely matches the actual performance.

If the Contractor was not responsible for any performance in connection with a given Performance Category, or the Evaluator has insufficient knowledge to respond to a particular category, then the Contractor's evaluation in that Category should be "No Evaluation," and no points should be assigned.

When rating a Contractor, the Owner should consider all the work performed by the Contractor as well as work performed by all subcontractors, since the Contractor is contractually responsible to the Owner for all of the work under the Contract, whether or not the Contractor actually performs the work. Interim Reports, if issued, shall be attached to the Final Report.

Comments are always encouraged, and may be written on the Contractor Performance Evaluation Report or on an attachment to the Report.

However, for each Performance Category evaluated as "Deficient" or "Inadequate," the Owner must prepare a written narrative substantiating the facts and circumstances giving rise to the evaluation.

After evaluating the Contractor on Performance Categories listed in Section III of the Contractor Performance Evaluation Report, the Owner shall mail the form to the AACC Office*, where the sum of all points assigned will be divided into the total points possible (excluding those Performance Categories evaluated as "No Evaluation"). The evaluator will enter the resulting Overall Percentage Score on the Report, and will enter the appropriate Overall Evaluation on the basis of the following ranges:

- Superior Overall percentage score of 90% or above
- Good Overall percentage score of 70% to 89%
- Standard Overall percentage score of 50% to 69%
- Deficient Overall percentage score of 30% to 49%
- Inadequate Overall percentage score of 29% or below

*The Owner is asked to sign the Report and forward for submission to the AACC CPG Service provider office. The AACC Administrative staff then forwards signed copies of the completed Report to the Contractor.

DEFINITIONS

Good Corporate Citizen – A member in good standing with both the African American Chamber of Commerce of Greater Milwaukee and the CPG® Serviced Provider program that maintains a production workforce that is at a minimum 30% minorities and/or women (for all production hours); or if located outside of the City of Milwaukee geographic boundaries, deploys minorities and women in the production workforce, on CPG® referred projects at a minimum of 40% of the production hours – for all projects within the boundaries of the City of Milwaukee and at least 20% at all other times. Businesses seeking to be a Good Corporate Citizen must agree to up to three full payroll or project audits per year, if a complaint is received from the Project Owner or another CPG® Service Provider. Neither the CPG® program, nor the AACC, is obligated to divulge who issued a complaint; however, the AACC will attempt to keep to a minimum or quickly dispose of complaints simply based upon competitive positioning or bickering.

Platinum Service Provider (PSP)– A CPG® Service Provider that has received at least three referrals in the last year with an average customer rating of 80% or better.

Platinum Service Provider Board – All Platinum Service Providers (PSP) will receive special recognition, but will also be allowed to select via voting, a group of up to 11 service providers that will make decisions related to program violations, make recommendations on Service Provider training requirements, probation, probationary periods, program suspensions and debarments. Until the PSP Board is put in place (estimated Fall of 2012), the AACC Board of Directors shall appoint 3 Chamber members and 2 MICAH members to serve in this capacity.