



Government-Wide Integrity Regime

Information Bulletin:

Process for addressing non-compliance with the Integrity Regime during a contract or real property agreement

Effective date

This information bulletin is effective December 7, 2016.

Context

The [*Ineligibility and Suspension Policy*](#) enables Public Works and Government Services Canada (PWGSC) to issue information bulletins associated with the policy to provide greater clarity for informational purposes only.

Suppliers who become ineligible during the performance of a contract or real property agreement

Pursuant to the *Ineligibility and Suspension Policy*, there may be circumstances in which a supplier is determined to be ineligible under the Integrity Regime during the performance of a contract or real property agreement.

In such circumstances, PWGSC will inform contracting authorities with contracts or real property agreements for which the Department has conducted an integrity verification **within five business days** of a determination of ineligibility.

Contracting authorities are required to confirm whether or not any contracts or real property agreements they have with the ineligible supplier are still active.

Within five business days of informing relevant contracting authorities, PWGSC will convene a meeting to coordinate and discuss approaches.

Options for proceeding

There are two options for addressing a contract or real property agreement where a supplier has become ineligible:

- Continue with the contract or real property agreement
- Terminate for default

The decision on how to proceed rests with each contracting authority. In order to determine the best course of action, a contracting authority should assess the benefits and disadvantages of each option. Factors to be considered may include (but are not limited to):

- time left in the contract or lease, and state of completion of work;
- costs and resources associated with termination (such as relocation or delays in receiving necessary goods and services and retendering);
- availability of other suppliers.

Notifying Public Works and Government Services Canada of decision

A contracting authority is required to notify the Registrar of Ineligibility and Suspension (the Registrar) within **ten business days** as to whether it will continue with, or terminate its contract or real property agreement with the ineligible supplier. A contracting authority must include a rationale supporting this decision.

In cases where a contracting authority wishes to continue with a contract or real property agreement, the rationale will assist the Registrar in deciding whether it will enter into discussions with the ineligible supplier regarding the possibility of an administrative agreement. An administrative agreement provides assurances from the supplier that it will conduct business with Canada in an ethical and responsible manner.

The Registrar may be contacted at:

Registrar of Ineligibility and Suspension
Departmental Oversight Branch
Public Services and Procurement Canada
L'Esplanade Laurier, West Tower
300 Laurier Avenue West
Floor 10, Room 10149
Ottawa, ON K1A 0R5
Canada

Toll free:

1-844-705-2084

Email:

PWGSC.O.integrity-TPSGC.O.integrite@pwgsc-tpsgc.gc.ca

Option 1: Process for continuing with a contract or real property agreement with an ineligible supplier

Using the rationale provided by a contracting authority, PWGSC will, **within 10 business days**,

determine whether or not a supplier must enter into an administrative agreement to continue the performance of a contract or real property agreement.

No administrative agreement required

If PWGSC determines that the supplier does not have to enter into an administrative agreement to continue with the performance of a contract or real property agreement, the contract or real property agreement remains in place. It is recommended that the contracting authority apply additional due diligence measures to protect the integrity of the contract or real property agreement for the remainder of its duration.

An administrative agreement is required

If an administrative agreement is required for a supplier to continue with the performance of a contract or real property agreement, PWGSC will send a letter to the supplier to initiate the process.

PWGSC will meet with the supplier **within 10 business days** of sending the letter. The length of time associated with finalizing an administrative agreement is unique to each case. PWGSC is responsible for the administrative agreement process, but will communicate with contracting authorities on progress made.

If a supplier agrees to enter into an administrative agreement with PWGSC, the contract or real property agreement will remain in place. PWGSC will notify relevant contracting authorities upon the conclusion of the administrative agreement. The name of the supplier will be added to the [list of suppliers with administrative agreements under the Integrity Regime](#) that is available online.

The supplier refuses to enter into an administrative agreement

If a supplier refuses to enter into an administrative agreement, PWGSC will notify the relevant contracting authority **within five business days** of this decision. The contracting authority may proceed with terminating the contract or real

property agreement for default as per the terms and conditions of the contract or real property agreement.

Pursuant to the terms of the applicable contract or real property agreement, a termination for default does not restrict the Government of Canada's right to exercise any other remedy that may be available against the supplier.

Option 2: Terminating a contract or real property agreement for default

When a decision is made to terminate a contract or real property agreement for default, or where the ineligible supplier refuses to enter into an administrative agreement, the contracting authority must send a *Notice of Intent to Terminate* to the supplier **within five business days**. The Registrar of Ineligibility and Suspension must be copied on this notice.

The notice must indicate that the supplier has **no less than two weeks** to make representations on such matters as maintaining the contract or real property agreement or terminating it. It must also state that if the supplier challenges the decision to terminate, it must provide its rationale to the contracting authority and the Registrar of Ineligibility and Suspension.

If the supplier responds with a rationale for continuing with the contract or real property agreement

PWGSC will analyze the supplier's explanation or remediation plan and decide whether it is acceptable or unacceptable. PWGSC will notify the supplier and relevant contracting authority of its decision **within ten business days**.

Supplier's explanation and/or remediation plan is accepted

If the supplier's explanation and/or remediation plan is accepted, PWGSC will decide whether or not an administrative agreement is required to continue with the contract or real property

agreement. This process is detailed in Option 1 of this information bulletin.

Supplier's explanation and/or remediation plan is not accepted

If the supplier's explanation and/or remediation plan is not accepted, PWGSC will notify the supplier and the contracting authority of this decision simultaneously **within five business days**.

The contracting authority may proceed with terminating the contract or real property agreement for default as per the terms and conditions of the contract or real property agreement.

If the supplier does not respond to the Notice of Intent to Terminate

If a supplier does not respond to the *Notice of Intent to Terminate* within 30 calendar days, the contracting authority may proceed with terminating the contract or real property agreement for default as per the terms and conditions of the contract or real property agreement.

Pursuant to the terms of the applicable contract or real property agreement, a termination for default does not restrict the Government of Canada's right to exercise any other remedy that may be available against the supplier.

Informing impacted parties

Contracting authorities are required to inform impacted parties to a lease, and/or to a Postponement or Non-Disturbance Agreement (i.e., a lender) of their intent to terminate, including those entities, organizations and/or individuals listed under the "Notices" clause within a lease or real property agreement. This can be done by copying these parties on the letter that is sent to the supplier.

In addition, contracting authorities are also encouraged to inform the impacted parties of the

delivery of a Notice of Termination for Default to the supplier or the possible negotiation of an administrative agreement in lieu of termination.

How to contact us

If you have questions, please contact the Integrity Regime team:

Toll free:

1-844-705-2084

Email:

PWGSC.O.integrity-TPSGC.O.integrite@pwgsc-tpsgc.gc.ca

