

PURPOSE

The City supports effective, objective, fair, open, transparent, accountable, and efficient procurement processes through the solicitation of multiple bids, proposals and direct negotiation.

The purpose of this policy is to protect the interests of the City, the public and persons participating in the procurement process and to reinforce fairness, openness, transparency and integrity by adopting consistent and standard approaches for:

- selecting the appropriate type of procurement process to be used;
- communicating with vendors throughout the process;
- identifying and dealing with common irregularities in bids;
- evaluating proposals;
- dealing with vendor complaints;
- providing unsuccessful vendors with feedback; and
- maintaining records on vendor performance under contracts

Note: Adopted by Council at its meeting held on July 21 and 22, 2004, Report No. 5, Clause 7 of the Administration Committee. Revised by Council at its meeting held on September 25, 26, and 27, 2006, Report No. 6, Clause 6.

POLICY

This policy supplements the Purchasing Chapter of the Municipal Code. The Purchasing Chapter governs in the event of any conflict.

1.0 Types of Competitive Procurement Processes

The following competitive processes are to be used to give effect to the purpose of this policy:

A Call for Pre-qualification shall be used, and precede a Call for Tenders, Quotations or Proposals in order to identify and pre-select bidders, 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.

A Call for Expressions of Interest shall be used to determine the interest of the market place to provide a scope of work or services contemplated to be procured by the City.

A Call for Tenders shall be used to obtain bids for construction, whenever the requirements can be precisely defined and the expectation is that the lowest bid meeting the requirements specified in the Call would be accepted, subject to any other provisions of the City's Municipal Code.

A Call for Quotations shall be used to obtain goods and services (other than construction) whenever the requirements can be precisely defined and the expectation is that the lowest bid meeting the requirements specified in the Call would be accepted, subject to any other provisions of the City's Municipal Code.

A Call for Proposals shall be used to obtain goods and services of a unique or complex nature where all or part of the requirements cannot be precisely defined and the expectation is that the proposal offered by the highest ranked proponent resulting from an evaluation and meeting the requirements specified in the Call, including the evaluation criteria set out in the Call, would be accepted, subject to any other provisions of the City's Municipal Code.

2.0 Informal Call for Quotations

An informal Call for Quotations, conducted by means of telephone, fax, e-mail or other similar methods to a minimum of 3 bidders, where possible, may be used to obtain low dollar value (estimated to be less than \$50,000), prompt service procurements of goods and services, expeditiously and cost effectively.

3.0 Non-Competitive Procurement Process

A non-competitive procurement process shall only be used if one or more of the following conditions apply and a process of negotiation is undertaken to obtain the best value in the circumstances for the City:

1. The goods and services are only available from one source or one supplier by reason of:
 - (i) a statutory or market based monopoly
 - (ii) scarcity of supply in the market
 - (iii) existence of exclusive rights (patent, copyright or licence)
 - (iv) need for compatibility with goods and services previously acquired and there are no reasonable alternatives, substitutes or accommodations
 - (v) need to avoid violating warranties and guarantees where service is required
2. An attempt to purchase the required goods and services has been made in good faith using a competitive method and has failed to identify a successful supplier
3. The goods and services are required as a result of an emergency, which would not reasonably permit the use of the other methods permitted.

4. The required goods and services are to be supplied by a particular vendor or supplier having special knowledge, skills, expertise or experience which cannot be provided by any other supplier.
5. The nature of the requirement is such that it would not be in the public interest to solicit competitive bids as in the case of security or confidential matters.
6. Any other sole or single source purchase permitted under the provisions of the Purchasing or Financial Control Chapters of the City's Municipal Code.

4.0 Unsolicited Quotations or Proposals

This section has been revised.

See the new policy on Unsolicited Quotations or Proposal.

5.0 Official Point of Contact and Lobbying Prohibition

The City of Toronto is committed to the highest standards of integrity with respect to the purchase of goods and services and managing the processes by which goods and services are acquired.

An official point of contact shall be named in all Calls to respond to all communications in respect of the Call from the time of issuance, during the competitive process, and up to and including the announcement of award. The official point of contact shall be the Chief Purchasing Official or designate. Should it be necessary or desirable to have contact person to respond to technical issues that person shall also be named. All communications with respect to a Call must be made to an official point of contact named in the Call.

Vendors, or any representatives employed or retained by them, and any unpaid representatives acting on behalf of either, are strictly prohibited from communicating, either verbally or in writing, with any other City staff, City official or member of City Council with respect to any Call from the time of its issuance until the time of award.

Any vendor found to be in breach of the policy will be subject to disqualification from the Call or a future call or calls in the discretion of Council.

6.0 Public Openings

Calls estimated to be over \$50,000 are to be opened by Purchasing and Materials Management staff at the time and location specified in the Call document.

Calls estimated to be under \$50,000 may not be opened in a public forum but results will be available for review upon written request to the Chief Purchasing Official.

7.0 Bid/Proposal Irregularities

The following irregularities contained in bids or proposals (“Responses”) received by the City shall result in the following actions to be taken by the Chief Purchasing Official:

<u>IRREGULARITY</u>	<u>ACTION</u>
Late Response	Automatic rejection and not read publicly.
Unsealed Envelopes	Automatic rejection
Insufficient Financial Security (No deposit or bid bond or agreement to bond or insufficient deposit or bid bond or agreement to bond).	Automatic rejection
Response not completed in non-erasable medium and signed in ink	Automatic rejection
Incomplete Response	Automatic rejection unless, in the opinion of the Chief Purchasing Official, the incomplete nature is trivial or insignificant.
Qualified Response (qualified or restricted by an attached statement unless allowed for).	Automatic rejection unless, in the opinion of the Chief Purchasing Official the qualification or restriction is trivial or not significant
Response received on documents other than those provided by the City	Automatic rejection unless, in the opinion of the Chief Purchasing Official the matter is trivial or insignificant
Execution of Agreements to Bond (Performance Security)	
Corporate seal or signature of authorized agents of bonding company missing	Automatic rejection
Execution of Bid Bonds (Financial Security)	
Corporate seal or signature of the bidder	Two (2) business days to

missing.	correct
Both corporate seal and signature of the bidder missing.	Automatic rejection.
Corporate seal or signature of authorized agents of bonding company missing.	Automatic rejection.
Other Bid Security - Uncertified Cheques	Automatic rejection.
Documents – Execution:	
Corporate seal or signature missing.	Two (2) business days to correct.
Corporate seal and signature missing	Automatic rejection
Erasures, Overwriting or Strike-Outs which are not Initialed:	
Uninitiated changes to responses which are minor (example: the respondent's address is amended by over-writing but not initialed)	Two (2) business days to initial.
Unit prices have been changed but not initialed and the contract totals are consistent with the price as amended.	Two (2) business days to initial
Unit prices have been changed but not initialed and the contract totals are not consistent with the price as amended.	Automatic rejection
Minor Irregularities	The Chief Purchasing Official shall have the authority to waive irregularities deemed to be minor.

In exercising judgement the Chief Purchasing Official shall consider the advice of the Legal Division.

8.0 Mathematical Errors

All Call documents shall include a statement indicating that where there is a discrepancy between the total price and the unit price, the unit price shall prevail.

During the bid evaluation process, where any discrepancy exists between the total price and the unit price, the unit price shall prevail and the total bid price shall be adjusted accordingly.

9.0 Tied Bids

In order to minimize the risk of tied bids, procurement calls should include such terms and conditions that promote best overall value and allow responses to be evaluated accordingly. This includes but not limited to such considerations as price (including discounts and prompt payment terms), quality, delivery (including response time), service and past performance.

If the terms and conditions of the individual procurement call have been met and the outcome of the evaluation still results in a tie, staff is authorized to conduct a lottery. In the case of two identical bids a coin toss will decide. In the case of more than two identical bids, a draw (lottery) will decide.

The results of the lottery are to be recorded and witnessed by all parties present and the award shall be reported in accordance with the requirements of the City's purchasing and financial control policies.

10.0 Evaluation

An Evaluation Team shall be established for all proposal calls. It shall be comprised of divisional staff member(s) with the relevant experience to evaluate proponents' submissions. The size of the Evaluation Team shall be reflective of the complexity and dollar value of the assignment and shall not be comprised of less than two members. Staff representatives from operational and support units shall be included on the Evaluation Team where appropriate, especially for complex or high profile projects and those having corporate-wide implications.

All calls are to include clear specifications and evaluation criteria, terms and conditions that can be applied in a fair and consistent manner to all respondents. The Evaluation Team will be responsible for evaluating all submissions.

11.0 Vendor Complaints

The City is committed to the highest standards of integrity with respect to dealing with vendor complaints. Complaints shall be handled with fairness and equity for all participants in a Call.

All vendor complaints with respect to a Call, whether addressed to elected officials or the administrative staff, are to be referred to the Chief Purchasing Official for resolution.

Objections to a recommendation for award must be in writing. The Chief Purchasing Official shall review the objection and determine, in consultation with the City Solicitor where necessary, whether the objection is material, as defined in the Purchasing Chapter of the Municipal Code.

Where the objection is determined not to be material, the making of the award shall proceed in accordance with the Purchasing Chapter.

Where the objection is determined to be material and cannot be resolved, the award shall be made by Council in accordance with the Purchasing Chapter. In such case, the Chief Purchasing Official and the City official on whose behalf the call was made and, where necessary, the City Solicitor shall report to the appropriate standing committee of Council with respect to the recommendations for award. The Chief Purchasing Official shall inform the Vendor of his/her right to make a deputation before the Standing Committee dealing with the award and shall advise the Vendor to contact the Clerk's Office for further information on the deputation process. Upon hearing the deputation and considering the staff report, the standing committee shall make a recommendation to Council with respect to the award.

12.0 Vendor Debriefings

All vendors are entitled to a formal or informal debriefing, upon written request made to the Chief Purchasing Official, to obtain feedback on why their bid was not successful.

13.0 Vendor Performance

The City shall maintain records of vendor performance on all contracts. The information shall be used to ensure contract compliance, to supplement a pre-qualification process or to justify an award to other than the low bidder where it can be demonstrated that such records are part of the evaluation process and criteria.

14.0 In-House Bids

No call shall be issued which provides for consideration of in-house bids or responses unless the call has first received consideration and approval by Council.

CONTACT

Should you have any questions please contact the Purchasing and Materials Management Division. In the event that further interpretation is required, please contact the Manager, Corporate Purchasing Policy & Quality Assurance at 416-392-0387 or Supervisor, Policy, Training & Technology at 416-392-1305.