

**POLICY: Procurement Processes Policy**

**SECTION: II – General Policies – Finance and Property**

**MOTION#/DATE:**

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### **Effective Date**

When approved by the Board.

### **Policy Objective**

Section 271 of the Municipal Act, 2001 requires that municipalities and local boards adopt policies with respect to the procurement of goods and services before January 1, 2005.

The objective is to protect the interest of the Library, the public and persons participating in the procurement process. It is intended 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.

This policy supplements the Financial Control Policy. The Financial Control Policy governs in the event of any conflict.

### **Underlying Principles**

The Financial Control Policy grants authority to solicit Bids and Proposals, to Award contracts to the successful Bidders/Proponents, and to make Commitments. The code of purchasing ethics established by the Purchasing Management Association of Canada and the Library's Conflict of Interest Policy applies to all Library employees involved in the procurement process. The procurement process is also subject to the Lobbying Disclosure Policy and the Selection and Hiring of Professional and Consulting Services Policy.

Any information supplied to the Library by a vendor will be subject to the provisions of the Municipal Freedom of Information and Privacy Protection Act.

## **Policy Statement**

The Library supports effective, objective, fair, open, transparent, accountable, and efficient procurement processes through the solicitation of multiple Bids, Proposals, and through direct negotiation.

The Library's intent is to procure goods and services that meet the Library's operational need and specifications within a consistent and standard competitive process that is fair to all parties.

## **Scope**

This policy covers the procurement of all goods and services acquired by the Library through formal and informal Calls and Requests from vendors for Quotations and Proposals.

The procurement of Library Materials is excluded from the scope of this policy and is governed by the Financial Control Policy.

## **Application**

This policy applies to all Library employees and Board members who are involved in the procurement of Goods and Services for the Library. The Library will attempt to ensure that all agents and consultants working on behalf of the Library comply with the intent and spirit of this policy whenever it is practical and reasonable for them to do so.

## **Specific Directives**

### **1.0 Types of Competitive Procurement Processes**

#### **1.1 Pre-qualification**

A Pre-qualification shall be used, and precede a Call for Tender or Quotations or a Request for Proposals in order to identify and pre-select Bidders and Proponents, where the nature and complexity of the work involved warrants the time and effort required to pre-select the most experienced and qualified Bidders or Proponents.

### 1.2 Expression of Interest

An Expression of Interest shall be used to determine the interest of the marketplace to provide a scope of Goods or Services that may be procured by the Library.

### 1.3 Tenders

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 Library's Financial Control Policy.

### 1.4 Call for Quotations

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 Library's Financial Control Policy.

### 1.5 Request for Proposals

A Request for Proposal shall be used to obtain Goods and Services of a unique or complex nature where all or part of the requirement 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 Request, including the evaluation criteria set out in the Request, would be accepted, subject to any other provisions of the Library's Financial Control Policy.

## 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 three Bidders, where possible, may be used to obtain prompt, efficient and expeditious procurements of Goods and Services, of a low dollar value (estimated to be \$50,000 or less).

### 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 Library:

#### 3.1 Sole Source

The Goods and Services are only available from one source or supplier by reason of:

- (i) a statutory or market based monopoly;
- (ii) a scarcity of supply in the market;
- (iii) existence of exclusive rights (patents, copyright or licence);
- (iv) need for compatibility with Goods and Services previously acquired and there are no reasonable alternatives, substitutes or accommodations; or
- (v) need to avoid violating warranties and guarantees where service is required.

#### 3.2 Competitive Method Failed

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.

#### 3.3 Emergency

The Goods and Services are required as a result of an emergency, which would not permit the use of the other methods permitted.

#### 3.4 Single Source

The required Goods and Services are to be supplied by a particular vendor or supplier having special knowledge, skills, expertise or experience that cannot be provided by any other supplier.

#### 3.5 Not in Public Interest

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 confidential matters.

### 3.6 Cost Effectiveness

The extension of an existing Commitment would prove most cost-effective or beneficial to the Board and the Library provided that any such extension shall only occur once and shall not exceed a period of one year.

### 3.7 Fluctuating Market

In the opinion of the Purchasing Agent, a fluctuating market for Goods or Services exists and the process of competitive procurement would adversely affect the interests of the Board and the Library given rising market prices.

## 4.0 Unsolicited Quotations or Proposals

The Library's practice is that it does not accept unsolicited quotations or proposals, but rather, wishes to ensure that the best prices possible are obtained through a competitive bidding process.

However, in those exceptional cases where the City Librarian or a Director wishes to accept an unsolicited quotation or proposal, the acceptance of such quotation or proposal can only be done with Board approval. Reports to the Board, in such cases shall include comments from the Purchasing Agent.

## 5.0 Official Point of Contact

The Library 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 and Requests to respond to all communications in respect of the Call or Request from the time of issuance, during the competitive process, up to and including the announcement of Award. The official point of contact shall be the Purchasing Agent. Should it be necessary or desirable to have a contact person to respond to technical issues, that person will also be named.

Communications in the context of this policy relate to communications to and from staff or the Board and the vendor community as it relates to the particular Call or Request in process.

Any vendor found to be in breach of this section of the policy will be subject to disqualification from the Call or Proposal and future Calls and Proposals in the discretion of the Board.

#### 6.0 Public Openings

Calls and Requests for Goods and Services estimated to be over \$50,000 shall be opened by Purchasing staff at the time and location specified in the Call or Request document.

Calls and requests for Goods and Services estimated to be under \$50,000 need not be opened in a public forum, but the results will be available for review upon written request to the Purchasing Agent.

#### 7.0 Bid/Proposal Irregularities

Appendix 1, entitled– “Bid Irregularities and Action Table”, lists various irregularities commonly contained in Responses received by the Library and the corresponding action to be taken by the Purchasing Agent.

In exercising judgement when considering irregularities, the Purchasing Agent shall consider legal advice.

#### 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, Calls should include such terms and conditions that promote best overall value and allow responses to be valued accordingly. This includes, but is 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 Call have been met and the outcome of the evaluation still results in a tie, staff is authorized to conduct either a coin



toss or a draw (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 result of the coin toss or the draw (lottery) is to be recorded and witnessed by representatives of all relevant parties and the Award shall be reported in accordance with the requirements of the Library's Financial Control Policy.

## 10.0 Evaluation

An evaluation team shall be established for all Requests. It shall be comprised of departmental staff members with the relevant experience to evaluate the Proponents' submissions. The size of the evaluation team shall reflect the complexity and dollar value of the assignment and shall be comprised of not less than two members.

All Requests are to include clear specifications and evaluation criteria, terms and conditions that can be applied in a fair and consistent manner to all Proponents.

The evaluation team will be responsible for evaluating all submissions.

## 11.0 Vendor Complaints

The Library 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 or Request.

All vendor complaints with respect to a Call or Request are to be referred to the Purchasing Agent for resolution.

Objections to a recommendation for Award must be in writing. The Purchasing Agent shall review the objection and determine, in consultation with the City Solicitor where necessary, whether the objection is a Material Objection.

Where the objection is not a Material Objection, the making of the Award shall proceed in accordance with the Financial Control Policy.

Where the objection is determined to be a Material Objection and cannot be resolved, the Award shall be made by the Board in accordance with the Financial Control Policy. In such case, the Purchasing Agent and the Director on whose behalf the Call or request was made and, where necessary, the City Solicitor shall report to the Board with respect to the recommendation for Award. The Purchasing Agent shall inform the vendor of its right to make a deputation before

the Board. Upon hearing the deputation and considering the staff report, the Board shall make a decision 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 Purchasing Agent, to obtain feedback on why their Bids or Proposals were not successful.

#### 13.0 Vendor Performance

The Library 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 or Request shall be issued which provides for consideration of in-house Responses unless the Call or Request has first received consideration and approval by the Board.

### **Accountability**

#### Controls

The Library Treasurer shall undertake such tests and inquiries as are appropriate to ensure that the Library maintains satisfactory internal control practices, and that all officials and employees duly carry out the terms of this policy, and shall carry out such tests and inquiries as are requested by the Board.

#### Implementation

The City Librarian, Directors and Managers shall ensure that all individuals who are involved with procurement processes are made aware of this policy and that these individuals comply with this policy.

The Purchasing Agent shall ensure that all Call and Request documents inform all participants of the terms of this policy.

## **Appendices**

Appendix 1 - Bid Irregularities and Action Table

Appendix 2 - References

Appendix 3 - Definitions

Appendix 4 - Inquiries

Appendix 1 - Bid/Proposal Irregularities and Action Table

IRREGULARITY	ACTION
Late Response	Automatic rejection and not read publicly.
Unsealed Envelopes	Automatic rejection.
Insufficient Financial Security <ul style="list-style-type: none"> <li>• Insufficient or no deposit, bid bond or agreement to bond.</li> </ul>	Automatic rejection.
Incomplete Response	Automatic rejection unless, in the opinion of the Purchasing Agent, the nature of the incompleteness is trivial or insignificant.
Qualified Response <ul style="list-style-type: none"> <li>• Qualified or restricted by an attached statement, unless allowed for.</li> </ul>	Automatic rejection unless, in the opinion of the Purchasing Agent, the qualification or restriction is trivial or insignificant.
Response received on documents other than those provided by the Library.	Automatic rejection unless, in the opinion of the Purchasing Agent, the matter is trivial or insignificant.
Execution of Agreement to Bond (Performance Security) <ul style="list-style-type: none"> <li>• Corporate seal or signature of authorized agents of bonding company missing.</li> </ul>	Automatic rejection
Execution of Bid Bonds (Financial Security) <ul style="list-style-type: none"> <li>• Corporate seal or signature of the bidder missing.</li> <li>• Both corporate seal and signature of bidder missing.</li> <li>• Corporate seal or signature of authorized agents of bonding company missing.</li> </ul>	Two (2) business days to correct.  Automatic rejection.  Automatic rejection.
Other Bid Security <ul style="list-style-type: none"> <li>• Uncertified cheques</li> </ul>	Automatic rejection.
Documents – Execution <ul style="list-style-type: none"> <li>• Corporate seal or signature missing.</li> <li>• Corporate seal and signature missing.</li> </ul>	Two (2) business days to correct.  Automatic rejection.

<p>Erasures, Overwriting or Strike-Outs which are not Initialed</p> <ul style="list-style-type: none"> <li>• Minor changes to response which are not initialed (example: the respondent’s address is amended by over-writing but not initialed)</li> <li>• Unit prices have been changed but not initialed and the contract totals are consistent with the price as amended.</li> <li>• Unit prices have been changed but not initialed and the contract totals are not consistent with the price as amended.</li> </ul>	<p>Two (2) business days to initial.</p> <p>Two (2) business days to initial.</p> <p>Automatic rejection.</p>
<p>Minor Irregularities, other than as identified above</p>	<p>The Purchasing Agent shall have the authority to waive irregularities deemed to be minor.</p>

## Appendix 2 - References

Financial Control Policy of the Toronto Public Library Board

Section 271 of the Municipal Act, 2001 – Procurement of Goods

### Appendix 3 - Definitions

“Award” means the acceptance of a Bid or Proposal in accordance with the terms of this policy;

“Bid” means a formal price response to a Call issued by the Library;

“Bidder” means any legal entity submitting a Bid in response to a Call by the Library;

“Board” means the Toronto Public Library Board;

“Call” means a Solicitation from the Library to external suppliers or providers to submit a Tender or Quotation;

“City” means the City of Toronto;

“City Librarian” means the person appointed by the Board holding the position of Chief Executive Officer for the Library or a similar successor position, and includes his or her Designate;

“City Solicitor” means the person holding the position of City Solicitor for the City, or a similar successor position, and includes his or her Designate;

“Commitment” means the document evidencing the contractual obligation for the purchase of any Goods or Services arising from an Award;

“Department” means an administrative unit of a Division of the Library headed by a Manager;

“Designate” means a Library employee designated to exercise authority;

“Director” means a person holding a management position in charge of a Division reporting directly to the City Librarian or the Director Branch Services, or a similar successor position, and includes his or her Designate, and includes the Director Branch Services;

“Division” means an administrative unit of the Library headed by a Director;

“Expression of Interest” means a submission in response to a Call or Request to determine the interest of the market place in providing the scope of Goods or Services intended to be procured by the Library;

“Goods” means all forms of personal property, both tangible and intangible;

“Library” means the Toronto Public Library;

“Library Materials” means books, videotapes, periodicals, subscriptions, serials, electronic information products and any other media, purchased by the Library for use by the public;

“Library Treasurer” means the person holding the position of Director, Finance and Treasurer of the Library or a similar successor position, and includes his or her Designate;

“Material Objection” means a written objection to an Award that relates to the exercise of discretion of the Purchasing Agent in accepting or rejecting response as being compliant or non-compliant with a Call and which is not:

- (a) frivolous or vexatious in the opinion of the Purchasing Agent; or
- (b) solely related to a review of any listed irregularities that any Library policy on procurement processes instructs or authorizes the Purchasing Agent to automatically reject;

“Proponent” means any legal entity submitting a Proposal in response to a Request;

“Proposal” means an offer to furnish Goods or Services, including professional or consulting services, as a basis for negotiations for entering into a contract;

“Purchasing Agent” means the person holding the position of Manager, Purchasing and Administration in the Library’s Finance Department, or a similar successor position, and includes his or her Designate, and whose responsibility it is to supervise and carry out selected procurement functions on behalf of the Library in accordance with this policy;

“Pre-qualification” means the submission of qualifications by a Bidder or Proponent in response to a Call or Request as part of the process to determine those Bidders or Proponents that would qualify to be solicited in a subsequent Call or Request leading to an Award;

“Quotation” means an offer to supply specified Goods or Services at a price fixed as to the total amount or on a unit basis, or both;

“Response” means the submission of a Bid, Proposal, Expression of Interest or Pre-qualification submission in response to a Call or Request;

“Request” means a Solicitation from the Library to external suppliers to submit a Proposal;



“Services” means any matter in respect of which the Board may incur a financial obligation other than Goods, excluding real property;

“Solicitation” means the process of notifying prospective Bidders or Proponents that the Board wishes to receive Bids or Proposals;

“Tender” means an offer in respect of a Project at a fixed price as to total amount or on a unit basis, or both, and where all of the material terms, conditions and specifications to be met for the project, aside from price and, in some cases, time for completion, are contained in the Call and determined at the time a bid is opened so that there is no prospect of negotiations between the parties.

#### Appendix 4 - Inquiries

All inquiries concerning this policy are to be directed to:

Director, Finance & Treasurer,  
789 Yonge Street  
Toronto ON M4W 2G8