

Policy Title: Bid Openings and Bid Irregularities – Publicly Advertised High Value Acquisitions

Policy Number: 03-06-02

Section:	Corporate Administration	Subsection:	Acquisition/Disposal Of Goods And Services
Effective Date:	March 22, 2012	Last Review Date:	December, 2015
Approved by:	Council	Owner Division/Contact:	Materiel Management, Revenue, Materiel Management and Business Services, Corporate Services

Policy Statement

All sealed High Value Acquisition Bids received in response to Publicly Advertised Bid Requests are opened at public Bid Openings and price related information is made available to the public, unless otherwise specified in the Bid documents.

High Value Acquisition (HVA) Bids will be reviewed to determine if an Irregularity exists and action will be taken according to the nature of the Irregularity.

Purpose

The City of Mississauga endeavours to conduct fair and consistent acquisition processes and to ensure equitable treatment of all Bidders. Public openings of HVA Bids, disclosure of price related information and review of HVA Bids for Irregularities are undertaken in an effort to ensure that all Bidders are treated equitably and that the integrity of the acquisition process is maintained.

This policy outlines the HVA Bid Opening process, defines “Irregularity” and establishes the action that will be taken if an Irregularity exists.

Scope

This policy applies to all High Value Acquisitions undertaken and approved in accordance with the Purchasing By-Law.

Legislative Authority

This policy complies with the provisions of City of Mississauga Purchasing By law 374-06, as amended, which governs the acquisition of goods and services and the disposal of surplus goods.

Disclosure of information is subject to the requirements of the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA). For additional information on MFIPPA refer to Corporate Policy and Procedure - Corporate Administration - Freedom of Information and Protection of Privacy.

Definitions

For the purposes of this policy:

“Award” means the selection by the City of the Bidder and the Bidder’s goods and/or services as a result of a Bid Request.

“Bid” means an offer or submission from a Bidder, received in response to a Bid Request from the City.

“Bid Award Recommendation Form” (BAR Form) means a form that is provided by Materiel Management and outlines the relevant departmental and purchasing information; specifies the Award recommendations and conditions; and confirms each Bid Request outcome, including cancellation of a Bid Request.

“Bid Opening Committee” means the committee responsible for the opening of all Publicly Advertised HVA Bids and is comprised of a minimum of two Materiel Management staff.

“Bid Opening” means the opening of a Publicly Advertised High Value Acquisition Bid received in response to a Bid Request and is conducted by the Bid Opening Committee.

“Bid Request” means a solicitation from the City to external suppliers to submit a quotation, tender, proposal or best and final offer.

“Bidder” means any legal entity submitting a Bid.

“Buyer” means a Buyer in the City’s Materiel Management section who is assigned responsibility for a particular acquisition.

“Commissioner” means the Corporation’s Commissioner of Corporate Services, Chief Financial Officer and Deputy Treasurer and includes any person who has been authorized, in writing, to temporarily act during absence or vacancy in that office.

“High Value Acquisition” or “HVA” means an acquisition of goods or services or both, having a value of more than \$100,000, exclusive of taxes.

“Irregularity” means a deviation between the requirements (terms, conditions, specifications, special instructions) of a HVA Bid Request and the information provided in a Bid response. Irregularities are further classified as “Major Irregularities” or “Minor Irregularities”.

“Major Irregularity” means a deviation from a HVA Bid Request which, as determined by the Manager, is substantial and material to the Award and which, if permitted, could give the Bidder an unfair advantage over competitors.

“Manager” means the Manager of Materiel Management, Corporate Services Department or his/her designate, in writing.

“Minor Irregularity” means a deviation from a HVA Bid Request which, as determined by the Manager, affects form rather than substance, with no material impact to the Award and which, if permitted, would not give the Bidder an unfair advantage over competitors.

“Publicly Advertised Bid Request” means the advertising by the City of Bid Requests in print publications widely available to the public or on the internet.

“Purchasing By-law” (By-Law) means the City’s Purchasing By-law 374-06, as may be amended or substituted from time to time.

“Purchasing Agent” means the Director of Revenue & Materiel Management or, in his or her absence, the Commissioner.

Bid Openings

Date and Time of Bid Openings

The dates and times of public Bid Openings are specified in the Bid Request.

Who Attends Bid Openings

All members of the Bid Opening Committee must attend public Bid Openings. Any member of Council, City staff or the general public may also attend.

The following Bid Opening statement is read out by a Member of the Committee, prior to the opening of Bids:

“As a Member of this Bid Opening Committee, in accordance with By-Law 374-06, Section 17, I will be announcing total Bid amounts only. Please note that any decision as to acceptance or rejection due to Irregularities will not be made until a review has been conducted. Bidders should not conclude any particular results from this reading. The ringing of cell phones, pagers and personal communications devices is not permitted at this session. I would like everyone having these devices to please turn them off now.”

Disclosure Information

The Bid Opening Committee Member reads out the following information in respect of each Bid Request:

- The Bid Request number and procurement project description
- The name of each Bidder
- The total amount of each Bid or Bid category, plus any applicable trade in amounts and whether or not a security is enclosed

Note: Bid amounts will be read out at the public Bid Opening unless the Bid Request documents specify otherwise. Depending on the nature and number of the items, the Bid Opening Committee Member may elect to provide details the following day rather than reading them out.

Provision of information is subject to the requirements of MFIPPA.

Bid Summary

All Bid amounts and security details are recorded on an official Bid summary sheet as they are read out. If a total Bid amount is not readily available and cannot be read out (e.g. a partial Bid is submitted), the summary is so noted and signed by two members of the Bid Opening Committee.

At the completion of the Bid Opening process, all members of the Bid Opening Committee must initial the summary sheet. If the Bid amount is not read out at the Bid Opening, all price related pages included in the Bid submission and any strikeouts or corrections made by the Bidder on these pages must be initialed by two members of the Bid Opening Committee.

Irregularities

Review for Irregularities

All HVA Bids will be reviewed by the Manager or the Buyer to determine if an Irregularity exists.

Action Taken

The Manager is responsible for all action taken in dealing with Irregularities and acts in accordance with the nature of the Irregularity:

- Major Irregularity
- Minor Irregularity, or
- Mathematical error (additions or extensions)

Major Irregularity- Automatic Rejection

The Manager must reject a Bid with a Major Irregularity without further consideration. Failure to meet any of the following requirements constitutes a Major Irregularity:

1. The Bid must be received and time-stamped by Materiel Management, Corporate Services Department by the official Bid closing time

2. Price related information must be non-erasable (i.e. Completed in ink, marker or typewritten)
3. A completed and duly authorized Form of Offer, if included in the Bid Request, must be submitted with the Bid
4. Bid security must be submitted with the Bid when the Bid Request (or any addenda) indicated that such security is required
5. Bid security must be in the form specified in the Bid Request or, alternatively, must provide equivalent or greater financial security for the City than the form specified. Cash, bank drafts, money orders, certified cheques, Bid bonds, letters of credit to City standard and such other forms of security as the Purchasing Agent considers equivalent from a financial security perspective are acceptable
6. Amount of Bid security must be equal to or greater than the amount indicated in the Bid Request
7. Bid or performance bonding company must be licensed to conduct business in Canada and in the province of Ontario
8. Prices must be complete and specified in accordance with the Bid Request
9. Except for “alternate Bids” which may be contained in the Bid Request, Bids must conform to the essential requirements in the specifications or terms of reference. Essential requirements are those which are necessary to perform the intended operation
10. Failure to rectify Minor Irregularities if requested to do so

NOTE: The above list of Major Irregularities should not be considered all-inclusive. The Manager, after consultation with the requisitioning department, may reject a Bid based on a Major Irregularity not listed here.

Bidders whose Bids are rejected due to a Major Irregularity will be notified by the Manager prior to any Bid Award.

Minor Irregularity

Failure to meet any of the following requirements constitutes a Minor Irregularity. Where there is a Minor Irregularity, the Manager may, depending on the nature of the Irregularity, either waive the Irregularity or notify the Bidder that the Irregularity must be rectified within the time period specified in the notice. If not rectified, the Minor Irregularity shall be deemed to be a Major Irregularity.

1. Agreements to provide contract security must be submitted with the Bid when the Bid Request indicated that such agreements are required
2. The authorized signatures and the corporate seals of both the Bidder and the bonding company, if adopted by the applicable entity, must be supplied on the Bid bond forms and agreements to bond
3. All changes to information contained in the Bid document must be initialled by an authorized representative of the Bidder

4. Technical specifications documents must be completed and submitted with the Bid when specified in the Bid Request
5. Statements in the Form of Offer must be true and correct

NOTE: The above list of Minor Irregularities should not be considered all-inclusive. Minor Irregularities not listed will be reviewed by the Manager, in consultation with the requisitioning department. The Manager may then accept the Bid or request that the Bidder rectify the deviation.

Mathematical Errors – Rectified by Staff

Errors in mathematical extensions and/or taxes may be corrected by the Manager or the Buyer.

Bid Award Report

Bidders are identified in the Award report as follows:

- For each Bid not rejected due to Major Irregularities, the Bidder is listed with the Bid amount
- For each Bid considered after correction of mathematical errors, the corrected amount is listed beside the amount which was declared at the public Bid Opening
- For each Bid rejected due to a Major Irregularity, the Bidder is listed, along with the reason for rejection

Bidders' Recourse

Bidders who have responded to a Bid Request have the right to register a Bid protest if they feel that the City's actions in evaluating Bids or recommending the Award of a contract, have been unfair or inappropriate. Refer to Corporate Policy and Procedure - Bid Awards and Bid Protests.

Revision History

Reference	Description
GC-0016-2002 - 2002 01 16	
LT - March 22, 2012	Policy revised to apply to HVA only. Combined with Bid Irregularities policy, now rescinded
August, 2015	Revised policy to reflect definition of Commissioner in By-law 0188-2015
December, 2015	Scheduled review – no changes