

## **TORONTO TRANSIT COMMISSION REPORT NO.**

**MEETING DATE:** January 21, 2013

**SUBJECT:** TTC CORPORATE POLICY REVIEW – POLICY 5.3  
PROCUREMENT

### **ACTION ITEM**

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### **RECOMMENDATION**

It is recommended that the Commission approve the following:

1. TTC Corporate Policy 5.3 – Procurement, as amended, for implementation effective February 1, 2013, which amended policy is attached hereto as Appendix 'A':
2. Staff to report back to the Commission after meeting with the Infrastructure Health & Safety Association (IHSA) to discuss the possibility of using IHSA's recently created Safety Certification Program as a mandatory requirement for TTC construction contracts in the future.

### **BACKGROUND**

At the Commission Meeting held on September 27, 2012, Commissioner De Baeremaeker moved a motion detailed below in relation to item 4(a) – Procurement Authorization – Fire Ventilation Upgrade Lawrence Station Contract Y60-6. At the Commission Meeting held on October 24, 2012, Commissioner De Baeremaeker moved a further motion in relation with report 8(b) – TTC Corporate Policy Review – Policy 5.3 Procurement. On both motions, the items required to be addressed are listed below:

1. All qualified bids must disclose their contractor experience in the GTA and the percentage of work done by the firm in the GTA and in Canada;
2. All qualified bids must have a signed engagement agreement with sub-contractors by the close of the bid period and to have documentation available upon request by TTC procurement staff;

3. All qualified bid packages to include documentation that provides proof of insurance, WSIB and worker safety record in the last 2 years.
4. Resources required to ensure TTC procurement staff are able to engage in due diligence necessary to verify claims in qualified bid documents before making a recommendation for award.

In addition to the above, at the November 21, 2012 Commission meeting, Commissioner Di Donato made the following motion which will also be addressed.

1. Staff look at the procurement processes and a possible policy amendment that considers ramifications for contractors who significantly err in their bid submissions.

### **DISCUSSION**

The Procurement Policy sets out the rules and principles under which the TTC will process its purchase requirements. The Procurement Policy is submitted for Commission approval with suggested changes as detailed in Appendix 'B'.

In accordance with the Procurement Policy, the TTC is legally required to accept the compliant submission that represents the best value and meets the best interest of the TTC (as set out in each Request document) through a competitive process. The motions moved and adopted by the Commission at its September and October 2012 meetings (as set out above) are addressed by TTC's processes for procurement and post award administration of Contracts. Staff considers that the level of details required to address Commissioner De Baeremaeker's motions are at the process and procedure level as opposed to the Procurement Policy.

As part of these processes and procedures and after close of the bids, staff undertake a review of the recommended bidder in order to ensure that the company has the necessary expertise and experience to complete the work. As part of each Request document, a bidder is required to submit a completed form listing work completed of a similar size and nature. This submitted form is reviewed by staff and the information is verified to ensure that the submitted list is correct and that the information contained in the submitted form demonstrates work of similar size and nature required in the TTC contract. If a bidder (company) does not provide a completed list, or provides information related to work that is considered by the TTC not to be of a similar size and nature, the company is not recommended for award.

Staff's opinions as well as a description of the steps already followed by TTC staff with respect to the motions adopted by the Commission are presented below:

### **Motions & Responses**

1. All qualified bidders must disclose their contractor experience in the GTA and the percentage of work done by the firm in the GTA and in Canada;

**Response:**

Although we are not as specific to limit the contractors' experience to GTA, the TTC standard construction contract requires compliance with local bylaws, etc., and currently provides that workers on-site must be members of local trade unions, if one exists. Based on these requirements, regardless of where the contractor is based, the on-site workers are local. In addition, many trades that are required on TTC construction sites, such as electricians, plumbers and carpenters are all licensed by the Province of Ontario for work done in Ontario.

2. All qualified bidders must have a signed engagement agreement with sub-contractors by the close of the bid period and have the documentation available upon request by TTC procurement staff;

**Response:**

Based on previous discussions with the construction industry (Ontario General Contractors Association) we have been advised that requesting this type of information with the bid is impossible. Based on what we know of the pricing process, having attended a closing for a major contractor, the pricing in many cases is done at the last minute. In some instances where a contractor is unable to confirm pricing, the contractor simply carries a cost based on their estimate.

In many instances, certain sub-contractors would not be engaged by a contractor at the time of bid closing.

3. All qualified bid packages to include documentation that provides proof of insurance, WSIB and worker safety record in the last 2 years;

**Response:**

**a) Insurance**

All contractors awarded a contract by the TTC must provide proof of insurance prior to being provided access to the site. Failure to provide the required insurance forms would be a breach of contract. The TTC standard contract further requires insurance and bonds to be from an insurer acceptable to TTC and a Surety licensed in Ontario (moving towards stating the rating requirement).

**b) WSIB & Worker Safety**

Based on recent changes in legislation, effective January 2013 TTC will be requesting the WSIB Clearance Certificate as a condition of award as we do with insurance. The WSIB Clearance Certificate confirms that the contractor is in good standing with the WSIB. In addition, with respect to safety, the contractor must prior to accessing the site, submit for review a site specific safety plan and no work on site can commence until this plan is accepted by TTC.

Additional Safety Initiatives:

In addition to the current processes as noted above, staff have confirmed that the Infrastructure Health and Safety Association (IHSA) has developed a comprehensive

safety certification program which several contractors have completed and achieved a Certificate of Recognition.

It is staffs' intention to provide outreach sessions to advise the construction industry that the TTC may in the future be relying on this certification and it may become a mandatory requirement for all TTC construction work. However, as of the date of this report, it is too early to mandate this requirement as only a limited number of companies have completed the IHSA Safety Certification Program.

4. In addition to the above motions by Commissioner De Baeremaeker, a motion was also made by Commissioner Di Donato that staff look at the procurement processes and a possible policy amendment that considers ramifications for contractors who significantly err in their bid submissions.

**Response:**

In order for the Commission to enforce a ramification (i.e. a ban on bidding) for a contractor who makes an error on the face of its bid, a complaint bid is required. The current law with respect to procurement related matters requires that an Owner can only enforce contractual obligations relating to bid requirements if a bidder provides a materially compliant bid – this is usually referred to as “Contract A”. In other words, a contract is created (Contract A) when an Owner issues a request for bids and a bidder submits a bid that is materially compliant with the terms and conditions of the Request. In this circumstance, the Owner has a contract with every bidder that provides a materially compliant bid. The problem is that if a bidder does not provide a materially compliant bid, Contract A does not come into existence.

If a bidder makes a significant error within its bid submission (which error is obvious on the face of the bid), no Contract A is formed and the Owner does not have any contractual ability to enforce any of the obligations of the Contract, including a provision in which the bidder agrees to be disqualified from bidding for a period of time.

The motion as moved by Commissioner Di Donato and approved by the Commission would require that a bidder agree to the ramification. The ramification (i.e. disqualified from bidding for a period of time) would have to be included within the TTC's Request for Bids document. However, in order to have this provision be enforceable, the TTC requires that “Contract A” be formed. However, if the bidder makes a significant error on the face of its bid, Contract A is not formed (bid is non-compliant) and therefore, the provision that includes the ramification is not enforceable.

Regardless of the nature of the error, if an error is apparent on the face of the bid, the TTC does not have the ability to enforce a contract and therefore to penalize a company would be considered unreasonable. Staff rejects many submissions for non-compliance based on a multitude of reasons such as; not submitting required information, inability to demonstrate work of a similar size and nature, pricing

errors, etc. In most circumstances, the errors appear to be mistakes and not intentional.

In view of the above, staff recommends the approval of the Commission Procurement Policy as set out in Appendix A.

**JUSTIFICATION**

The recommended changes update the Procurement Policy with various specified administrative revisions.

January 21, 2013

9-82-82

Attachments: Appendix A, B

## POLICY/INSTRUCTION

SUBJECT	CLASSIFICATION	DATE APPROVED	P/I NUMBER
Procurement	Materials and Procurement	January 21, 2013	5.3.10

1.0 RESPONSIBILITY

Head of Materials and Procurement (M&P).

2.0 PURPOSE

To set out the rules of the process to be followed to obtain competitive Bids/Proposals, where possible, for the acquisition of goods and services. The TTC solicits competitive submissions and accepts the compliant submission that represents the best value and meets the best interest of the TTC.

3.0 DEFINITIONS

The following definitions apply within the context of this policy.

3.1 Addendum

The document used to change or amend a Request prior to the closing time for receiving Bids/Proposals, as more particularly set out in the specific Request.

3.2 Amendment

The document issued by M&P to amend a Contract, which may be issued in the form of a Contract Amendment, Purchase Order Amendment or Contract Change/Change Directive.

3.3 Authorization

The appropriate process and required level of approvals which must be obtained as outlined in the Authorization for Expenditures and Other Commitments policy.

3.4 Award

The notification issued by M&P of the TTC's acceptance of a Bid/Proposal to the Successful Bidder/Proponent.

3.5 Bid

The response submitted by a Bidder and received by the TTC to a specific Request.

3.6 Bidder

A corporation, partnership, joint venture, sole proprietorship, association,

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individual or other entity, acceptable to the TTC, who submits a Bid in response to a Request.

3.7 Bidders List

A list of potential sources (e.g. suppliers, companies, contractors, and consultants) maintained by M&P for use in the acquisition of goods and services, or sale or disposition of surplus assets.

3.8 Bid Process

The period of time from the issuance of a Request by M&P through to Award of Contract.

3.9 Customer Department

The customer from a department(s) within TTC for which M&P is providing services for the Procurement of certain goods and/or services.

3.10 Commercial Analysis or Company Recommendation Report

The document prepared by M&P that summarizes the Procurement process of a requirement with a recommendation for Award, which may be used to initiate obtaining the Procurement authorization for M&P to proceed with the Award of the Contract.

3.11 Contract

The Purchase Order issued by the TTC or Executed Contract entered into by the TTC and a Successful Bidder/Proponent.

3.12 Contract Document Committee (CDC)

A committee that is chaired by M&P and consists of representatives of various departments, including but not limited to M&P, Legal Department and Finance Department. The CDC is responsible for preparing, updating, reviewing and approving standard terms and conditions which are to be incorporated into Requests and Contracts. Revisions to standard general or supplementary conditions that have a significant financial impact on the Commission will require the Chief Executive Officer's (CEO) approval as determined by CDC.

3.13 Exception

A Change requested by a Bidder/Proponent which materially affects or may materially affect, as determined at the sole discretion of the Head of M&P, the intent of the Request, a specific provision of the Request, or a provision of the

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proposed contract which is included in the Request, or any part thereof.

3.14 Executed Contract

An agreement for the provision of goods and/or services which requires execution by both the Successful Bidder/Proponent and the TTC. An Executed Contract may be either an Executed Document using Non-Standard Terms and Conditions, including Vendor Agreement or an Executed Document using TTC Standard Terms and Conditions. A minimum of two copies (originals) of an Executed Contract should be executed by both the Successful Bidder/Proponent and the TTC with one original retained by the Successful Proponent and the other by M&P.

The Executed Contract shall be executed by the Head of M&P or his/her delegate.

3.15 Executed Document Using Non-Standard General Terms and Conditions

A Contract that is to be executed by the Successful Bidder/Proponent and the TTC, which includes negotiated terms and conditions. These non-standard documents are prepared by M&P or the Successful Bidder/Proponent and are reviewed and accepted by the Legal Department and the Customer Department. If there are financial impacts on the TTC based on the negotiated terms, the terms and conditions are also reviewed and approved by the Finance Department.

3.16 Executed Document Using TTC Standard Terms and Conditions (without exception)

A Contract based on TTC's standard Terms and Conditions, which is to be executed by both the Successful Bidder/Proponent and the TTC.

3.17 Merx Website

The Merx Website ([www.merx.com](http://www.merx.com)) used to publicly advertise Requests, provide Bid results and provide notice of Awards.

3.18 Procurement

The process for acquiring goods and/or services. This process includes defining the requirement, sourcing, preparing and distributing a Request, evaluating the Bids/Proposals, obtaining the appropriate authorization for award value in accordance with the Authorization for Expenditure and Other Commitments Policy and issuing a Contract.

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3.19 Procurement Requisition (Form 1)

The document completed and executed by the Customer Department requesting M&P to initiate the process for the Procurement of a specific good(s) and/or service(s) but does not authorize M&P to Award a Contract. Generally, this document is not for use for Informal Requests.

3.20 Proponent

A corporation, partnership, joint venture, sole proprietorship, association, individual or other entity, acceptable to the TTC, who submits a Proposal in response to a Request.

3.21 Proposal

The form of Request as more particularly set out in Section 4.4 below.

3.22 Purchase Authorization (Form 2)

The document completed and executed by the Customer Department, and approved for process by M&P, used to obtain authorization to allow M&P to proceed with the Award of Contract to the Successful Bidder/Proponent. This document may be used for both Formal Requests and Informal Requests.

3.23 Purchase Order (PO)

The Purchase Order is a form of Contract signed by the Buyer/Contract Administrator, issued by the TTC to the Successful Bidder/Proponent, setting out the terms and conditions of the Contract.

3.24 Qualifications

A Requested Change that does not, in the sole discretion of the Head of M&P, materially affect the intent of the Request, a provision of the Request, or a provision of the proposed Contract, or any part thereof.

3.25 Request

The document issued by or on behalf of the TTC, requesting Bids/Proposals and includes a request for information, request for pre-qualification, bids, proposals, and/or quotes.

3.26 Requested Change

A request by a Bidder/Proponent, through or in its Bid/Proposal, to add to, delete from, interpret or modify the Request, a provision of the Request, or a provision of the proposed Contract (commonly known as Contract B) which is included in the Request, or any part thereof.

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3.27 Restricted Sourcing

An invitation to a select or limited number of Bidders/Proponents to provide the goods and/or services. This only applies after an attempt to procure goods and/or services by the Commission using the appropriate competitive process failed to identify a compliant Bidder/Proponent and where undertaking a new Request would not likely change the results.

3.28 Sole Source

When more than one potential Bidder/Proponent for the goods and/or services exists, but in those circumstances where sufficient justification exists it is considered in the best interest of the Commission to deal with only one Bidder/Proponent.

3.29 Single Source

When only one Bidder/Proponent for the goods and/or services is known to exist or is approved for the requirement.

3.30 Successful Bidder/Proponent

The Bidder/Proponent whose Bid/Proposal has been approved for Award.

3.31 TTC Website

The TTC Website ([www.ttc.ca](http://www.ttc.ca)) used to publicly advertise Requests, provide Bid/Proposal results and provide notice of Awards, as well as provide information regarding how to do business with the TTC.

3.32 Vendor Agreement

Standard agreements prepared by Bidders, which are required for routine or repetitive purchases (i.e. software licenses, equipment leasing/maintenance, hotel room rentals, etc.). All Vendor Agreements are reviewed and approved by the following Departments: M&P, Legal Department, the Customer Department and, if appropriate, Finance Department.

4.0 PROCUREMENT PROCESS

The Head of M&P is responsible for promoting the use of competitive processes and for ensuring that competition is not needlessly restricted at any time during the Procurement process. M&P processes Procurement requirements by use of the following:

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4.1 Request For Information (RFI)

This is used to either develop or maintain a list of interested/qualified potential Bidders/Proponents for a requirement for future reference, or to research the market place for new technologies, services and/or products.

4.2 Request for Pre-Qualification

This is used for the purpose of developing a shortlist of qualified Bidders/Proponents for use in a specific subsequent Request.

4.3 Request for Bids (RFB)

Bids are solicited when the requirement of the Request is clearly defined, including the commercial conditions and technical specifications, and the Bidders are provided little latitude to interpret the requirements and the Award is generally to a qualified acceptable Bidder who provides the best value to the TTC.

4.4 Request for Proposals (RFP)

Proposals are solicited when the requirement of the Request is not clearly defined and/or when only the performance criteria are defined and the award is to a Proponent on a basis of highest overall total weighted score or the lowest priced qualified Proponent.

4.5 Formal Requests

This process is used when the estimated value for a requirement is greater than \$100,000 for soliciting Bidders/Proponents through the advertisement of the Request on the TTC Website and Merx Website, as applicable. In addition to public advertising, potential Bidders/Proponents may be selected from the Bidders List.

The TTC may also solicit Requests, at the sole discretion of the Customer Department, in the daily press and/or trade publications and/or suitable electronic media.

This process may also be used for amounts less than \$100,000.

4.5.1 Exception

Approval is required from the Head of M&P for requirements with an estimated value greater \$100,000, but less than or equal to \$500,000 and CEO for any requirement with an estimated value greater than \$500,000, which is not to be publicly advertised.

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Other exceptions and their approval requirements are outlined in Section 5 below.

#### 4.6 Informal Requests

This process is used when the estimated value for a requirement is less than or equal to \$100,000. Potential Bidders/Proponents are selected from the Bidders List and are invited to submit an informal Bid/Proposal directly to M&P, either verbally, electronically or by written response.

##### 4.6.1 Exception

This process may also be used in emergency situations at the sole discretion of the Head of M&P or his/her delegate, for purchases from \$100,000 to \$500,000. CEO approval will be required for purchases greater than \$500,000.

In the event that the Head - M&P or his/her delegate authorizes the use of the informal process in an emergency situation, a memo will be issued under the Head of M&P's signature to the CEO to explain the reasons for deviating from the standard process.

#### 4.7 Canadian Content

Effective September 1, 2008 the Province of Ontario implemented a requirement for Canadian Content for Transit Vehicle Procurement Policy that specifies that some provincially funded transit vehicles will require 25% Canadian Content. TTC procurements of provincially funded vehicles shall comply with the Province of Ontario's Canadian Content for Transit Vehicle Procurement Policy.

In addition to the above, for the Procurement of City buses the Commission has directed higher percentages of Canadian Content for the various types of City buses as well as a minimum percentage of Canadian Content applicable to the direct labour for the final assembly of the buses. These percentages are posted on the Commission's website under Commission Policies at <http://www.ttc.ca/>.

For all other purchases, the Commission may provide preference to Canadian manufacturers or Canadian Content if pricing and quality are equal to other bids, provided that the preference is expressly stated in the Request.

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4.8 Purchase of Garments and Other Apparel from Responsible Manufacturers  
All Commission Bid Requests for garments (excluding Contracts for work clothing voucher program) will include a provision to ensure that garments are purchased from responsible (no sweat shop) garment manufacturers.

4.9 Joint Purchasing  
The joint purchasing program identifies requirements (similar in nature) that would be candidates for a joint purchasing process involving, but not limited to, Agencies, Boards or Commissions (ABC's) from the Public Sector, where Requests are issued competitively (either formally or informally) by utilizing the applicable ABC's purchasing process. The Commission, at its sole discretion, may purchase against any resulting contract issued by the ABC. Such purchases require approval in accordance with the Commission's Authorization for Expenditure and Other Commitments Policy, 13.5.10.

5.0 EXCEPTIONS TO THE COMPETITIVE PROCESS

5.1 Sole Source  
Approval to proceed with a Sole Source Request, Contract Award or Amendment requires the prior approval of the Head of M&P, the CEO or the Commission as outlined below:

## Requests:

Prior approval is required to proceed with a Sole Source Request from the Head of M&P when the estimated value of the requirement is up to \$100,000 and in addition, the CEO approval is required when the estimated value of the requirement is greater than \$100,000.

## Awards:

Subject to obtaining appropriate Sole Source Request approval, Award of a Sole Source Contract valued at \$500,000 or less shall be in accordance with the Authorization for Expenditure and Other Commitments Policy, and Award of a Sole Source Contract valued at more than \$500,000 requires approval of the Commission.

## Amendments:

In addition to Sole Source Request approval, an Amendment(s) to any Sole Source Contract may be approved by the Head of M&P up to a revised contract authorized amount of \$100,000 and by the CEO up to a revised

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contract authorized amount of \$500,000. Commission approval is required when the revised contract value, including all amendments exceeds \$500,000.

#### 5.2 Purchasing Card

The purchasing card is used to allow cardholders to directly purchase and receive non-stock, non-repetitive goods and services not involving physical work on TTC or City property valued at under \$5,000 Canadian, including all applicable taxes, thereby reducing administrative costs by not processing these purchases through M&P. M&P is responsible for the administration of the purchasing card Contract, including spot audits based on monthly statements, and advising Customer Departments of any concerns, as well as providing training and maintaining a procedure manual. The use of the purchasing card is restricted by a number of controls, including expenditure limits by transaction and month, and the type of purchase. CEO approval is required to assign cardholders with a purchasing authority higher than \$5,000.

A Department Head is responsible for ensuring that purchasing cards within his/her department are used appropriately.

#### 5.3 Restricted Sourcing Process

The Head of M&P may authorize proceeding with a Procurement process based on Restricted Sourcing where an attempt to procure goods and/or services by the Commission using the appropriate competitive process has failed to identify a compliant Bidder/Proponent and where undertaking a new Request would not likely change the results.

In such situations, the Head of M&P may authorize proceeding with a Procurement process based on Restricted Sourcing with the company/companies that submitted a Bid/Proposal in response to the original Request.

#### 5.4 Legal Services

The engagement of outside legal services shall be carried out in accordance with both the Engagement of Outside Counsel Policy (9.1) and the Authorization for Expenditures and Other Commitments Policy (13.5).

#### 5.5 Real Property

This policy does not apply to the purchase, sale or lease of real property.

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6.0 CHEQUE REQUESTS

Cheque Requests are normally used to process payments of relatively low value for miscellaneous expenses (e.g. travel advances, memberships, petty cash replenishments, police paid duty, etc.) where neither a Purchase Order nor a Contract exist. Cheque Requests are not the appropriate mechanisms for the payment of goods and services normally purchased through the Procurement process as set out in this policy.

7.0 COMMUNICATION DURING PROCUREMENT PROCESS

7.1 The single point contact person throughout the Procurement process relating to a specific Request is the M&P representative identified in the Request or his/her designate. In order to ensure all commercial and technical issues are properly addressed within the Procurement process, the M&P representative may permit other individuals employed or retained by the TTC, including TTC members, officers, employees and a fairness monitor, to be present during any meeting and to communicate with a Proponent relating to any commercial or technical issue arising from the Request.

7.2 If the M&P representative has permitted any communication between a Proponent and another individual employed or retained by the TTC in accordance with Section 7.1 above, such communication shall only occur if the M&P representative (or designate) is present at any meeting, or if the communication occurs outside of the meeting that it be in writing and a copy be provided to the M&P representative (or designate).

7.3 The requirements as set out in the City of Toronto Municipal Code, Chapter 140 shall apply to TTC Procurements. More specific information concerning the Lobbyist Registry is available on the City's website at [www.toronto.ca/lobbying](http://www.toronto.ca/lobbying).

7.4 Any questions relating to the applicability of Chapter 140 of the Municipal Code should be directed to the Office of the City of Toronto's Lobbyist Registrar.

8.0 BID/PROPOSAL INFORMATION

8.1 All Bids/Proposals submitted at the request of the TTC shall become the

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property of the Commission and are subject to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act* ("MFIPPA"). Bidders/Proponents are encouraged to familiarize themselves with the provisions of the MFIPPA.

#### 8.2 Publicly Opened Formal Bids

All formal Bids are publicly opened by the Commission Services Office. At the time of the public opening the TTC reveals only the identity of Bidders and the total Bid price(s) submitted by each Bidder. Information on the Bidders and their total Bid price only, excluding specified options, etc., is posted on the TTC Website and Merx Website, as applicable. The information posted on the TTC Website and the Merx Website after a public opening is not a final decision nor does it confirm that a Bid as submitted is compliant with the requirements as set out in the Request. TTC reserves the right to correct any errors or omissions with respect to the posted information.

#### 8.3 Formal Proposal Opening

All formal Proposals are opened by the Commission Services Office (not publicly opened). Only the names of the Proponents that submitted a Bid are posted on the TTC Website. TTC reserves the right to correct any errors or omissions with respect to the posted information.

#### 8.4 Bidder Information

Information relating to a Bidder's previous work performance and whether a Bid is compliant based on the Request may also be provided in a subsequent Commission Report. Copies of the Commission Reports for Procurement requirements are made available to interested parties by the Commission Services Office prior to the Commission meeting in which the report will be considered, and are also posted on the TTC Website. All subsequent requests for Commission Reports are to be directed to the Commission Services Office.

#### 8.5 Notifying Unsuccessful Bidders/Proponents

After Award, name(s) and total Contract Award value(s) of the Successful Bidder/Proponent for Formal Requests shall be posted on the TTC Website and Merx Website (if applicable) to provide notification to the unsuccessful Bidders and any other interested party. For Informal Requests, TTC discloses the identity of the Successful Bidder/Proponent and its total awarded amount(s), if applicable. Upon requests from interested parties, after Award, the Bidders/Proponents can be debriefed regarding the strength and weaknesses of their submission, if requested.

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9.0 BID IRREGULARITIES

The Head of M&P maintains a list of the types of Bid irregularities that may be contained in a Bid/Proposal. This list is posted on the TTC Website and may be updated from time to time. This list identifies the type of irregularity and how each irregularity will be considered, including whether the Bid/Proposal is rejected. Any change to this list requires approval by the Head of M&P and Head of Legal Department.

10.0 CODE OF CONDUCT

The expenditure of public funds is a responsibility that requires the highest standard of accountability, integrity and honesty. Proper management of this policy has a direct impact on the level of public trust in the TTC. The interests of the TTC and the public are paramount and therefore must be considered and protected at all times during the Procurement process. Compliance with the Conflict of Interest Policy must be maintained at all times.

11.0 CONFLICT OF INTEREST

A conflict of interest refers to a situation in which private interests or personal considerations may affect an employee's judgment in acting in the best interest of the TTC. Employees are required to support and advance the interests of the TTC and avoid placing themselves in situations where their personal interests actually or potentially conflicts with the interests of the TTC. For further information reference the Conflict of Interest, Commission Policy 4.45.

12.0 PROHIBITED PRACTISES

TTC employees, consultants, subconsultants, contractors and subcontractors have a responsibility to act ethically and honestly and in accordance with established standards, principles and policies. In order to provide an open and competitive bidding environment, a number of collusive bidding practices are prohibited by law. Collusive practises are strictly forbidden by employees, consultants, subconsultants, contractors and subcontractors.

No Bidder/Proponent and no employee, agent or representative of the Bidder/Proponent, may offer or give any gratuity in the form of entertainment, participation in social events, gifts or otherwise to any member of the City of Toronto Council or member of the Commission, or any officer or employee of the TTC in connection with or arising from a Request, whether for the purpose of

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securing a contract or seeking favourable treatment in respect to the Award of a Contract.

### 13.0 NEW PRODUCTS AND TECHNOLOGY

13.1 The Customer Department which originates the Procurement of a new product or technology for purchase by the Commission shall be responsible for identifying those products or technology which are considered safety-critical, in conjunction with the Safety and Environment Department.

13.1.1 Safety-critical products are defined as those which could affect employee and public safety of the transit system by adversely affecting signals, track, electrical, vehicle braking and door operation, system safety, passenger exposure to injury, or other major safety concerns.

13.1.2 Safety-critical products require thorough testing and validation on TTC property or equivalent situations, and must be reviewed by an evaluation team before being approved and accepted for use. The Customer Department maintaining or operating the product or technology under review is responsible for establishing the evaluation team to select criteria, timing and criticality, and to recommend acceptance or rejection for approval by the Head of Safety and Environment and the affected department head. The evaluation team must include a representative of the Safety and Environment Department.

13.1.3 A safety-critical new product or technology may be determined as part of a study for a specific need, or may be proposed by industry either prior to or after a Request. If proposed by a Bidder or potential Bidder, new safety-critical products must be placed and tested for sufficient time on TTC property to verify that system safety is achieved. Such a test installation will generally be at the Bidder's or proposed Bidder's cost. If proposed by staff, similar testing will be required, generally at the Commission's cost. Alternatively, the evaluation team may consider data provided from other independent sources such as another transit agency or accredited testing agency, and make recommendations based upon such data.

13.2 In all cases where parts or components on revenue or non-revenue vehicles have been determined as safety critical, such parts or components may

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only be purchased from suppliers pre-approved by the appropriate Head of Engineering within the Operations and Safety Group.

14.0 REFERENCE SOURCES

- Authorization for Expenditures and Other Commitments Policy
- Authorization for Sales Policy
- Conflict of Interest Policy
- Delegation of Management Authority Policy
- Engagement of Outside Counsel Policy
- Green Procurement Policy
- Lobbying Registry Policy
- Materials and Procurement Department's Users' Guide
- Petty Cash Policy
- Product Endorsement Policy
- Purchasing Card Program Procedures
- Signing Officers for the Execution of Documents Under Corporate Seal Policy
- Ministry of Transportation, Transit Policy Branch – Canadian Content for Transit Vehicle Procurement Policy

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1.0 RESPONSIBILITY

~~Manager Head of~~ Materials and Procurement (M&P).

2.0 PURPOSE

To set out the rules of the process to be followed to obtain competitive ~~Bids/Proposal~~tenders, or proposals, where possible, for the acquisition of goods and services. The TTC solicits competitive submissions ~~from interested and qualified sources~~ and accepts the compliant submission that represents the best value ~~tender or best qualified and acceptable proposal, if price is acceptable~~ and meets the best interest of the TTC.

3.0 DEFINITIONS

The following definitions apply within the context of this policy.

3.1 Addendum

The document used to change or amend a Request prior to the closing time for receiving Bids/Proposals, as more particularly set out in the specific Request.

3.2 Amendment

The document ~~used~~issued by M&P to amend a Contract ~~Change / Directive~~, which may be issued in the form of a Contract Amendment, Purchase Order ~~a~~Amendment or Contract ~~e~~Change/Change Directive.

3.3 Authorization

The appropriate process and required level of approvals which must be obtained as outlined in the Authorization for Expenditures and Other Commitments policy.

3.4 Award

The notification issued by M&P of the TTC's acceptance of a Bid/Proposal to the Successful Bidder/Proponent.

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- 3.5 Bid  
The response submitted by a Bidder and received by the TTC to a specific Request.
- 3.6 Bidder  
A corporation, partnership, joint venture, sole proprietorship, association, individual or other entity, acceptable to the TTC, who submits a Bid in response to ~~for~~ a Request.
- 3.7 Bidders List  
A list of potential sources (e.g. suppliers, companies, contractors, and consultants) maintained by M&P for use in the acquisition of goods and services, or sale or disposition of surplus assets.
- 3.8 Bid Process  
The period of time from the issuance of a Request by M&P through to ~~award~~Award of Contract.
- 3.9 ~~Customer~~ Department  
The customer from a department(s) within TTC for which M&P is providing services for ~~department requesting~~ the Procurement of certain goods and/or services.
- 3.10 Commercial Analysis or Company Recommendation Report  
The document prepared by M&P that summarizes the ~~procurement~~Procurement process of a requirement with a recommendation for ~~award~~Award, which may be used to initiate as the method for obtaining the Procurement authorization for M&P to proceed with the Award of the Contract. ~~to the Successful Bidder.~~
- 3.11 Contract  
The Purchase Order issued by the TTC or Executed Contract entered into by the TTC and a Successful Bidder/Proponent.
- 3.12 Contract Document Committee (CDC)  
A committee that is chaired by M&P and consists of representatives of

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various departments, including but not limited to M&P, Legal Department and Finance Department. The CDC is responsible for preparing, updating, reviewing and approving standard terms and conditions which are to be incorporated into Requests and Contracts. ~~Major~~ Revisions to standard general or supplementary ~~terms and conditions~~ that have a significant financial impact on the Commission will require the Chief Executive Officer's General Manager (CEOGM) approval as determined by CDC.

3.13 Exception

A ~~Requested~~ Change requested by a Bidder/Proponent which materially affects or may materially affect, as determined at the sole discretion of the ~~Head Manager~~ of M&P, the intent of the Request, a specific provision of the Request, or a provision of the proposed contract which is included in the Request, or any part thereof.

3.14 Executed Contract

An agreement for the ~~provision purchase~~ of goods and/or services which requires execution by both the Successful Bidder/Proponent and the TTC. An Executed Contract may be either an Executed Document Using Non-Standard General Terms and Conditions, including Vendor Agreement or, an Executed Document Using TTC Standard Terms and Conditions or a Vendor Agreement. A minimum of two copies (originals) of an Executed Contract should be executed by both the Successful Bidder/Proponent and the TTC with one original retained by the Successful ~~Bidder~~ Proponent and the other by M&P.

The Executed Contract shall be executed by the ~~Manager Head~~ of M&P or his/her delegate.

3.15 Executed Document Using Non-Standard General Terms and Conditions

A Contract that is to be executed by the Successful Bidder/Proponent and the TTC, which includes negotiated terms and conditions. These non-standard documents are prepared by M&P or the Successful Bidder/Proponent and are reviewed and accepted by the Legal Department and the ~~Customer~~ Client Department. If there are financial impacts on the TTC based on the negotiated terms, the terms and conditions are also reviewed and approved by the Finance Department.

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3.16 Executed Document Using TTC Standard Terms and Conditions (without exception)

A Contract based on TTC's standard ~~t~~Terms and ~~e~~Conditions, which is to be executed by both the Successful Bidder/Proponent and the TTC.

3.17 Merx Website

The Merx Website (www.merx.com) used to publicly advertise Requests, provide Bid results and provide notice of Awards.

3.1~~8~~7 Procurement

The process for acquiring goods and/or services. This process includes defining the requirement, sourcing, preparing and distributing a Request, evaluating the Bids/Proposals, obtaining the appropriate authorization for award value in accordance with the Authorization for Expenditure and Other Commitments Policy and issuing a Contract.

3.1~~9~~8 Procurement Requisition (Form 1)

The document completed and executed by the Client-Customer Department requesting M&P to initiate the ~~tender/proposal~~ process for the Procurement of a specific good(s) and/or service(s) but does not authorize M&P to ~~award~~Award a Contract. Generally, this document is not for use for Informal Requests.

3.20 Proponent

A corporation, partnership, joint venture, sole proprietorship, association, individual or other entity, acceptable to the TTC, who submits a Proposal in response to a Request.

3.21~~9~~9 Proposal

The form of Request as more particularly set out in Section 4.~~4~~3 below.

3.2~~2~~0 Purchase Authorization (Form 2)

The document completed and executed by the Client-Customer Department, and approved for process by M&P, used to obtain authorization to allow authorize M&P to proceed with the Award of Contract to the Successful Bidder/Proponent. This document may be used for both Formal Requests and

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Informal Requests.

3.231 Purchase Order (PO)

The Purchase Order is a form of Contract signed by the Buyer/Contract Administrator, issued by the TTC to the Successful Bidder/Proponent, setting out the terms and conditions of the Contract.

3.242 Qualifications

A Requested Change that does not, in the sole discretion of the Head Manager ~~of~~ M&P, materially affect the intent of the Request, a provision of the Request, or a provision of the proposed eContract, or any part thereof.

3.253 Request

The document issued by or on behalf of the TTC, requesting Bids/Proposals ~~from potential bidders~~ and includes a request for information, request for pre-qualification, bids, proposals, ~~tenders~~ and/or quotes.

3.264 Requested Change

A request by a Bidder/Proponent, through or in its Bid/Proposal, to add to, delete from, interpret or modify the Request, a provision of the Request, or a provision of the proposed eContract (commonly known as Contract B) which is included in the Request, or any part thereof.

3.275 Restricted Sourcing

An invitation to a select or limited number of ~~b~~Bidders/Proponents ~~which is less than the total number of bidders known to be available~~ to provide the goods and/or services. This normally only applies after an attempt to procure goods and/or services by the Commission using the appropriate competitive process failed to identify a compliant bBidder/Proponent and where undertaking a new Request would not likely change the results.

3.286 Sole Source

When more than one potential bBidder/Proponent for the goods and/or services exists, but in those circumstances where sufficient justification exists it is considered in the best interest of the Commission to deal with only one bBidder/Proponent.

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3.297 Single Source

When only one ~~known~~ Bidder/Proponent for the goods and/or services is known to exists or is approved for the requirement.

3.3028 Successful Bidder/Proponent

The Bidder/Proponent whose Bid/Proposal has been approved for Award.

~~3.29~~ Tender

~~The form of Request as more particularly set out in Section 4.2.~~

3.310 TTC Web-Ssite

The TTC Web-~~Ssite~~ (<http://www2.ttc.ca/html/frameset.htm>) (www.ttc.ca) used to publicly advertise Requests, provide Bid/Proposal results and provide notice of Awards, as well as provide information regarding M&P how to do business with the TTC.

3.324 Vendor Agreement

Standard agreements prepared by Bidders, which are required for routine or repetitive purchases (i.e. software licenses, equipment leasing/maintenance, hotel room rentals, etc.). All Vendor Agreements are reviewed and approved by the following Departments: M&P, Legal Department, the Customer originating ~~d~~Department and, if appropriate, Finance Department.

4.0 PROCUREMENT PROCESS

The HeadManager ~~of~~ M&P is responsible for promoting the use of competitive processes and for ensuring that competition is not needlessly restricted at any time during the pProcurement process. M&P processes pProcurement requirements by use of the following:

4.1 Request For Information (RFI)

This is used to either develop or maintain a list of interested/qualified potential Bidders/Proponents for a requirement for future reference, ~~or to conduct an initial evaluation of potential bidders based on specific requirements, or to research the market place for new technologies, services and/or products.~~

4.2 Request for Pre-Qualification

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This is used for the purpose of developing a shortlist of qualified ~~b~~Bidders/Proponents for use in a specific subsequent Request (~~e.g. pre-qualification~~).

#### 4.32 Request for ~~Tenders-Bids~~ (RFTB)

~~Bids Tenders~~ are solicited when the requirement of the Request is clearly defined, including the commercial conditions and technical specifications, and the ~~b~~Bidders are provided little latitude to interpret the requirements and the a~~A~~ward is generally to a qualified acceptable Bidder who provides the best value to the TTC.

#### 4.43 Request for Proposals (RFP)

Proposals are solicited when the requirement of the Request is not clearly defined and/or when only the performance criteria are defined and the award is to a qualified/best qualified Bidder/Proponent on a basis of highest overall total weighted score or the lowest priced qualified Proponent. ~~at the lowest/acceptable price.~~

#### 4.54 Formal Requests

This process is used when the estimated value for a requirement is greater than \$100,000 for soliciting Bidders/Proponents through the advertisement of the Request on the TTC Web ~~Site~~ and Merx Website, as applicable. In addition to public advertising, P~~potential Bidders/Proponents~~ may ~~also~~ be selected from the Bidders List ~~and are invited to submit a sealed Bid/Proposal, which is received by the General Secretary or his/her delegate. Tender and Proposal o~~Openings are in accordance with Section 8.0 below.

The TTC may also solicit Requests, at the sole discretion of the ~~Manager~~ M&P Customer Department or his/her delegate, in the daily press and/or trade publications and/or suitable electronic media.

This process may also be used for amounts less than \$100,000.

##### 4.54.1 Exception

Approval is required from the ~~Head~~Manager ~~of~~ M&P for requirements with an estimated value greater \$100,000, but less than or equal to \$500,000 ~~and~~ CEO Chief General Manager

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~~approval is required~~ for any requirement with an estimated value greater than \$500,000, which is not to be publicly advertised. Other exceptions and their approval requirements are outlined in Section 5 below. ~~unless the requirement is a Single Source, or if Sole Source approval has been obtained as outlined under Section 5.1.~~

#### 4.~~65~~ Informal Requests

This process is used when the estimated value for a requirement is less than or equal to \$100,000. ~~Potential Bidders~~/Proponents are selected from the Bidders List and are invited to submit an informal Bid/Proposal directly to M&P, either verbally, electronically or by written response.

##### 4.~~65~~.1 Exception

This process may also be used in emergency situations at the sole discretion of the Manager Head ~~of~~ M&P or his/her delegate, for purchases from \$100,000 to \$500,000. CEO Chief General Manager approval will be required for purchases greater than \$500,000.

In the event that the Manager Head - M&P or his/her delegate authorizes the use of the informal process in an emergency situation, a memo will be issued under the Head Manager ~~of~~ M&P's signature to the CEOGM to explain the reasons for deviating from the standard process.

#### 4.8 Canadian Content

Effective September 1, 2008 the Province of Ontario implemented a requirement for Canadian Content for Transit Vehicle Procurement Policy that specifies that some provincially funded transit vehicles will require 25% Canadian eContent. TTC procurements of provincially funded vehicles shall comply with the Province of Ontario's Canadian Content for Transit Vehicle Procurement Policy.

In addition to the above, for the ~~p~~Procurement of eCity buses the Commission has directed higher percentages of Canadian eContent for the various types of eCity buses as well as a minimum percentage of Canadian eContent applicable

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to the direct labour for the final assembly of the buses. These percentages are posted on the Commission's web-site under Commission Policies at <http://www2.ttc.ca/html/frameset.htm> and may only be changed as approved by the Commission.

For all other purchases, the Commission may provide preference to Canadian manufacturers or Canadian Content if pricing and quality are equal to other bids, provided that the preference is expressly stated in the Request.

- 4.87 Purchase of Garments and Other Apparel from Responsible Manufacturers  
All Commission ~~b~~ Bid ~~r~~ Requests for garments (excluding ~~e~~ Contracts for work clothing voucher program) will include a provision to ensure that garments are purchased from responsible (no sweat shop) garment manufacturers.

4.9 Joint Purchasing

The joint purchasing program identifies requirements (similar in nature) that would be candidates for a joint purchasing process involving, but not limited to, Agencies, Boards or Commissions (ABC's) from the Public Sector, where Requests are issued competitively (either formally or informally) by utilizing the applicable ABC's purchasing process. The Commission, at its sole discretion, may purchase against any resulting contract issued by the ABC. Such purchases require approval in accordance with the Commission's Authorization for Expenditure and Other Commitments Policy, 13.5.10.

5.0 EXCEPTIONS TO THE COMPETITIVE PROCESS

5.1 Sole Source

Approval to proceed with a Sole Source Request, Contract Award or Amendment requires the prior approval of the ~~Manager~~ Head ~~of~~ M&P, the ~~CEOGM~~ or the Commission as outlined below:

Requests:

Prior approval is required to proceed with a Sole Source Request from the ~~Head~~ Manager ~~of~~ M&P when the estimated value of the requirement is up to \$100,000 and in addition, ~~from~~ the ~~CEOGM~~ approval is required when the

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estimated value of the requirement is greater than \$100,000.

## Awards:

Subject to obtaining appropriate Sole Source Request approval, Award of a Sole Source Contract valued at \$500,000 or less shall be in accordance with the Authorization for Expenditure and Other Commitments Policy, and ~~award~~Award of a Sole Source Contract valued at more than \$500,000 requires approval of the Commission.

## Amendments:

In addition to Sole Source Request approval, an Amendment(s) to any Sole Source Contract may be approved by the ~~Manager Head of~~ M&P up to a ~~revised contract authorized amount of \$100,000 cumulative value of an additional \$50,000~~ and by the ~~CEOGM~~ up to a ~~revised contract authorized amount of \$500,000 cumulative value of an additional \$250,000~~. Commission approval is required when the ~~revised contract value, including all amendments cumulative value of Amendments for a Sole Source Contract exceeds \$500,000. 250,000. Notwithstanding the foregoing, the CGM may at his/her discretion; approve cost overruns that are not considered significant to close out a Sole Source Contract.~~

~~Sole Source contract Awards and Amendments approved by the CGM are reported to the Commission as part of the report on the summary of authorized expenditures.~~

5.2 Purchasing Card

The purchasing card is used to allow cardholders to directly purchase and receive non-stock, non-repetitive goods and services not involving physical work on TTC or City property valued at under \$5,000 Canadian, including all applicable taxes, thereby reducing administrative costs by not processing these purchases through M&P. M&P is responsible for the administration of the purchasing card eContract, including spot audits based on monthly statements, and advising Customer dDepartments of any concerns, as well as providing training, and maintaining a procedure manual. The use of the purchasing card is restricted by a number of controls, including expenditure limits by transaction and month, and the type of purchase. CEOGM approval

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is required to assign cardholders with a purchasing authority higher than \$5,000.

A Department Head is responsible for ensuring that purchasing cards within his/her department are used appropriately.

#### 5.4 Restricted Sourcing Process

The ~~Manager Head~~ of M&P may authorize proceeding with a ~~p~~Procurement process based on Restricted Sourcing where an attempt to procure goods and/or services by the Commission using the appropriate competitive process has failed to identify a compliant ~~b~~Bidder/Proponent and where undertaking a new Request would not likely change the results.

In such situations, the ~~Manager Head~~ of M&P may authorize ~~cancellation of the original Request and~~ proceeding with a ~~p~~Procurement process based on Restricted Sourcing with the company/companies that submitted a Bid/Proposal in response to the original Request.

#### 5.4 Legal Services

The engagement of outside legal services shall be carried out in accordance with both the Engagement of Outside Counsel Policy (9.1) and the Authorization for Expenditures and Other Commitments Policy (13.5).

#### 5.5 Real Property

This policy does not apply to the purchase, sale or lease of real property.

### 6.0 CHEQUE REQUESTS

Cheque ~~R~~requests are normally used to process payments of relatively low value for miscellaneous expenses (e.g. travel advances, memberships, petty cash replenishments, police paid duty, etc.) where neither a ~~p~~Purchase ~~e~~Order nor a ~~e~~Contract exist. Cheque ~~r~~Requests are not the appropriate mechanisms for the payment of goods and services normally purchased through the ~~procurement~~Procurement process as set out in this policy.

### 7.0 COMMUNICATION DURING PROCUREMENT BID PROCESS

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7.1 The single point contact person throughout the ~~Bid-Procurement~~ Procurement process relating to a specific Request is the M&P representative identified in the Request or his/her designate. In order to ensure all commercial and technical issues are properly addressed within the Procurement process, the M&P representative may permit other individuals employed or retained by the TTC, including TTC members, officers, employees and a fairness monitor, to be present during any meeting and to communicate with a Proponent relating to any commercial or technical issue arising from the Request.

7.2 If the M&P representative has permitted any communication between a Proponent and another individual employed or retained by the TTC in accordance with Section 7.1 above, such communication shall only occur if the M&P representative (or designate) is present at any meeting, or if the communication occurs outside of the meeting that it be in writing and a copy be provided to the M&P representative (or designate).

7.3 The requirements as set out in the City of Toronto ~~Anyone interested in lobbying TTC Commissioners, their staff or any TTC employee or officer is required to register with the City of Toronto's Lobbyist Registry under the terms set out in~~ Municipal Code, Chapter 140 shall apply to TTC Procurements. —More specific information concerning the Lobbyist Registry is available on the City's website at [www.toronto.ca/lobbying](http://www.toronto.ca/lobbying).

7.4 Any questions relating to the applicability of Chapter 140 of the Municipal Code should be directed to the Office of the City of Toronto's Lobbyist Registrar.

## 8.0 DISCLOSURE OF BID/PROPOSAL TENDER/PROPOSAL INFORMATION

8.1 All Bids/Proposals submitted at the request of the TTC shall become the property of the Commission and are ~~therefore~~ subject to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act* ("MFIPPA"). Bidders/Proponents are encouraged to familiarize themselves with the provisions of the ~~Act~~MFIPPA. All information contained in a Bid/Proposal is considered confidential information of the Bidder/Proponent and such information is supplied by the Bidder/Proponent in confidence, except as

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~~provided for hereunder:~~

~~8.21~~ Publicly Opened Formal Bids/Tenders

~~All formal Bids are publicly opened by the Commission Services Office. At the time of the public opening the TTC reveals only the identity of Bidders and the total Bid price(s) submitted by each Bidder. Information on the Bidders and their total Bid price only, excluding alternatives specified options, etc., is posted on the TTC Web-Ssite and Merx Website, as applicable. The information posted on the TTC Website and the Merx Website after a public opening is not a final decision nor does it confirm that a Bid as submitted is compliant with the requirements as set out in the Request. TTC reserves the right to correct any errors or omissions with respect to the posted information.~~

~~8.23~~ Formal Proposal Opening

~~All formal Proposals are opened by the General Secretary's-Commission Services Office (not publicly opened). Only the names of the ProponentsBidders that submitted a Bid are posted on the TTC Web-Ssite. TTC reserves the right to correct any errors or omissions with respect to the posted information.~~

~~8.43~~ Bidder Information

~~Information relating to a Bidder's previous work performance and whether a Bid is compliant based on the Request may also be provided in a subsequent Commission Report. Copies of the Commission Reports for pProcurement requirements are made available to interested parties by the General Secretary's-Commission Services Office generally within six (6) calendar days of the time of the respectiveprior to the -Commission meeting in which the report will be considered, and are also posted on the TTC Web-Ssite. All subsequent requests for Commission Reports are to be directed to the General Secretary's-Commission Services Office.~~

~~In the event a Commission Report was not required, only the information provided on the TTC Web Ssite is to be disclosed to interested parties, except as otherwise noted in Section 8.4 below.~~

~~8.45~~ Notifying Unsuccessful Bidders/Proponents

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After Award, name(s) and total Contract ~~award~~Award value(s) of the Successful Bidder /Proponent for Formal Requests shall be posted on the TTC Web-~~S~~ite and Merx Website (if applicable) to provide notification to the unsuccessful Bidders and any other interested party.— For Informal Requests, TTC discloses the identity of the ~~s~~Successful Bidder/Proponent and its total ~~awarded amount(s)~~Bid —prie e(s)—, if applicable, ~~u~~Upon requests from interested parties, after Award~~,~~, the Bidders/Proponents can be debriefed regarding the strength and weaknesses of their submission, if requested.

9.0 BID IRREGULARITIES

The ~~Manager-Head —of~~ M&P maintains a list of the types of Bid irregularities that may be contained in a Bid/Proposal. This list is posted on the TTC Web-~~S~~ite and may be updated from time to time. This list identifies the type of irregularity and how each irregularity will be considered, including whether the Bid/Proposal —is rejected. Any change to this list requires approval by the ~~Head~~Manager— of M&P and ~~Head of Legal Department~~General Counsel.

10.0 CODE OF CONDUCT

The expenditure of public funds is a responsibility that requires the highest standard of accountability, integrity and honesty. Proper management of this policy has a direct impact on the level of public trust in the ~~Toronto Transit Commission~~TTC. The interests of the ~~Toronto Transit Commission~~TTC and the public are paramount and therefore must be considered and protected at all times during the ~~procurement~~Procurement process. Compliance with the Conflict of Interest Policy must be maintained at all times.

11.0 CONFLICT OF INTEREST

A conflict of interest refers to a situation in which private interests or personal considerations may affect an employee's judgment in acting in the best interest of the TTC. Employees are required to support and advance the interests of the TTC and avoid placing themselves in situations where their personal interests actually or potentially conflicts with the interests of the TTC. For further information reference the Conflict of Interest, Commission pPolicy #4.45.

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12.0 PROHIBITED PRACTISES

TTC employees, consultants, subconsultants, contractors and subcontractors have a responsibility to act ethically and honestly and in accordance with established standards, principles and policies. In order to provide an open and competitive bidding environment, a number of collusive bidding practices are prohibited by law. Collusive practises are strictly forbidden by employees, consultants, subconsultants, contractors and sub-contractors.

~~No Commissioner, or employee of the Toronto Transit CommissionTTC shall become interested, directly or indirectly, to a contracting party, partner or otherwise in, or in the performance of a Contract or in the supplies, Work or business to which it relates, or in any portion of the profits thereof, or of any such supplies to be used therein, or in any of the monies to be derived therefrom.~~

No Bidder/Proponent and no employee, agent or representative of the Bidder/Proponent, may offer or give any gratuity in the form of entertainment, participation in social events, gifts or otherwise to any member of the City of Toronto Council or member of the Commission, or any officer or employee of the TTC in connection with or arising from a Request, whether for the purpose of securing a contract or seeking favourable treatment in respect to the Award of a Contract.

13.0 NEW PRODUCTS AND TECHNOLOGY

13.1 The Customer dDepartment which originates the Procurement of a new product or technology for purchase by the Commission shall be responsible for identifying those products or technology which are considered safety-critical, in conjunction with the Safety and Environment Department.

13.1.1 Safety-critical products are defined as those which could affect employee and public safety of the transit system by adversely affecting signals, track, electrical, vehicle braking and door operation, system safety, passenger exposure to injury, or other major safety concerns.

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13.1.2 Safety-critical products require thorough testing and validation on TTC property or equivalent situations, and must be reviewed by an evaluation team before being approved and accepted for use. The Customer dDepartment maintaining or operating the product or technology under review is responsible for establishing the evaluation team to select criteria, timing and criticality, and to recommend acceptance or rejection for approval by the Head –of Safety and Environment~~Chief Safety Officer~~ and the affected department head. The evaluation team must include a representative of the Safety and Environment Department.

13.1.3 A safety-critical new product or technology may be determined as part of a study for a specific need, or may be proposed by industry either prior to or after a Request. If proposed by a Bidder or potential Bidder, new safety-critical products must be placed and tested for sufficient time on TTC property to verify that system safety is achieved. Such a test installation will generally be at the Bidder's or proposed Bidder's cost. ~~If~~ proposed by staff, similar testing will be required, generally at the Commission's cost. ~~Alternatively~~, the evaluation team may consider data provided from other independent sources such as another transit agency or accredited testing agency, and make recommendations based upon such data.

13.2 In all cases where parts or components on revenue or non-revenue vehicles have been determined as safety critical, such parts or components may only be purchased from suppliers pre-approved by the appropriate Head of eEngineering ~~department~~ within the Operations and Safety Group~~Branch~~.

14.0 REFERENCE SOURCES

- Authorization for Expenditures and Other Commitments Policy
- Authorization for Sales Policy
- Conflict of Interest Policy

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- Delegation of Management Authority Policy~~Departmental—Expenditure Authority Policy~~
- Engagement of Outside Counsel Policy
- Green Procurement Policy
- Lobbying Registry Policy
- Materials and Procurement Department's Users' Guide
- Petty Cash Policy
- Product Endorsement Policy
- Purchasing Card Program Procedures
- Signing Officers for the Execution of Documents Under Corporate Seal Policy
- Ministry of Transportation, Transit Policy Branch – Canadian Content for Transit Vehicle Procurement Policy

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