

Authority: Corporate Services Committee Report No. 2(1), March 4, 5 and 6, 1998

Intended for first presentation to Council: March 4, 1998

Adopted by Council: March 6, 1998

## **CITY OF TORONTO**

### **BY-LAW No. 57-1998**

#### **Interim Purchasing By-law To establish interim procedures and authority for the procurement of goods and services.**

WHEREAS it is necessary and expedient to establish a procedure and authority for the calling of bids and the award of contracts pending the development and adoption of comprehensive by-laws establishing financial controls and procurement policies.

The Council of the City of Toronto HEREBY ENACTS as follows:

#### **1. Definitions**

In this by-law:

“Award” means the acceptance of a Tender, either by the Bid Committee pursuant to the terms of this by-law or by Council in adopting the recommendation of a Standing Committee of Council;

“Approved by Council” means, in relation to a funding approval, an approval by the adoption of the interim and current estimates or an approval of a Project to be funded by the issuance of debt or from a reserve;

“Bid” means a Quotation or a Tender;

“Bid Committee” means the committee established under section 3 of this by-law;

“Call” means a call for Tenders;

“Project” means the construction, repair or demolition of any improvement of real property including all costs normally associated therewith or any other work or undertaking;

“Purchasing Agent” means the official carrying out the purchasing function on behalf of the City and includes his or her designate;

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

“Request” means a request for Quotations; and

“Tender” means an offer to construct a Project at a price fixed as to total amount or on a unit basis, or both.

#### **2. Purchasing Agent**

- (1) The Purchasing Agent shall be responsible for
  - (a) the publication and delivery of notice to the public of all Requests and Calls issued on behalf of the City;
  - (b) determining the method of publication and delivery of notice to the public to promote awareness of the Call or Request and competition for the Award;
  - (c) scheduling, in consultation with the Clerk, the place, date and time for the receipt and opening of Tenders and Quotations and the making of Awards;
  - (d) determining whether the Bid Committee has authority to make an Award for the purposes of issuing Requests or Calls and reporting thereon;
  - (e) reporting to the Bid Committee on all Bids where the Bid Committee has authority to make an Award;
  - (f) reporting on all Bids which may not be awarded by the Bid Committee to the appropriate Standing Committee of Council in consultation with the City official who initiated the Request or Call; and
  - (g) generally monitoring, supervising and reporting to the Corporate Services Committee as required from time to time on the purchasing process.
- (2) The Purchasing Agent shall be authorized to determine, in consultation with the City Solicitor where necessary, the appropriate form and method by which all goods and services shall be procured on behalf of the City, unless otherwise directed by Council.

**3. Bid Committee**

- (1) There is hereby established a Bid Committee comprised of the following officials:
  - (a) the Chief Financial Officer and Treasurer or his or her designate;
  - (b) the Chief Administrative Officer or his or her designate;

- (c) any City official who initiated the Call or Request that is before the Committee at any given meeting or part thereof, or his or her designate; and
  - (d) the City Clerk or his or her designate.
- (2) The City Clerk shall not have a vote but shall act as the chair of the Bid Committee.
- (3) A City official referred to in clause 3(1)(c) is only entitled to vote in respect of the particular Call or Request which the City official initiated.
- (4) The Purchasing Agent shall provide advice and support to the Bid Committee.
- (5) The City Solicitor, or his or her designate, shall provide legal advice to the Bid Committee when required.
- (6) A quorum of the Bid Committee shall be 2 voting members.
- (7) All business and decisions of the Bid Committee shall be conducted and made at meetings open to the public.

**4. Duties of the City Clerk**

The City Clerk shall be responsible for

- (a) maintaining minutes of each meeting of the Bid Committee; and
- (b) distributing, prior to each meeting of the Bid Committee, the agenda for the meeting together with the minutes of the last previous meeting to each member of Council, each member of the Bid Committee, the Purchasing Agent, the City Solicitor and other appropriate City officials.

**5. Duties of the Bid Committee**

- (1) Tenders received by the Clerk in the location specified in the Call before the time stipulated therein for the close of Tenders shall be opened at a meeting of the Bid Committee and the names of the Bidders and the prices offered by each, or a summary thereof, shall be read aloud and recorded by the Chair of the Bid Committee.
- (2) Quotations received by the Purchasing Agent in the location specified in the Request before the time stipulated therein for receipt shall be opened by the Purchasing Agent at the time and location specified in the Request and the names of the bidders and the prices bid shall be read out by the Purchasing Agent. All bidders and other interested members of the public shall be entitled to be present when the names of the bidders and their prices are read.

- (3) The Bid Committee is authorized to make an Award if all of the following conditions are met:
- (a) the Purchasing Agent, after consulting with the City official who has initiated the Call or Request, has recommended the Award in the report submitted under clause 2(1)(e);
  - (b) the amount of the Award is equal to or less than the funding approved by Council and is equal to less than \$1.0 million;
  - (c) the Award is to the lowest bidder whose Bid meets the specifications and requirements set out in the Request or the Call;
  - (d) there is no written objection to the Award filed with the Bid Committee before the Award is made;
  - (e) the terms and conditions of the contract between the Bidder and the City created by the Award are determined as at the time the Bid is opened without the necessity of further negotiations between the parties other than minor clarification of the contract terms; and
  - (f) all voting members of the Bid Committee who are present at the meeting vote in favour of the Award.

**6. Standing Committee**

- (1) If all the conditions set out in subsection 5(3) are not met or where the Bid Committee does not make an Award that it is authorized to make, the Bid shall be referred to the Standing Committee of Council or to the Community Council responsible for the program or service to which the Call or Request is related, in accordance with the provisions of By-law No. 23-1998 (the Procedural By-law) as amended from time to time.
- (2) Bids referred to a Standing Committee or Community council shall be reported upon to the Standing Committee or Community Council by the Purchasing Agent and the City official on whose behalf the Request or Call was made and, where necessary, the City Solicitor.
- (3) A standing committee or community council to which a Bid is referred under subsection (1) shall make a recommendation to Council.

**7. Access to Bids**

The contents of any bid shall be made available to the public, on request, to the extent required by the Municipal Freedom of Information Protection of Privacy Act.

**8. Transition**

- (1) The provisions of this by-law apply notwithstanding any monetary limits on the authority to make financial commitments pursuant to the provisions of By-law No. 7-1998 a by-law "To confer certain authorities and responsibilities with respect to the appropriation and commitment of funds and the payment of accounts of the City of Toronto and other related matters".
- (2) Subsection 14(3) of the said By-law No. 7-1998 is amended by adding at the end "except for By-law No. 57-1998, a by-law "To establish interim procedures and authority for the procurement of goods and services."
- (3) The provisions of this by-law prevail over any by-law of the councils of the former municipalities of Metropolitan Toronto, Toronto, North York, Scarborough, East York, Etobicoke and York to the extent of any conflict.

ENACTED AND PASSED this 6th day of March, A.D. 1998.

CASE OOTES,  
Deputy Mayor

NOVINA WONG,  
City Clerk

(Corporate Seal)