

FINANCE POLICY

<u>Title</u>	<u>Effective Date</u>	<u>Policy Number</u>
Purchasing Policies and Procedures	Established April 2017 Revised May 2018	303

PURCHASING POLICIES

1. Prior to the actual purchase of any goods or services of a value above \$499.99, an approved Purchase Order is required. At least one quote must accompany all Purchase Orders and all amounts should be stated net of HST.
2. All purchase orders must have at least two (2) approvals as outlined below. Please note that the requester and the approver can be the same person.
3. The Accounts Payable Clerk handles the processing of all invoices under \$499.99, reaching out to the purchasing department when further information is needed (i.e. when a GL code has not been provided).
4. Completed Purchase Orders shall be authorized by the appropriate authority as outlined below prior to ordering goods and/or services for daily operations. Authorization for purchasing advertising expenses on rental and risk attractions is covered in points 5 & 6 of this policy. The authority levels for all other purchases are:

Level	Requester	Approver	Final approver	
\$499.99 - \$1,999.99	Any staff member up to Manager	Any staff member up to Manager	Manager or Senior Manager	
\$2,000- \$4,999.99	Any staff member up to Manager	Manager or Senior Manager	Director	
\$5,000 - \$7,499.99	Any staff member up to Director	Director	Departmental VP	
\$7,500- \$24,999.99	Any staff member up to Departmental VP	Departmental VP	VP Finance	
\$25,000- \$99,999.99	Any staff member up to VP Finance	VP Finance	President & CEO	
Over \$100,000				Approval of the Board of Directors

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5. The "splitting" of a Purchase Order so as to keep each invoice under an approval level is not permitted.
 6. **At-risk performance contracts** include a commitment to a marketing budget. This **attraction marketing budget** is the Purchase Order and cost cap for attraction marketing expenses as issued by the VP of Programming and or the VP of Marketing & Communications. See policy #305 – At Risk Presentations.
 7. **The VP of Marketing & Communications** or designate **MUST** ensure that the placement of advertising/marketing costs engaged on behalf of **rental clients** has been secured by confirmed deposits before a commitment to suppliers is made. If needed, a schedule of expected advertising/marketing deposits can be given to accounting and accounting will monitor the payment terms.
 8. When more than one department is sharing the cost of purchases, the Purchase Order and invoice should be approved by all participating departmental authorities.
 9. In order to determine if a Purchase Order is required and at what level of signing authority is required, the value of the Purchase Order will be calculated taking into consideration the aggregate costs, including multiple year arrangements and all applicable taxes, if applicable.
 10. No Manager/Director/VP shall approve the purchase of an item intended for the personal use of an employee of TO Live. No Manager/Director/VP shall authorize the use of company property for the personal use of an employee (even where there is an intention to reimburse TO Live). Employees allocated a digital device (smart phone, etc.) shall reimburse TO Live for any unreasonable personal roaming charges incurred through use of the digital device immediately upon receipt of a request from accounts payable. Each employee travelling outside Ontario shall make themselves aware of the rules for minimizing roaming charges on digital devices.

This policy should not be confused with reimbursements for legitimate business expenses covered in Finance Policy #314.

11. Paying independent contractors by invoice – unincorporated entities.

It is the responsibility of each departmental VP, in cooperation with the VP of Finance & Administration, to determine if an independent contractor is an incorporated entity or not. Invoices payable to unincorporated entities (persons in most cases) fall under the following rules:

Commitments to pay under \$2,000 per annum:

Independent contractor must sign off on the Independent Contractor form provided by Accounts Payable. Use of this form assumes a casual minimum cost use of the independent contractor. The form sets out the independent contractor relationship and the contractor's responsibility for treating their invoiced income as self-employed.

Commitments to pay over \$2,000 per annum:

A personal services contract must be prepared and approved by the VP of Finance & Administration prior to approval and payment of any invoices for services rendered **OR** all payments will be treated as subject to T4A filing rules.

No commitments should be entered into until approval has been given by the VP of Finance & Administration.

12. Policy Relating to Lobbying in the Purchasing Process

TO Live is committed to the highest standards of integrity with respect to the purchase of goods and services and management of the process by which goods and services are acquired. This section of the policy relating to lobbying in the purchasing process applies to the purchase of all goods and services and to all vendors and suppliers, with the exception of risk productions and rental attractions and events.

Unsolicited communications by vendors and suppliers with TO Live staff, officials or Board members are subject to the provisions of Chapter 140, Lobbying, of the Municipal Code of the City of Toronto. Unless an exemption under Chapter 140 applies, vendors and suppliers must register with the City's lobbyist registry prior to communicating with TO Live. Definitions of "communication" and "lobby" are included Section 140-1 of Chapter 140, which also outlines registration requirements, exemptions, a code of conduct, and potential penalties.

The requirements to register as set out in the City of Toronto Municipal Code; Chapter 140 shall apply to all TO Live procurements except those dealing with the acquisition of risk productions and rental attraction and events.

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.

13. Blackout Period

During all formal or structured procurement processes initiated by TO Live, an official point of contact will be named by TO Live to respond to communications and inquiries in relation to a call or other purchasing process. This point of contact will be in effect from the time of issuance up to and including the announcement of the purchasing award or approval. During this time, there is a blackout period when vendors/suppliers, any representatives employed by them, or any unpaid representatives acting on their behalf, are strictly prohibited from communicating verbally or in writing (including by electronic means) with TO Live Board members, officials or any staff other than the official point of contact. All communications with respect to a call or purchasing process must be made to the official point of contact, and any vendors/suppliers found to be in breach of this policy will be subject to disqualification from the current and any future calls or procurement processes at the sole discretion of the Board.

14. All senior staff of TO Live shall ensure that this policy is provided to all vendors and suppliers.
15. All Capital Purchases not approved as part of the annual budget process must be approved by the President & CEO and the VP of Finance & Administration or Director of Finance, and if valued over \$100,000, approved by the Board of Directors.
16. Special exceptions for emergency situations of values over \$100,000 must be approved by the VP of Finance & Administration or the President & CEO and the Chair of the Board, and then presented to the Board.

PURCHASING PROCEDURES

Please refer to the Purchase Order Procedure Manual (for the EBMS purchasing module).

TO Live

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Procurement Policy	September 2019	313

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1. Purpose

The purpose of this policy is to protect the interests of TO Live, the public and persons participating in the procurement process. This will be accomplished by reinforcing fairness, openness, transparency and integrity, and by adopting consistent and standard approaches for all stages of TO Live's procurement processes.

The policies outlined here must be read in conjunction with Purchasing Policies and Procedures (#303).

This policy applies to all purchases of goods and services subject to the exceptions set out in Section 4. It does not apply to "at-risk" performances which are governed by TO Live Policy #205 – At Risk Presentations.

2. Definitions

As used in this policy, the following terms shall have the meanings indicated:

AWARD - The formal acceptance of a bid that results in a contract.

BEST VALUE - The optimal balance of performance and cost determined in accordance with pre-determined evaluation criteria disclosed in a solicitation for the purpose of making an award. For competitive procurements, best value is represented by the highest ranked bid which may include, for request for tenders and request for quotations, the lowest cost bid meeting technical specifications and supplier qualifications.

BID - A submission in response to a solicitation, and includes a tender, a quotation or a proposal.

CITY LEGAL SERVICES – The division within the City of Toronto with responsibility for providing legal advice to the City of Toronto's Council, divisions and agencies.

COMPETITIVE PROCUREMENT - A solicitation where suppliers are given an equal opportunity to bid, whether by invitation or by advertisement to the public, and which may include a process for conducting negotiations with one or more suppliers.

CONFLICT OF INTEREST or UNFAIR ADVANTAGE:

- a) In relation to a procurement process, a supplier that has, or is seen to have, an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including but not limited to:
 - i. having, or having access to, confidential information of TO Live in the preparation of its bid that is not available to other suppliers, or
 - ii. communicating with any person with a view to influencing preferred treatment in the procurement process (including but not limited to the lobbying of decision makers involved in the procurement process), or

- iii. engaging in conduct that compromises, or could be seen to compromise, the integrity of the procurement process; or
- b) In relation to the performance of the contract that is the subject of a procurement, that the supplier's other commitments, relationships or financial interests:
- i. could, or could be seen to, exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgment, or
 - ii. could, or could be seen to compromise, impair or be incompatible with the effective performance of its contractual obligations.

CONSTRUCTION SERVICE - A service that has as its objective the realization of civil or building works with a contract value of \$100,000 +HST or greater.

CONTRACT - An agreement between TO Live and a supplier for the procurement of goods and services.

EMERGENCY – Any situation of extreme urgency brought about by unforeseeable events that makes the procurement of goods and services necessary to address an immediate risk to health, safety, security, property, the environment or other public interests of TO Live.

EVALUATION CRITERIA – The rated criteria set out in a notice of intended procurement or solicitation which may include but is not limited to supplier qualifications, price and other cost or value factors, quality, technical merit, environmental characteristics, and negotiable commercial terms such as terms of delivery.

FINANCE DEPARTMENT – TO Live Finance Department

LIMITED SOLICITATION – A competitive or non-competitive solicitation method where one or more suppliers of TO Live's choice are invited and given an equal opportunity to bid to the solicitation.

MAJOR IRREGULARITY - A deviation from the requirements in a solicitation which:

- a) Affects the substance, as opposed to the form, of a bid in terms of the price, quality, quantity or delivery and is material to the award; or
- b) Could provide a supplier who has submitted a request with an unfair advantage over competitors; and
- c) May include, but is not limited to, a late submission, unclear or materially unbalanced pricing information, inadequate amount or terms of bid security, and any other matter identified as materially warranting rejection in the solicitation issued by TO Live.

MINOR IRREGULARITY - A deviation from the requirements in a solicitation which:

- a) Affects the form as opposed to the substance of a bid response in terms of the price, quality, quantity or delivery and is not material to the award; and
- b) Could not provide a supplier who has submitted a bid with an unfair advantage over competitors; and
- c) Any other matter identified as being subject to clarification or rectification in the solicitation issued by TO Live.

MULTI-USE LIST - A list of suppliers that TO Live has determined satisfy the conditions for participation in that list, and that TO Live intends to use more than once for selective solicitations.

NON-COMPETITIVE PROCUREMENT - A procurement negotiated directly with one or more suppliers.

NOTICE OF INTENDED PROCUREMENT - A written notice published by TO Live, inviting interested suppliers to submit a bid in response to a solicitation.

OPEN COMPETITIVE PROCUREMENT - A competitive solicitation method, where a notice of intended procurement is advertised to the public, giving all suppliers an equal opportunity to bid to the solicitation and prove their qualifications.

PRE-QUALIFIED SUPPLIER - A supplier who has submitted a response to an advertised request for pre-qualifications and has been determined to have met the minimum disclosed standards for technical qualifications and professional competence, and has the necessary equipment, facilities and experience for specific future solicitations.

PROCUREMENT - The acquisition of goods and/or services by any contractual means, including purchase, rental, lease or conditional sale.

PROCUREMENT POLICIES - The written policies approved by the Board of Directors of TO Live governing procurement, including Purchasing Policies and Procedures #303, that are intended to supplement this policy.

PROCUREMENT PROCEDURES - The written procedures supporting the application of this policy and the procurement policies, as approved by the Board of Directors of TO Live.

PROCUREMENT PROCESS - The process that begins after TO Live has decided on its requirement and continues through to and including contract award and execution.

PURCHASING DEPARTMENT - The department within TO Live designated by the VP of Finance & Administration as the unit responsible for administering the purchasing

process of the specified goods or service. This may or may not be the department using the actual goods or services.

PURCHASE ORDERS - A document issued to a supplier that sets out the terms and conditions applicable to the supply of goods and services by a supplier, including reference to any other contract documents and the contract value.

REQUEST FOR EXPRESSION OF INTEREST (REOI) - A solicitation method used to gather information on future supplier interest in an opportunity; or, information on supplier capabilities/qualifications for the purpose of better planning the supplier qualification requirements of a future solicitation that may result in an award.

REQUEST FOR INFORMATION (RFI) - A solicitation issued to potential future suppliers to gather general supplier, service or product information. It is a procurement procedure where suppliers are provided with a general or preliminary description of a problem or need and are requested to provide information or advice about how to better define the problem or need, or alternative solutions and costs, for the purpose of better planning the technical specification requirements of a future solicitation that may result in an award.

REQUEST FOR PROPOSALS (RFP) - A solicitation issued to obtain bids or proposals where a procurement need is identified, but how it will be achieved is unknown at the outset, which allows suppliers to propose solutions or delivery methods to arrive at the desired result. The evaluation criteria to determine best value may include more than price factors and the solicitation may allow for consecutive or concurrent negotiations to be conducted with suppliers on any of the contract terms including, but not limited to, the technical specifications, commercial terms and/or prices following the process outlined in the solicitation.

REQUEST FOR QUOTATIONS (RFQ) - A solicitation issued to obtain competitive bids for standard goods and/or services where TO Live has pre-determined the required quantity and/or quality of the goods or services and the evaluation criteria to determine the best value is generally the lowest cost bid meeting technical specifications without any material contract negotiations.

REQUEST FOR SUPPLIER QUALIFICATIONS (RFSQ) - An open competitive solicitation that is issued to gather submission information on supplier capabilities and qualifications with the intention of creating a list of pre-qualified suppliers for future selective solicitations, including:

- a) A one-time future solicitation; or
- b) A multi-use list for solicitations of a predefined scope and duration.

REQUEST FOR TENDERS (RFT) - A solicitation that is generally issued in order to obtain irrevocable competitive bids for standard construction services where TO Live has pre-determined the required scope of work including quantity and/or quality requirements, and the evaluation criteria to determine the best value is generally the lowest cost bid meeting technical specifications without any material contract negotiations.

SELECTIVE SOLICITATION - A solicitation method where suppliers are first prequalified through a request for supplier prequalification and then only pre-qualified suppliers are invited to bid through a limited solicitation.

SERVICES - All services, including construction services, unless otherwise specified.

SOLICITATION - A written notice to suppliers, whether or not it is publicly advertised or intended to result in a contract, and includes a:

- a) Request for expressions of interest (REOI);
- b) Request for information (RFI);
- c) Request for supplier prequalification (RFSQ);
- d) Request for proposals (RFP);
- e) Request for quotations (RFQ); and
- f) Request for tenders (RFT).

SUPPLIER - A person or group of persons that provides or could provide goods or services.

TECHNICAL SPECIFICATIONS – A solicitation requirement that:

- a) lays down the characteristics of a good or a service to be procured, including quality, performance, safety and dimensions, or the processes and methods for their production or provision; or
- b) addresses terminology, symbols, packaging, marking or labelling requirements, as they apply to a good or service.

VALUE or PROCUREMENT VALUE - The estimated maximum total value of the procurement over its entire duration, taking into account all forms of remuneration, including:

- a) Premiums, fees, commissions and interest; and
- b) Where the solicitation provides for the possibility of options, the total value of such options.

3. Monetary References

All references in this chapter to dollar amounts are to Canadian dollars and shall be exclusive of taxes unless otherwise provided.

4. Segregation of Duties

The President & CEO may adopt supplemental procedures to ensure clear segregation of duties for all stages of the procurement cycle.

5. Approval Authority

See policy #303 - Purchasing Policies and Procedures.

6. Exemptions - This policy does not apply to:

- a) The acquisition or rental of land, existing buildings or other immovable property or other related real estate rights;
- b) TO Live employment contracts;
- c) Any form of assistance that TO Live provides, including co-operative agreements, grants, loans, equity infusions, guarantees and fiscal incentives;
- d) The acquisition of performances as part of the programming at TO Live.

7. Competitive Procurement Thresholds

- 7.1. TO Live shall conduct an open competitive procurement process where the value of goods and services exceeds \$100,000 subject to those exemptions or non-competitive procurement or limited solicitation as set out in section 15.
- 7.2. TO Live will not reduce the procurement value or subdivide the procurement into multiple procurements in order to avoid any competitive procurement threshold.
- 7.3. Goods and services between the thresholds of \$25,000 - \$100,000 also be competitively procured through at least a limited solicitation, inviting at least two (2) suppliers or in accordance with the procedures established by the Board of Directors of TO Live.

8. Standard Procurement Methods

8.1. Information Gathering

- a) The Finance Department will ensure a department has been assigned as the Purchasing Department for each goods and service to be purchased.
- b) The Finance Department may assist the Purchasing Department in the development of requirements for any procurement through the use of informal market research and formal market research including but not limited to, the use of market soundings, vendor days, requests for information (RFIs), and requests for expression of interest (REOIs.)
- c) TO Live shall not use a response from an RFI or a REOI to pre-qualify potential suppliers and shall not use the response to influence the chances of the participating suppliers becoming the successful proponent in any subsequent opportunity.

8.2. Pre-Qualification for Selective Solicitations

a) Request for Supplier Qualification

- i. The Purchasing Department VP is authorized to determine, in consultation with the Finance Department, those suppliers meeting the minimum disclosed standards for technical qualifications and professional competence to respond to future related Solicitation(s).
- ii. The Purchasing Department may use a request for supplier qualification (RFSQ) prior to a solicitation for tenders, quotations or proposals, where it is deemed that the nature and complexity of the work involved warrants the time and effort required to pre-select the most experienced and qualified bidders.
- iii. The Purchasing Department shall include language that disclaims any contractual commitment or other obligation of TO Live to call on any supplier to provide goods or services as a result of pre-qualification within the RFSQ.

b) Equipment or Specialty Subcontractors

The Purchasing Department VP has the authority to prequalify suppliers that includes the selection of specified equipment, facilities, specialty subcontractors, and/or materials suppliers, if required in the opinion of the Purchasing Department VP, for incorporation in the technical specifications of any future solicitation. This section is subject to section 11 (Non-discrimination) below.

c) Establishment of a Multi-Use List for Selective Solicitations

- i. In situations where a department, or multiple departments require the same type of goods or service on a regular or recurring basis, it may not be efficient or cost effective to initiate a new open procurement process each time that particular goods or service is required. In such cases, a multi-use list of qualified suppliers may be established for the purpose of limited solicitations.
- ii. When using a multi-use list, TO Live shall allow suppliers to apply at least annually for inclusion in accordance with the notice of intended procurement for the RFSQ.
- iii. A call-up protocol shall be disclosed in the RFSQ that sets out the subsequent selection process and the general terms and conditions that will govern any future work assignments and, where applicable, any proposed framework pricing. The call-up protocol contained in a RFSQ shall also disclaim any contractual commitment or other obligation of TO Live to call on any supplier on the multi-use list to provide goods or services.

- iv. Approval of any subsequent award to a supplier under the RFSQ call up protocol, shall be in accordance with the authority to award open competitive solicitations.

8.3. Open Competitive Solicitations

The following solicitation methods may be used where TO Live is required to issue an open competitive solicitation:

- a) Request for Tenders (RFT) - A request for tenders may be used to obtain bids for construction services, whenever the Department Head has pre-determined the required scope of work including quantity and/or quality requirements, and the evaluation criteria to determine the best value is generally the lowest cost bid meeting technical specifications without any material contract negotiations, subject to any other provisions of the Purchasing Policies and Procedures.
- b) Request for Quotations (RFQ) - A request for quotations may be used to obtain goods and services (other than construction services) whenever the Department Head has pre-determined the required quantity and/or quality of the goods and services and the evaluation criteria to determine the best value is generally the lowest cost bid meeting technical specifications without any material contract negotiations, subject to any other provisions of the Purchasing Policies and Procedures.
- c) Request for Proposals (RFP) - A request for proposals shall be used to obtain goods and services of a unique or complex nature where all or part of the requirements cannot be precisely defined and the expectation is that suppliers are to propose solutions to arrive at the desired result and the evaluation criteria to determine best value may include more than price factors. The RFP may allow for consecutive or concurrent negotiations to be conducted with suppliers on any of the contract terms including, but not limited to, the technical specifications, commercial terms and/or prices pursuant to a process detailed in the RFP, subject to any other provisions of the Purchasing Policies and Procedures.
- d) Selective Solicitations - Selective solicitations involving a RFSQ in combination with any other solicitation method, shall be preceded by a notice of intended procurement. Only the second stage of a multi-stage procurement shall be considered a contract award.

9. Timelines for Posting Procurements

- 9.1. The Purchasing Department shall implement procedures that ensure suppliers are provided with a response time for the open competitive procurement of goods and services that meet the minimum requirements outlined in applicable law, including applicable trade agreements.

9.2. Where no trade agreement applies, the Purchasing Department will determine the appropriate response time for the solicitation.

10. Bid Receipt and Openings

The Purchasing Department shall ensure that the bid submission date and closing time are clearly stated on all solicitations (printed and/or electronic) where applicable. In addition, the Purchasing Department shall ensure that the closing date of a competitive procurement process is on a regular working day. Regular working days are Monday to Friday, excluding provincial and federal statutory holidays.

Bids that are received after the closing date and time shall be returned to suppliers unopened and not evaluated.

11. Evaluation Criteria and Process Disclosure

11.1. Evaluation Criteria

- a) The Finance Department, in consultation with the Purchasing Department, shall develop evaluation criteria.
- b) All solicitations issued by the Purchasing Department shall clearly identify the requirements of the procurement, the criteria that will be used in the evaluation of bids or proposals and, where appropriate, the methods of weighting and evaluating the criteria.
- c) In addition, all solicitations issued will, where appropriate:
 - i. clearly outline mandatory, rated, and other criteria that will be used to evaluate submissions, including the weight of each criterion;
 - ii. state that submissions that do not meet the mandatory criteria will be disqualified;
 - iii. clearly establish the formula for calculating the total price/cost;
 - iv. ensure that all mandatory and rated criteria comply with the Non-Discrimination section this policy;
 - v. minimize mandatory requirements (e.g., submission and performance mandatory requirements) to ensure that no bid is disqualified except to serve a legitimate business or public policy objective;
 - vi. allocate maximum justifiable weighting to the price/cost component of the evaluation criteria; and
 - vii. disclose whether negotiations are permitted, and if so, whether the

negotiations will be concurrent negotiations or consecutive negotiations, the permitted scope and process for negotiations.

11.2. Negotiation Procedures

- a) Where negotiations are permitted by a solicitation, they must be conducted fairly and in a manner that does not disclose confidential commercial information about any other supplier.
- b) Alternative strategies or solutions shall not be considered for evaluation, unless they are explicitly requested in the solicitation, and the process for evaluating such strategies or solutions is disclosed to all potential suppliers.
- c) For RFTs for construction services, negotiations are generally not permitted unless TO Live is unable to recommend an award within the funding approval of City Council. In those circumstances where the solicitation may otherwise be cancelled, the Purchasing Department, in consultation with City Legal Services, may alternatively negotiate with the lowest compliant bidder (only) to identify any acceptable changes in the scope or quality of work and their corresponding bid price reduction, up to 15% of the contract value, in a manner consistent with CCDC 23 – A Guide to Calling Bids and Awarding Construction Contracts and such other procedures adopted by the President & CEO of TO Live.

11.3. Addenda Procedures

The Purchasing Department shall use a written addendum to alter any aspect of the solicitation including any evaluation criterion prior to the close of the solicitation. No changes to the evaluation criteria or the respective weightings shall occur after closing.

11.4. Math Errors and Tied Bids Procedures

The VP of Finance & Administration shall establish a procedure for resolving mathematical errors and tied bids for all competitive solicitations.

11.5. Unbalanced Bid Analysis

- a) The VP of Finance & Administration shall establish a procedure for analyzing bids and proposals received to determine if TO Live has received an unbalanced bid and the actions TO Live may take in response to a materially unbalanced bid, including rejection.

For the purpose of this policy, a materially unbalanced bid means a bid that:

- i. is based on prices which are significantly less than cost for some items of work and prices which are significantly overstated in relation to cost for other items of work; and

- ii. TO Live has determined may not result in the lowest overall cost to TO Live even though it may be the lowest submitted bid; or
- iii. is so unbalanced as to be tantamount to allowing an advance payment.

11.6. Major and Minor Bid Irregularities

In addition to the discretion provided to the VP of Finance & Administration to resolve major and minor bid irregularities, the VP of Finance & Administration may establish procedures for resolving common bid irregularities for open competitive solicitations.

In the event of any conflict between the evaluation criteria disclosed in a solicitation and the list of common irregularities contained in any purchasing procedure, the evaluation criteria disclosed in the open competitive solicitation shall govern.

In exercising judgment with respect to any bid irregularity, the VP of Finance & Administration shall consider the advice of City Legal Services.

12. Evaluation Team

12.1. Competitive procurement processes require an evaluation team responsible for reviewing and rating the compliant bids in accordance with the criteria disclosed in the solicitation where applicable.

12.2. The same evaluation team shall be responsible for evaluation of all submissions. The evaluation team shall include department staff member(s) with the relevant experience to evaluate bidders or proponent's submissions. The size of the evaluation team shall be reflective of the complexity and value of the procurement and shall not be comprised of less than two (2) members. Staff representatives from operational and support departments may also be included on the evaluation team where appropriate, including complex or high-profile projects and those having corporate-wide implications.

12.3. The President & CEO shall ensure that all evaluation team members are made aware of the restrictions related to utilization and distribution of confidential and commercially sensitive information collected through the competitive procurement process and their obligation to refrain from engaging in activities that may create or appear to create a conflict of interest or evaluation bias.

12.4. Evaluation team members as well as any other divisional staff involved in the preparation of the solicitation, must sign a conflict-of-interest declaration and non-disclosure of confidential information agreement for each procurement.

13. Evaluation Criteria Matrix

13.1. Each evaluation team member shall independently complete an evaluation criteria

matrix, rating/ranking each of the bid submissions, on the basis of the pre-established evaluation criteria. Evaluators must ensure that they document their evaluation of each bid submission in a manner that is fair, factual, and fully defensible.

13.2. All records of evaluation scores will be retained for auditing purposes.

14. Non-Discrimination

14.1. TO Live shall not discriminate or exercise preferential treatment in the awarding of a contract to a supplier as a result of a competitive solicitation unless it can be justified on the basis of a legitimate business objective, public policy, or applicable law.

14.2. Measures that may be inconsistent with this non-discrimination policy include, but are not limited to, the following:

- a) The imposition of conditions in the solicitation, registration requirements or qualification procedures that are based on the location of a supplier's place of business, the place where the goods are produced or the services are provided, or other like criteria;
- b) The biasing of technical specifications in favour of, or against, particular goods or services, including those goods or services included in construction contracts, or in favour of, or against, the suppliers of such goods or services for the purpose of avoiding non-discrimination obligations;
- c) The timing of events in the solicitation process so as to prevent suppliers from submitting bids;
- d) The specification of quantities and delivery schedules of a scale and frequency that may reasonably be considered as deliberately designed to prevent suppliers from meeting the requirements of the procurement;
- e) The division of required quantities or the diversion of budgetary funds to TO Live in a manner designed to avoid these non-discrimination obligations;
- f) The use of price discounts or preferential margins in order to favour particular suppliers; and
- g) An unjustified requirement that a construction contractor or subcontractor use workers, materials or suppliers of materials originating from the location where the work is being carried out.

15. Non-Competitive Procurement and Limited Solicitations

15.1. Non-Competitive Procurement Exceptions For Awards Of \$100,000 (Excluding HST) And Greater.

A non-competitive procurement may be undertaken where both the proposed non-competitive procurement and the particular supplier can be justified in good faith, based on one or more of the following:

- a) Statutory or market-based monopoly;
- b) An absence of competition in the market for technical reasons;
- c) The existence of exclusive rights such as patent, copyright, license or warranty restrictions;
- d) Procurement of a work of art;
- e) Additional deliveries by an original supplier of goods and services that were not included in the original procurement, but a change cannot be made for economic or technical reasons without causing significant inconvenience or substantial duplication of costs for the TO Live;
- f) An attempt to procure the required goods or services by soliciting competitive submissions has been made in good faith, but has failed to identify a compliant submission or qualified supplier, or where the submissions received have been collusive;
- g) The goods or services are required as a result of an emergency which would not reasonably permit the solicitation of competitive submissions;
- h) Construction, renovations, repairs and/or maintenance in respect of real estate leased or occupied by TO Live which may only be conducted by another person in accordance with a real estate agreement;
- i) The goods or services are purchased under circumstances which are exceptionally advantageous to TO Live, such as in the case of a bankruptcy or receivership;
- j) It is advantageous to TO Live to acquire the goods or services from another public body;
- k) Another organization is funding, or substantially funding, the procurement and TO Live has determined that the supplier and the terms and conditions of the proposed contract are beneficial to TO Live;
- l) The procurement of a particular brand of goods or services that are intended solely for resale to the public and no other brand meets TO Live's program objectives nor is the brand available from any other source;
- m) A contract to be awarded to the winner of a design contest, provided that:

- i. the contest is organized in a manner that is consistent with the principle of fair competition contained in this policy, in particular relating to public advertising; and
 - ii. the participants are judged by an independent jury with a view to design contract being awarded to a winner;
- n) Procurement of a prototype or a first good or service that is developed in the course of a contract for research, experiment, study or original development;
- o) Goods purchased on a commodity market; or
- p) Such other non-competitive procurement exemptions authorized by the Board of Directors of TO Live.

15.2. Limited Solicitations

A limited solicitation may be undertaken in the following circumstances:

- a) Any procurement valued under \$100,000; or
- b) The confidential nature of the requirement is such that it would not be in the public interest to solicit competitive submissions.

15.3. Non-Competitive or Limited Solicitation Contract Authority – General.

A contract may be awarded in relation to a non-competitive or limited solicitation procurement process by:

The purchasing department and the President & CEO for a procurement of up to \$100,000, as outlined in TO Live Policy #3030 Purchasing Policy Procedures

15.4. Non-Competitive or Limited Solicitation Contract Authority – Emergency.

- a) The President & CEO or VP of Finance & Administration may approve and enter into a contract in relation to a non-competitive procurement of goods or services required in an emergency of not more than \$500,000.
- b) Where the potential value of the non-competitive contract exceeds \$500,000 or the commitment authority of the President & CEO or VP of Finance & Administration, the President & CEO or VP of Finance & Administration shall report jointly to Board as soon as practical after entering into the contract.

15.5. Unsolicited Quotations or Proposals

Unsolicited proposals should not be considered where they would circumvent any planned procurement process, including any potential REOI or RFI process.

16. Supplier Code of Conduct

16.1 Confidentiality and Disclosure.

- a) Suppliers must maintain confidentiality of any confidential TO Live information disclosed to the supplier as part of the solicitation process.
- b) Suppliers must acknowledge in their bid that their bid information will be subject to the confidentiality and disclosure requirements of the Municipal Freedom of Information and Protection of Privacy Act, 1990.

16.2. Conflicts of Interest or Unfair Advantage.

Suppliers must declare and fully disclose any actual or potential conflict of interest or unfair advantage related to the preparation of their bid or where the supplier foresees an actual or potential conflict of interest in the performance of the contract. Such potential conflicts of interest or unfair advantages include, but are not limited to:

- a) Engaging current or former TO Live or City employees or public office holders to take any part in the preparation of the bid or the performance of the contract if awarded, any time within two (2) years of such persons having left the employ or public office of TO Live or the City;
- b) Engaging any family members, friends or private business associates of any public office holder which may have, or appear to have, any influence on the procurement process, or subsequent performance of the contract;
- c) Prior involvement by the supplier or affiliated persons in developing the technical specifications or other evaluation criteria for the solicitation;
- d) Prior access to confidential TO Live and City information by the supplier, or affiliated persons, that is materially related to the solicitation and that was not readily accessible to other prospective suppliers; or
- e) The supplier or its affiliated persons are indebted to or engaged in ongoing or proposed litigation with the City in relation to a previous contract.

17. Contract Award Notification

For procurements valued at \$100,000 or more, the Purchasing Department shall notify the recommended supplier and the unsuccessful suppliers of the pending award.

18. Supplier Debriefing

For competitive procurement processes valued at \$100,000 or more, the Purchasing Department will allow unsuccessful suppliers up to sixty (60) calendar days following the

date of the contract award notification to request a debriefing.

19. Bid Dispute Resolution

19.1. Pre-Award Bid Disputes

Any pre-award dispute must be received in writing by the Purchasing Department as soon as possible from the time when the basis for the dispute became known to them, and in cases where a bidder or proponent has been declared non-compliant, no later than five (5) business days after the receipt of such notification.

The Purchasing Department may delay an award, or any interim stage of a procurement, pending the acknowledgement and resolution of any pre-award dispute.

The Purchasing Department, in consultation with City Legal Services where appropriate, shall conduct a review of the pre-award dispute and determine whether:

- a) to dismiss the pre-award dispute;
- b) to accept the pre-award dispute and take the appropriate remedial action, including, but not limited to, reinstating the bidder or proponent into the competition or cancelling the call; or
- c) to have the TO Live Board decide on the award.

19.2. Post-Award Bid Disputes

Post-Award Disputes shall be dealt with by the President & CEO in consultation with City Legal Services.

20. Services Contract Establishment, Execution and Administration

20.1. Establishing the Services Contract

The services contract must be finalized using the form of contract that was released with the solicitation and in a form satisfactory to City Legal Services, where the contract is in excess of \$100,000. Where the solicitation allows for consecutive negotiations or concurrent negotiations of any of the services contract terms, the final form of contract shall also be in a form satisfactory to City Legal Services.

In circumstances where the solicitation permits negotiation of the final form of services contract, and a negotiation strategy is used, the services contract between TO Live and the successful supplier must be defined formally in a signed written contract satisfactory to City Legal Services before the provision of services.

20.2. Contract Administration

- a) General - Each Department shall manage their respective services contracts to ensure all deliverables are properly received, payments are appropriately made, all timelines are met, and any option years to the contract are appropriately exercised.
- b) Payments to Suppliers - Departments shall ensure that payments are made in accordance with the provisions of the contract. Furthermore, Departments shall ensure that all invoices contain detailed information sufficient to warrant payment.
- c) Services Contract Changes - If a services contract change results in a net increase to the contract value previously approved, the Department shall seek approval for the change from the Vice President of Finance & Administration or President & CEO as required by signing authorities.
- d) Contingencies and Risk Management - Departments are responsible for planning for the inclusion of appropriate contingency allowances and for selection and disclosure of the service provider's appropriate financial means to guarantee the execution and performance of the contract, particularly for the purpose of construction contracts. Such means may include appropriate insurance and indemnity provisions, financial bonds or other forms of security deposits, appropriate provisions for liquidated damages, progress payments and holdbacks. The type and value of insurance coverage and other financial measures will be relevant to the goods, services or construction services being procured.
- e) Termination and Assignment Clauses - All services contracts shall include appropriate cancellation, rescission, assignment and/or termination clauses.
- f) Contractor Performance Evaluation and Disqualification - The President & CEO of TO Live, in consultation with City Legal Services may disqualify a supplier from supplying goods and services to TO Live based on performance.
- g) Contract Management - Each Purchasing Department shall adhere to TO Live's procedures for managing service contracts, which may include:
 - i. establishing clear terms of reference for the assignment. The terms should include objectives, background, scope, constraints, staff responsibilities, tangible deliverables, timing, progress reporting, approval requirements, payment schedule and knowledge transfer requirements.
 - ii. establishing expense claim and reimbursement rules compliant with TO Live's policies and procedures and ensure all expenses are claimed and reimbursed in accordance with these rules.
 - iii. ensuring that expenses are claimed and reimbursed where the contract explicitly provides for reimbursement of expenses.

21. Sale or Disposal of Surplus Materials or Equipment

Funds received for the disposal of surplus materials and equipment will be credited back to the last department having control over the surplus materials or equipment disposed or at the President & CEO discretion to the operating fund

22. General

22.1 Procurement Records Retention and Access to Information

- a) The contents of any bid, proposal or submission shall be made available to the public, on request, except to the extent such information is confidential information protected from disclosure under the provisions of the *Municipal Freedom of Information and Protection of Privacy Act, 1990*.
- b) All procurement documentation, as well as any other pertinent information shall be maintained, retained and only disposed of in accordance with TO Live's Records Retention Policy.

22.2. Procurement Review and Audits

The President & CEO shall conduct regular reviews and audits of TO Live's procurement activities, procedures and templates to ascertain compliance with this policy.

	General Ledger Register	Permanent		F2313
	Show Files	Permanent		R0193: All documents related to performances, including show contracts
	Leases	21 years	Files closed at termination of lease	L2200, real estate files only
	GL journal entry and transition register	7 years		F2350
	Year-end working papers	7 years		
	Bank deposits and statements/reconciliations	7 years		F2301
	Ticket Statistics	10 years		
	Taxation file (GST/PST etc.)	7 years		F2430
	Federal Non-Resident Tax files	7 years		
Accounts Payable				
	Accounts payable invoices	7 years		F2401
	Purchasing of Goods and Services (POs)	7 years		F1541
	Cheque registers and reconciliation	7 years		F2207
	Cheques	7 years		F2303
	Petty cash transaction files	7 years		F1560
	Personal expense claims	7 years		F1562
Accounts Receivable				
	Accounts Receivable customer database	7 years		F1570
	Accounts Receivable invoice files	7 years		F1570
	Cash receipts files	7 years		F1570
Concessions, Bars and Merchandising				
	Sales reports	7 years		F1570
	Cashier reports	7 years		F1570
	Inventories - Bar & Restaurant	3 years		F1570
Development				
	Fundraising & Donation files	7 years		F0169
	Tax Receipts	7 years		

	Sponsorship records	21 years		I0199
	Grants and Subsidy records	7 years		F5857
Human Resources				
	Benefit records	7 years	File closed upon Termination of employment or cessation of benefits	F2801
	Terminated employee records files	7 years	File closed on termination date of employee, or upon resolution of outstanding issues	H1201
	Staff Competition & Recruitment	7 years	File closed at closing of competition	H1210
	Pension plan administration	7 years	File closed with termination of the last surviving beneficiary of the pension policy	F4000
	Labour Negotiation files	21 years	File closed at resolution or settlement of case	H1246
Other				
	Construction and Renovation	25 years	File closed at completion of construction and/or renovation project	A0501
	Property Maintenance records	25 years	File closed at expiration of contract	A0502
	Risk Management files	7 years		F3100
	Insurance claims	16 years	File closed upon resolution of case	F4307
	News Releases and Official Statements	7 years		I0201
	Media Releases	7 years		I0203

The above books, records and files of TO Live are to be retained as indicated in this table. Retention period starts when the file/year is closed, unless otherwise indicated.

**City reference is taken from Toronto Municipal Code Chapter 217, Records, Corporate (City) Schedule A. If more detailed explanation of retention policy as it relates to TO Live is required, it is included here.*

FINANCE POLICY

<u>Title</u>	<u>Effective Date</u>	<u>Policy Number</u>
Facility Fee Reserve Fund	Draft	321

Current:

Contributions to the Facility Fee Reserve Fund (FFRF) include the facility fee surcharge, which is applied to most tickets sold for attractions at a rate determined by the board (see policy XXX), capital salvage, corporate and naming rights contributions for a capital purpose, developer capital contributions, other recoveries of a capital nature, and any other contributions directed by City Council. (Motion on October 24, 2011)

The FFRF can be used for fund maintenance, minor state of good repair, heritage preservation and renovation of the theatre, as well as repayment of advances and/or loans – principal and interest – made by the City to the board. (from SC audited financial statements)

Amended:Purpose

The FFRF can be used to fund minor state of good repair, minor heritage preservations and minor renovations of the theatre, purchase of equipment and chattels, as well as repayment of advances and/or loans – principal and interest – made by the City to the board.

Funding

Contributions to the FFRF include:

- 1) a facility fee surcharge, which is applied to most tickets sold for attractions at a rate determined by the board (see policy #304 TO Live Facility Fee Policy),
- 2) capital salvage
- 3) a portion, as approved by the Board, of the corporate and naming rights sponsorship revenue
- 4) developer capital contributions
- 5) other recoveries of a capital nature
- 6) other contributions as directed by Board and approved by City Council

Withdrawals

Funds may be withdrawn through the Board and Council approved TO Live operating budget.

TO Live
FINANCE POLICY

ATTACHMENT 5

<u>Title</u>	<u>Effective Date</u>	<u>Policy Number</u>
Donations Policy	January 1, 2018	315

To Live acknowledges the requirement to follow the City's Policy on Donation to the City for Community Benefits, as attached.

Donations to the City of Toronto For Community Benefits Policy

<https://www.toronto.ca/business-economy/partnerships-sponsorships-donations/donate/donations-to-the-city-of-toronto-for-community-benefits-policy/>

Objective and Purpose

City building is a collective and ongoing endeavour. Seeking or obtaining voluntary donations for community benefits provides valuable contributions to city building. Partnership opportunities for donations for community benefits should respect relevant legislative and policy provisions and occur within an ethical framework that preserves the integrity of municipal decision making processes.

The purpose of this policy is to:

- i. establish guidelines that ensure donations occur at arm's length from any City decision-making process;
- ii. provide criteria and process for the acceptance of donations, and
- iii. confer upon Division Heads the delegated authority to accept and spend donations, within the parameters contained herein.

Scope

The policy on voluntary donations to the City for community benefits includes donations made to the City and its agencies, boards and commissions, and donations requested or encouraged by Councillors or staff which are directed to other organizations or community agencies.

Definition

“Donations” are cash or in-kind contributions which provide assistance to the City. Donations do not constitute a business relationship since no reciprocal consideration is sought. Donations generally qualify for a tax receipt.

Policy

1. Donations in Relation to City Decision Making Processes:

General:

1.1. Conditions, contributions and community benefits may only be requested from an applicant seeking an approval, permit or license from the City or its agencies, boards or commissions if such requests are permitted or required by that decision making process

1.2. In the case of an applicant seeking an approval, permit or license from the City or its agencies, boards or commissions, beyond matters permitted or required as part of the decision making process, voluntary donations from the applicant or their representative may only be requested or accepted at arm's length from the decision making process:

1.2.1. applicants seeking an approval, permit or licence shall not concurrently offer or make voluntary donations to the City or an agency, board or commission for community benefits;

1.2.2. voluntary donations for community benefits shall not be solicited or accepted, for any purpose or community beneficiary, from applicants with a concurrent application for an approval, permit or license.

1.3. (Section deleted – see Amendment to the Donations to the City for Community Benefits Policy, September 24, 2012)

Planning Approvals:

1.4. Voluntary donations for community benefits that fall outside the scope of a planning approval may not be solicited and offers may not be accepted from an applicant or their representative concurrent to a planning approval or from a party proposing to make a planning application.

1.5. There is a blackout period in planning approval processes during which discussions about voluntary donations for community benefits are not permitted and voluntary donations may not be offered, solicited or accepted. For Councillors and staff, the blackout period commences when they receive information, formally or informally, that an individual, organization or company has an interest or intent in submitting an application for planning approval. For specific types of planning applications, the end of the blackout period is as follows:

1.5.1. for official plan amendments, zoning by-law amendments and combined applications is the date of expiry of the appeal period after Council makes its decision on the by-law(s) and there is no appeal; or, if appealed, is the date the Ontario Municipal Board makes its decision

1.5.2. for plans of subdivision and condominium is the date of expiry of the appeal period after the City makes its decision on draft plan approval and there is no appeal; or, if appealed, is the date the Ontario Municipal Board makes its decision;

1.5.3. for site plan control is the date the site plan agreement is executed; or, if appealed, is the date the Ontario Municipal Board makes its decision;

1.5.4. for part lot control exemption by-laws is the date Council adopts or refuses to adopt the by-law;

1.5.5. for minor variance and consent to sever is the date of expiry of the appeal period after the Committee of Adjustment makes its decision and there is no appeal; or, if appealed, is the date the appeal body makes its decision.

Procurement Decisions:

1.6. Voluntary donations for community benefits may not be solicited and offers may not be made by or accepted from a bidder, proponent or applicant to procurement, or their representative, concurrent to the procurement solicitation and award process.

1.7. There is a blackout period in procurement decision making processes during which discussions about voluntary donations for community benefits are not permitted and voluntary donations may not be offered, solicited or accepted. The blackout period for procurements commences when the request or call for a bid, quote, proposal, etc. is formally issued, and it ends at the time the procurement is awarded

1.8. The City shall not accept donations that are conditional upon the endorsement of any product, service or supplier.

1.9. Current and prospective suppliers to the City that decline solicitations for donations shall not be penalized in procurement decisions of the City.

Other:

1.10. No advantage is to accrue to the donor or to any person not dealing at arm's length to the donor as a result of the donation.

1.11. Donations cannot confer a personal benefit to any City employee or City Official.

1.12. Donations that violate City By-laws or City policies, or the laws, conventions and treaties of the other orders of government will not be accepted by the City.

1.13. Donors are required to advise the City if a donation to the City or an agency, board or commission of the City is concurrent with a planning approval or procurement process in which the donor, or the donor's organization or company, is involved.

2. Donations of Real Property

2.1. Donations of real property to the City or its agencies, boards and commissions may only be accepted with the prior approval of Council, which is to include approval of the budget for any future or ongoing obligations arising from the donation.

2.2. Where appropriate, approval of a donation of real property is to include the use and disposition of the real property including the net proceeds arising from a property transaction.

2.3. Donations of real property to the City or its agencies, boards and commissions, whether designated for specific purposes or not, will be held in the name of the City.

2.4. Donations of real property designated for specific purposes are exempt from the City's property management process.

3. Accepting Donations

3.1. The City may elect to accept or decline any donation. If the gift is not accepted, the donor shall be advised of the reason.

Eligible Uses

3.2. Eligible donations are those that support approved programs and services, durable assets; capital facilities or projects; asset improvement, restoration or capital maintenance; or cash for such purposes.

3.3. Donations must be for purposes consistent with the receiving Division's mandate, programs, services and activities and must be deemed to be in the public interest of the City.

3.4. Donations are only to be accepted if the receiving Division has the capacity to meet the initial and ongoing costs and obligations associated with the gift.

3.5. Donors who wish to make donations that support special purposes to be provided by an organization independent of the City should be directed, where possible, to the intended organization.

Ineligible Donors

3.6. The City may decline donations from any donor who in the opinion of the Council, or of a Division Head under delegated authority, represents a reputational risk to the City through involvement in activities that are contrary to the values of the City. Examples of ineligible donors include but are not limited to:

- arms manufacturers;
- proven or suspected criminal organizations; and
- organizations that promote hatred against individuals or groups.

3.7. The City may not accept donations from individuals or organizations currently in litigation against the City.

Authority to Accept and Spend

3.8. Subject to Section 3.9, donations of cash designated for specific purposes will only be accepted by the City where Council has authorized the specific purpose or a fundraising campaign (whether conducted by staff or third parties), and where the necessary capital or revenue account has been established or a reserve created and the necessary by-law enacted.

Instructional information on how to make a donation that is provided by a Division in its website or in its printed general information brochures is not considered to be a fundraising campaign.

3.9. Despite section 3.8, a Division Head has delegated authority to accept and spend unsolicited donations where:

- a) the donation has a current value that does not exceed \$50,000 and cumulative donations from the same donor for the same purpose does not exceed \$50,000 in a fiscal year;
- b) the donation is not in the form of real property;
- c) the donation does not involve a proposal to name; and
- d) the donation is in compliance with this policy.

3.10. Where donations are being accumulated for a major project or fundraising campaign, the funds will be held in an appropriate account or reserve until sufficient funds for the proposed project have been obtained. Funds from donations may not be released and the proposed project may not commence until sufficient funds to complete the project have been secured, and spending authority has been obtained. Where appropriate, sunset provisions should be identified at the outset for major projects and fundraising initiatives to provide guidance in the event funding targets are not attained.

3.11. Unsolicited donations that remain unspent at the end of the year may be carried over to the following budget year only upon Council approval (the request would be made through the fourth quarter preliminary budget variance report prior to the approval of the following year's budget).

4. Managing and Reporting Donations

4.1. Offers or proposals for donations are to be referred to the appropriate Division either directly or via the Toronto Office of Partnerships.

4.2. In an effort to cultivate an ongoing relationship with donors, the receiving Division is to:

- i. treat individual donors' names and amounts given, and any other private or personal information, with respect and, except where the donor authorizes release of such information, with confidentiality to the extent provided by the law;
- ii. reasonably limit the frequency of solicitations; and
- iii. respond promptly to a donor's question or complaint.

Acknowledgements, Forms and Receipts

4.3. The City is committed to the highest standards of donor stewardship and accountability. This includes appropriate acknowledgement and recognition for donations. Accordingly, for donations valued at \$100 or more, a formal letter of acknowledgement and gratitude will be sent to the donor by the Division.

Documentation and Communication with Donors

4.4. All donations must be documented by the recipient division in the following form, and reported through the variance reporting for donations under \$50,000 and to City Council for donations above \$50,000:

a) Cash and in-kind donations of \$100 or more and under \$50,000 must be documented and the terms and requirements communicated to the donor.

b) Cash and in-kind donations of \$50,000 or more must be documented through a legal agreement to the satisfaction of the City Solicitor.

c) The donation communication to donors should:

i. Convey the terms and requirements of the donation, including donor contact information, the purpose of the donation, the value of the donation, information about the tax receipt, how unused funds will be dealt with and the responsibilities of the respective parties.

ii. A statement acknowledging that the donation may be subject to the provisions of the Municipal Freedom of Information and Protection of Privacy Act.

iii. For in kind donations, include where necessary in the opinion of the City Solicitor a waiver of liability and an indemnity clause

iv. Include the following statement:

“All donations and/or in-kind donations, made to the City of Toronto and its agencies must be given unconditionally and voluntarily without any expectation of benefit. A donation cannot be used to influence the outcome of an outstanding approval, permit or license application or award of a procurement call. You must advise the City in writing if you, your organization or company is currently involved in a planning approval or procurement process with the City or one of its agencies”

d) In addition, as part of its due diligence, prior to proceeding with a donation the recipient Division is responsible for consulting with the Lobbyist Register and relevant stakeholders, where necessary, and conducting a risk/benefit assessment.

4.5. When a gift is received from a donor, it is the responsibility of the recipient Division to determine whether or not the gift qualifies for an income tax receipt (see related policies below).

Appraisals

4.6. The Canada Revenue Agency requires satisfactory evidence of fair market value of an eligible gift-in-kind. The responsibility for providing this information rests with the donor. The responsibility for securing this information for the purposes of issuing a tax receipt rests with the Division that benefits from the gift.

4.7. In situations where a gift is not of direct benefit to a particular Division, the Toronto Office of Partnerships will be responsible for securing fair market value evidence from the donor.

4.8. With respect to in-kind gifts, the recipient Division may retain the donation or, with the donor's consent, sell the asset and apply the proceeds as necessary.

Accounts

4.9. Donations designated for specific purposes or for the general purpose of a specific program, including donations of real property and the net proceeds of any property transaction, are to be used by the program for the purpose specified by the donor.

4.10. For purposes of financial control and accountability, donations are to be credited to appropriate accounts of the City or its agencies, boards or commissions.

4.11. Donations may not be managed informally or held in personal or external accounts or trust funds. This would not apply to independent community fundraising campaigns until such time that campaign contributions are donated to the City or its agencies, boards or commissions.

4.12. Where projects or assets of the City or its agencies, boards or commissions are funded in whole or in part by donations, the donated funds for such projects or assets must come directly from an account of the City or agency, board or commission.

4.13. Donations of cash or property to the City or its agencies, boards and commissions, where the purpose is not specified and which are not part of an approved fundraising initiative, are deemed to be undesignated and become contributions to general revenue of the City or assets of the City, unless the recipient Division seeks council approval for the requested purpose.

Reporting

4.14. As part of the quarterly budget variance reporting process, each Division shall disclose the amount of all donations received to date and report on how the donations were used in the form prescribed by the Deputy City Manager and Chief Financial Officer.

4.15. On an annual basis, The Toronto Office of Partnerships shall provide Council with a report summarizing the City's donation fundraising activity.

5. Links to Related Policies:

5.1. [The criteria and process surrounding the issuing of tax receipts for eligible donations:](#)

5.2. [Official gifts, public art or commemorations to the City are unique donations that require separate consideration. Such donations are governed by the Economic Development and Culture Division:](#)

5.3. [Accounting for Donations to Council Member-Organized Community Events](#) :

This Policy was adopted by Council in October 2013 and updated by staff (revisions in italics) in August 2016.

EMPLOYMENT POLICY

<u>Title</u>	<u>Effective Date</u>	<u>Policy Number</u>
Disclosure of Wrongdoing and Reprisal Protection Policy	TBD	219

1. Background

In June 2014, City Council approved the Toronto Public Service By-law (TPS By-law) which requires that TO Live have a Disclosure of Wrongdoing and Reprisal Protection Policy that meets the minimum policy requirements which:

- Defines wrongdoing;
- Establishes mechanisms for employees to disclose wrongdoing;
- Establishes a clear investigative process to investigate allegations of wrongdoing;
- Establishes reprisal protection for employees who make an allegation of wrongdoing in good faith; and
- Includes annual reporting to the TO Live Board of allegations of wrongdoing and their resolution.

2. Policy Statement

The purpose of this Policy is to:

- Encourage and facilitate the disclosure of wrongdoing that is contrary to the public interest;
- Ensure that all disclosures are investigated, and appropriately resolved; and
- Protect those employees who report wrongdoing in good faith from reprisal to the fullest extent possible.

This Policy addresses only those matters of wrongdoing that are in the public interest and for which there are no established mechanisms for consideration and investigation. For example, it is not intended to address matters that can be dealt with through existing procedures, established through TO Live policies such as health and safety and human rights and anti-harassment/discrimination, or other policies where applicable.

3. Definitions

- 3.1. Wrongdoing – Serious actions that are contrary to the public interest including but not limited to:

-
- Fraud. Examples can include: deliberate misuse of TO Live and/or City equipment, facilities, supplies or funds for purposes unrelated to TO Live's operations for personal gain
 - obtaining TO Live and/or City funds or compensation through dishonesty
 - repeated dishonest claims for reimbursement of expenses.
- Theft of TO Live and/or City assets;
 - Waste which is the gross mismanagement or abuse of TO Live and/or City resources or assets in a wilful, intentional or negligent manner. Examples can include:
 - deliberately or through negligence, destroying TO Live and/or City assets and/or information
 - improper conduct that causes damage or expense to TO Live and/or the City or its assets
 - Serious violations of conflict of interest including the misuse of one's position for significant personal gain; and
 - Breach of public trust. Examples can include:
 - lying or hiding public information about the operations of TO Live including the financial management of TO Live;
 - causing danger to public health or safety.
- 3.2. Reprisal – Any measure taken or threatened against an employee as a direct result of disclosing or being suspected of disclosing an allegation of wrongdoing, initiating or co-operating in an investigation into an alleged wrongdoing. Reprisal includes but is not limited to:
- disciplinary measures;
 - demotion of the employee;
 - suspension of the employee;
 - termination of the employee;
 - intimidation or harassment of the employee;
 - any punitive measure that adversely affects the employment or working conditions of the employee; and
 - directing or counselling someone to commit a reprisal.
- 3.3. President and CEO – the individual appointed to serve as TO Live's Administrative Head by the TO Live Board.

4. Disclosure of Suspected Wrongdoing

4.1. Disclosure of suspected wrongdoing involving a TO Live employee (other than President and CEO):

- TO Live employees must immediately report suspected wrongdoing to the President and CEO if they suspect wrongdoing involving a TO Live employee has occurred.
- Employees can use various channels to report suspected wrongdoing, as provided for by TO Live, including for example by email or letter to the President and CEO (which can be signed or unsigned).

4.2. Disclosure of suspected wrongdoing involving the President and CEO:

- TO Live employees must report suspected wrongdoing to the Chair of the TO Live Board if they suspect that wrongdoing involving the President and CEO has occurred.

4.3. An employee who reports wrongdoing in good faith will be protected from reprisal to the fullest extent possible, as described in this Policy.

4.4. Any employee who knowingly makes a false complaint in bad faith or who knowingly makes a false or misleading statement that is intended to mislead an investigation of a complaint, may be subject to disciplinary action up to and including dismissal as determined by the President and CEO.

5. Investigation of Alleged Wrongdoing

5.1. Investigation of alleged wrongdoing involving a TO Live employee (other than the President and CEO):

- Disclosures of alleged wrongdoing involving a TO Live employee will be investigated by the President and CEO.
- If required, the President and CEO may consult with or seek assistance from the City Manager's Office for investigations.
- If alleged wrongdoing by an employee is substantiated through an investigation, the employee will be subject to disciplinary action up to and including dismissal as determined by the President and CEO.

5.2. Investigation of alleged wrongdoing involving the President and CEO:

- Where it is alleged that the President and CEO has committed wrongdoing, the Chair of TO Live Board will conduct an investigation.

- The Board Chair may consult with or seek assistance from the City Manager's Office for investigations.
- The Board Chair will transmit the results of the investigation to the TO Live Board.

6. Confidentiality

- 6.1. The identity of individuals involved in an investigation, including the identity of an individual alleging wrongdoing and the identity of an individual alleged to have committed wrongdoing, will be protected to the fullest extent possible.
- 6.2. Anyone aware of or participating in an investigation of wrongdoing shall treat all information received confidentially.

7. Reporting

- 7.1. The President will report to the TO Live Board of on an annual basis with a summary related to allegations of wrongdoing, investigations, their resolutions, and any recommendations to minimize future risks.

8. Reprisal Protection

- 8.1. No person shall take a reprisal against a TO Live employee because the employee has:
- sought information or advice about making a disclosure about wrongdoing;
 - made a disclosure about wrongdoing in good faith;
 - acted in compliance with this Policy;
 - initiated or co-operated in an investigation or other process related to a disclosure of wrongdoing;
 - appeared as a witness, given evidence or participated in any proceeding relating to the wrongdoing, or is required to do so;
 - alleged or reported a reprisal; or
 - is suspected of any of the above actions.

9. Reporting and Investigating Reprisal

- 9.1. Reporting and investigating reprisal involving a TO Live employee (other than the President and CEO):

- A TO Live employee who believes that they are the subject of a reprisal following a disclosure of wrongdoing shall notify the President and CEO immediately.
- A TO Live employee informed of, or who becomes aware of a reprisal against an employee, has a duty to notify the President and CEO.
- The President and CEO will undertake to ensure that the employee is protected from any further reprisal.
- The President and CEO leads the investigations of alleged reprisals involving staff.
- Where the investigation substantiates the allegations of reprisals the employee(s) involved will be subject to disciplinary action up to and including dismissal.
- The President and CEO will determine and take appropriate actions to stop, reverse or remedy a reprisal against an employee.

9.2. Reporting and investigating reprisal involving the President and CEO

- A TO Live employee who believes that they are the subject of a reprisal by the President and CEO following a disclosure of wrongdoing shall notify the Board Chair.
- A TO Live employee informed of, or who becomes aware of a reprisal against an employee by the President and CEO has a duty to notify the Board Chair.
- Once notified, the Board Chair will undertake to ensure the employee is protected from further reprisal.
- The Board Chair will lead an investigation into the alleged reprisal and report the results of the investigation to the TO Live Board.

10. Allegations of Wrongdoing or Reprisal involving a Member of the TO Live Board

10.1. The Integrity Commissioner is responsible for receiving, reviewing, investigating and reporting allegations of wrongdoing or reprisals against members of the TO Live Board, pursuant to the *City of Toronto Act, 2006* and *Code of Conduct for Members of Local Boards*.

10.2. Any TO Live employee who believes that a member of the TO Live Board has committed wrongdoing or committed a reprisal against an employee, shall notify the Integrity Commissioner using any of the methods below:

Telephone: 416-392-3826

Email: integrity@toronto.ca

Fax: 416-696-3615

Letter: 375 University Avenue, Suite 202,
Toronto ON M5G 2J5

- 10.3. Board Members will cooperate with the Integrity Commissioner during investigations and provide the Integrity Commissioner with access to information.