

PROCUREMENT POLICYTitleEffective Date**Procurement Policy****February 2020**

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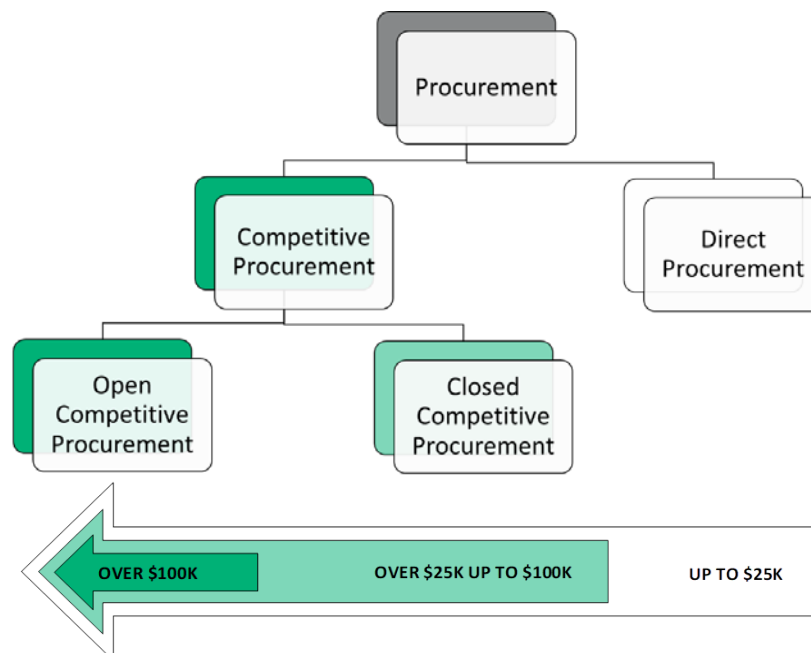
1. PURPOSE & PRINCIPLES

1.1 Purpose

- 1.1.1 The purpose of CreateTO's Procurement Policy ("**Policy**"), is
- (a) to facilitate the objectives of CreateTO while protecting the interests of CREATETO, BUILD TORONTO INC. ("BT") and its subsidiaries, and CITY OF TORONTO ECONOMIC DEVELOPMENT CORPORTION ("TPLC") and its subsidiaries (individually and/or collectively "**CreateTO**"), the public and persons participating in the procurement process; and
 - (b) to facilitate quick, efficient and effective procurement of quality goods and services.
- 1.1.2 This purpose will be accomplished by ensuring that the policy is fair, open, transparent and inclusive and results in efficient and consistent Procurement practices that realize Best Value.
- 1.1.3 CreateTO seeks to work with suppliers that have a commitment to fair employment practices and diversity.

1.2 Overview

- 1.2.1 This Procurement Policy provides for three Procurement categories: Open Competitive Procurements for procurements with an Estimated value of over \$100,000; Closed Competitive Procurements for procurements with an Estimated value greater than \$25,000 up to \$100,000; and Direct Procurements for procurements with an Estimated value of \$25,000 or less.



2 DEFINITIONS

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

2.1.1 **BEST VALUE** - The optimal balance of performance and cost determined in accordance with pre-determined evaluation criteria.

2.1.2 **BID** - A submission in response to a procurement.

2.1.3 **CALL-UP PROTOCOL**- The process which CreateTO will follow when selecting qualified service providers from Rosters.

2.1.4 **COMPETITIVE PROCUREMENT** - A Procurement where participating suppliers are given an equal opportunity to make submissions in accordance with the requirements in Section 4.

2.1.5 **DIRECT PROCUREMENT** - A procurement negotiated directly with a supplier.

2.1.6 **DIRECT PROCUREMENT THRESHOLD** – Up to twenty-five thousand dollars (\$25,000).

2.1.7 **ESTIMATE** - has the meaning given to it in Section 3.5.

2.1.8 **EVALUATION CRITERIA** – The material and financial criteria on which a bid will be evaluated.

2.1.9 **CLOSED COMPETITIVE PROCUREMENT THRESHOLD** – Greater than twenty five thousand dollars (\$25,000) and up to one hundred thousand dollars (\$100,000).

2.1.10 **CLOSED COMPETITIVE PROCUREMENT** – A Competitive Procurement method that satisfies the requirements of Section 4.2., where three (3) or more suppliers are invited and given an equal opportunity to bid in response to a Procurement.

2.1.11 **OPEN COMPETITIVE PROCUREMENT THRESHOLD** – Greater than one hundred thousand dollars (\$100,000).

2.1.12 **OPEN COMPETITIVE PROCUREMENT** - A Competitive Procurement method completed in accordance with the requirements set out in Section 4.1.

2.1.13 **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 future procurements.

- 2.1.14 PROCUREMENT - The acquisition of goods and/or services by any contractual means
- 2.1.15 PROCUREMENT CATEGORY – One, any or all of Competitive Procurement, Direct Procurement, Open Competitive Procurement and Closed Competitive Procurement.
- 2.1.16 PROCUREMENT DEPARTMENT - The department within CreateTO designated by the CFO as the unit responsible for administering the purchasing process of the specified goods or service.
- 2.1.17 PROCUREMENT THRESHOLD – All or any of the Direct Procurement Threshold, the Closed Competitive Procurement Thresholds and the Open Competitive Procurement Threshold.
- 2.1.18 PROCURING DEPARTMENT – The department within CreateTO that intends to use the goods and services that are to be procured.
- 2.1.19 REQUEST FOR EXPRESSIONS OF INTEREST (REOI) - A Procurement method used to gather information on supplier interest in an opportunity.
- 2.1.20 REQUEST FOR INFORMATION (RFI) - A Procurement issued to potential suppliers to gather general supplier, service or product information.
- 2.1.21 REQUEST FOR PROPOSALS (RFP) - A Procurement issued to obtain Bids or proposals where a procurement need is identified,
- 2.1.22 REQUEST FOR QUOTATIONS (RFQ) - A Procurement issued to obtain competitive quotes for goods and/or services
- 2.1.23 REQUEST FOR SUPPLIER QUALIFICATIONS (RFSQ) - An Open Competitive Procurement that is issued to gather information on supplier capabilities and qualifications with the intention of creating a list of pre-qualified suppliers for future procurement.
- 2.1.24 REQUEST FOR TENDERS (RFT) - A Procurement that is generally issued in order to obtain irrevocable competitive Bids for standard construction services, where there has been a predetermination of the required scope of work including quantity and/or quality requirements.
- 2.1.25 RFX – One or any of REOI, RFI, RFP, RFQ, RFSQ and/or RFT.

2.1.26 ROSTER - A list of pre-qualified suppliers that CreateTO has determined satisfy the conditions for participation in that list.

2.1.27 VENDOR OF RECORD – has the meaning given to it in Section 8.1.

3 PROCUREMENT THRESHOLDS

3.1 General

3.1.1 CreateTO will not reduce the procurement value or subdivide the procurement into multiple procurements in order to avoid any competitive Procurement Threshold.

3.2 Open Competitive Procurement Thresholds

3.2.1 CreateTO shall conduct an Open Competitive Procurement process where the Estimate of the value of goods and services to be procured exceeds the Open Competitive Procurement Threshold, subject to those exceptions set out in Section 6.2

3.3 Closed Competitive Procurement Thresholds

3.3.1 CreateTO shall conduct an Open or Closed Competitive Procurement where the Estimate of the value of the goods and services is between the upper and lower Closed Competitive Procurement Thresholds, subject to those exceptions as set out in Section 6.2.

3.4 Direct Procurement Thresholds

3.4.1 CreateTO may conduct a Direct Procurement where (i) the value of goods and services is Estimated to be less than the Direct Procurement Threshold, OR (ii) an exception set out in Section 6.2. applies.

3.5 Estimating Value

3.5.1 When determining which Procurement Category a proposed Procurement falls within, the head of the Procuring Department shall, subject to review from time to time of the CFO, reasonably estimate the value of goods and/or services intended to be procured (the "Estimate"). The applicable Procurement Category shall be determined based on the Estimate, regardless of whether the bids submitted in response to the Procurement are higher than the Procurement Threshold that relates to that Procurement Category.

4 COMPETITIVE PROCUREMENTS

4.1 Open Competitive Procurements

Open Competitive Procurements may be conducted using a one-stage or a two-stage process.

4.1.1 One-Stage Process

- 4.1.1.1 In the One-Stage Process, CreateTO shall invite all suppliers, to respond to a public RFP, RFQ or RFT. The public RFP, RFQ or RFT will be posted on CreateTO's website and (i) on a public tendering service, such as MERX, or (ii) using such other form of publication that ensures comparable exposure.

4.1.2 Two-Stage Process

- 4.1.2.1 The first stage will be either:

- (a) an REOI or an RFI where all suppliers are invited to provide initial submissions that will include such information as the capabilities of the supplier, the proposed team, financial information and initial thoughts on the delivery of the goods/services; or
- (b) an RFSQ in accordance with Sections 7.1 and 7.2.

The public REOI, RFI or RFSQ will be posted on CreateTO's website and (i) on a public tendering service, such as MERX, or (ii) using such other form of publication that ensures comparable exposure. In the case of an REOI or an RFI, CreateTO will then develop a short list of suppliers based on the Evaluation Criteria.

- 4.1.2.2 In the second stage of the two-stage process, short-listed suppliers will be invited through an RFP, RFQ or RFT to submit a response. In the second stage CreateTO shall select the supplier that provides CreateTO with the Best Value for goods/services.
- 4.1.2.3 Subject to Section 5.1.2.5, where CreateTO has previously established a Roster for the particular goods or services to be procured, CreateTO only needs to complete the second stage of the Open Competitive Procurement process (ie. the prior establishing of the Roster qualifies as completion of the first stage of the process). In such a case, all or a select group of suppliers (not to be less than three suppliers) from the Roster will be invited through an RFP, RFQ or RFT to submit a Bid. CreateTO shall select the supplier that provides CreateTO with the Best Value for goods/services.
- 4.1.2.4 In the second stage, where CreateTO invites three (3) or more suppliers to submit Bids and one or more suppliers do not respond to the invitation, CreateTO reserves the discretion to (i) invite other suppliers from the short list or the Roster to respond to the invitation, or (ii) proceed with the Procurement without inviting further suppliers to respond.

- 4.1.2.5 Notwithstanding anything to the contrary herein, if the Estimate for a Procurement exceeds five million dollars (\$5,000,000), CreateTO is not permitted to procure using a previously established Roster.

4.2 Closed Competitive Procurements

- 4.2.1 CreateTO may use a Closed Competitive Procurement method, inviting three (3) or more suppliers from a Roster or, where there is not a Roster for the goods or services to be procured, three (3) or more suppliers recommended by the head of the Procuring Department, where the value of the Estimate does not exceed the upper limit of the Closed Competitive Procurement Threshold. A Closed Competitive Procurement includes an informal but written request for written quotations or proposals.

5 DIRECT PROCUREMENTS

- 5.1 CreateTO may use a Direct Procurement method where the value of the Procurement does not exceed \$25,000.

6 EXCEPTIONS

6.1 Applicability Exceptions

- 6.1.1 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) CreateTO employment contracts;
 - (c) Procurement between CreateTO and another public body; or
 - (d) The procurement of items listed in Schedule A of Chapter 71, Financial Control of the Toronto Municipal Code.

6.2 Procurement Threshold Exceptions

6.2.1 Exceptions for Awards of \$25,000 and Greater

- 6.2.1.1 Notwithstanding the Competitive Procurement thresholds set out in Section 3, where goods and/or services exceed \$25,000, CreateTO may conduct a Direct Procurement in circumstances where a Closed Competitive or Open Competitive Procurement would otherwise be required, subject to the requirements of this Section 6.2.1.

Before engaging in a Direct Procurement where goods and/or services exceed \$25,000, due diligence must be performed to ensure that the supplier is selected with a solid business rationale, including that the selected supplier can meet CreateTO's business requirements. All Direct Procurements with an

Estimate over the Direct Procurement Threshold must be authorized by the head of the Procuring Department, the CFO and the CEO.

- 6.2.1.2 A Direct Procurement may be undertaken where it 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 where a change in supplier would cause significant delay, loss of continuity, inconvenience or duplication of costs for CreateTO;
 - (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, or where no submissions were received;
 - (g) The goods or services are required as a result of an emergency which would not reasonably permit the procurement of competitive submissions;
 - (h) The goods or services are purchased under circumstances which are exceptionally advantageous to CreateTO, such as in the case of a bankruptcy or receivership;
 - (i) It is advantageous to CreateTO to acquire the goods or services from another public body;
 - (j) Another organization is funding, or substantially funding, the procurement and CreateTO has determined that the supplier and the terms and conditions of the proposed contract are beneficial to CreateTO;
 - (k) 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 the design contract being awarded to a winner;
 - (l) For the purchase of real property;
 - (m) When it is a unique product or service where only one supplier can produce it and there are no other substitutes;
 - (n) Where it can be demonstrated that significantly higher costs will be incurred unless the goods are procured using a Direct Procurement method;
 - (o) The confidential nature of the Procurement requirement is such that it would not be in the public interest OR that it would not be in CreateTO's interest to solicit competitive submissions
 - (p) Such other Direct Procurement exemptions authorized by the Board of Directors of CreateTO,

7 ROSTERS

7.1 Roster for Competitive Procurements

- 7.1.1 In situations where CreateTO requires the same type of goods or services 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 good or service is required. In such cases, a Roster of qualified suppliers may be established using an RFSQ. All Rosters shall be comprised of a minimum of three (3) pre-qualified suppliers. CreateTO reserves the right to limit the number of approved suppliers on any and all Rosters.
- 7.1.2 Where the Purchasing and Procuring Departments deem necessary, CreateTO shall include a call-up protocol in the RFSQ. The call-up protocol contained in an RFSQ shall disclaim any contractual commitment or other obligation of CreateTO to call on any supplier on the Roster to provide goods or services.

7.2 Establishing a Roster Using a Request for Supplier Qualifications

- 7.2.1 If CreateTO intends to establish a Roster, CreateTO shall do so through an Open Competitive Procurement using an RFSQ. The Procurement Department and the Procuring Department will determine those suppliers who qualify for inclusion on a Roster.
- 7.2.2 All suppliers are eligible to respond to an RFSQ for a Roster. All RFSQ opportunities for Rosters will be posted on the CreateTO website (www.createto.ca) under the Procurement section and (i) on a public tendering service such as MERX or (ii) such other form publication as ensures similar exposure.
- 7.2.3 CreateTO reserves the right to include past-performance and conduct on contracts issued by CreateTO in the evaluation criteria disclosed in any RFSQ process for a Roster.
- 7.2.4 The Procurement Department shall include language in all RFSQs for Rosters that disclaims any contractual commitment or other obligation of CreateTO to call on any supplier to provide goods or services as a result of pre-qualification within the RFSQ.
- 7.2.5 CreateTO reserves the right not to qualify any and/or all suppliers that respond to an RFSQ.

7.3 Renewing Rosters

- 7.3.1 The Procurement Department shall establish a schedule for the refreshing of all Rosters, which will ensure that each list is refreshed every five (5) years. CreateTO

reserves the right to extend the length of time that lapses before a Roster is refreshed beyond five (5) years based on the needs of the business, but balancing those needs with the objective of having fair and open procurement processes.

- 7.3.2 CreateTO reserves the right to suspend suppliers from Rosters based on poor performance, misrepresented information, and/or failure to comply with the City's Fair Wage Policy.

7.4 Additions to Rosters

- 7.4.1 CreateTO may permit individual suppliers to request for qualification on a Roster from time to time. In such event, the supplier must complete a pre-qualification process conducted by CreateTO.

7.5 Exceptions

- 7.5.1 Where CreateTO makes a fair and honest effort to create a Roster but is unable to form a Roster as a result of inadequate responses, insufficient responses and/or specializations in the market, the Procurement Department may approve a Closed Competitive Procurement for goods and services over \$100,000 involving at least three (3) suppliers where a Roster would otherwise be required.

8 VENDORS OF RECORD

8.1 Procuring Vendors of Record

- 8.1.1 Where the CFO and the head of the Procuring Department determine that it is in CreateTO's interest, CreateTO may, using an Open Competitive Procurement method, contract with a single supplier (a "**Vendor of Record**") to provide certain goods and/or services for a fixed period of time, not to exceed three (3) years, provided that any such contract shall provide CreateTO the right to:
- (a) terminate the contract for poor performance; and
 - (b) procure the goods and/or services from another supplier if CreateTO determines that the Vendor of Record does not have the capacity or the specific expertise to provide the good and/or services in the timeframe required by CreateTO.
- 8.1.2 Notwithstanding Section 8.1.1, the CFO and/or the head of the Procuring Department may elect to extend the term of the contract for a Vendor of Record beyond three (3) years if there is a compelling business need to do so, provided that in no circumstances shall the overall length of the contract exceed five (5) years.

9 BID RECEIPT AND EVALUATIONS

9.1 Evaluation Criteria

- (a) The Procuring Department, in consultation with the Procurement Department, shall develop evaluation criteria for each Competitive Procurement. All Competitive Procurements issued by the Procurement 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.

9.2 Bid Receipt and Opening

- 9.2.1 The Procurement Department shall ensure that the bid submission date and closing time are clearly stated on all procurements (printed and/or electronic) where applicable.
- 9.2.2 The CFO has the discretion to accept RFX submissions which:
 - (a) are late, provided the lateness is due to circumstances beyond the control of the supplier; and/or
 - (b) contain minor irregularities or immaterial omissions.

9.3 Evaluation Team

- 9.3.1 Competitive Procurements require an evaluation team responsible for reviewing and rating the bids in accordance with the criteria disclosed in the procurement where applicable.

9.4 Open Competitive Procurement Evaluation Team Composition

- 9.4.1 The same evaluation team shall be responsible for evaluation of all 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 and individuals who are not CreateTO employees may also be included on the evaluation team where appropriate, including complex or high-profile projects and those having corporate-wide implications.

9.5 Closed Competitive Procurement Evaluation Team Composition

- 9.5.1 The same evaluation team shall be responsible for the evaluation of all submissions. The evaluation team may be comprised of two (2) staff members with relevant experience evaluating proponent submissions.

9.6 Evaluation Criteria Matrix

- 9.6.1 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. An average of the individual scores will be prepared by the Procurement Department and kept on record. Individual scores may be destroyed after the average score has been created and approved by the evaluation team.
- 9.6.2 Notwithstanding Section 9.6.1, consensus scoring is permitted where the CFO and the head of the Procuring Department determine that it is in CreateTO's interest.

9.7 Commercially Confidential Meetings

- 9.7.1 CreateTO may, at its discretion, provide the opportunity for proponents involved in a Procurement process to participate in commercially confidential meetings to discuss matters related to the Procurement. When commercially confidential meetings are administered by CreateTO, the following principles shall be applied:
- (a) Information supplied by the bidding proponents will be kept confidential and not disclosed to other bidders
 - (b) information supplied to bidding proponents shall not be binding to the Procurement process unless reflected in a written addendum to the procurement documents;
 - (c) any information material to the Procurement that is provided to a proponent in a meeting shall be provided to all proponents through an addendum; and
 - (d) the use of commercially confidential meetings and a general description of the framework or protocol associated with commercially confidential meetings should be included in the Procurement documents.

10 PROCUREMENT PROCEDURES

10.1 Unsolicited Quotations or Proposals

- 10.1.1 CreateTO may consider unsolicited bids on a case-by-case basis where it can be demonstrated that:
- (a) There is value to CreateTO in proceeding with an unsolicited proposal;
 - (b) Consideration of an unsolicited proposal would not circumvent any planned or active procurement process, including any REOI or RFI process; and
 - (c) A competitive process would not yield a significantly different or better result.
- 10.1.2 Unsolicited proposals will be sent to the CFO, who will determine if the proposal meets the criteria outlined above. Unsolicited proposals must:
- (a) Be in writing;
 - (b) Have sufficient details to allow for a decision to be made;

- (c) Be unique or innovative; and
- (d) Be reviewed and assessed according to CreateTO's Delegated Authorities.

10.2 Addenda Procedures

10.2.1 The Procurement Department shall use a written addendum to alter any material aspect of a Procurement, including any change in evaluation criterion, prior to the close of the Procurement. CreateTO shall at all times retain sole discretion to amend or extend a submission deadline to ensure sufficient time is provided for Proponents to respond to addenda and submit their responses.

10.3 Bid Dispute Resolution

10.3.1 Pre-Award Bid Disputes

- 10.3.1.1 Any pre-award dispute must be received in writing by the Procurement Department as soon as possible from the time when the basis for the dispute became known to the bidder or proponent, 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.
- 10.3.1.2 The Procurement Department may delay an award, or any interim stage of a Procurement, pending the acknowledgement and resolution of any pre-award dispute.
- 10.3.1.3 The Procurement Department, in consultation with the Legal Department 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 Board of Directors of CreateTO decide on the award.

10.3.2 Post-Award Bid Disputes

- 10.3.2.1 Post-Award Disputes shall be dealt with by the CFO in consultation with the Legal Department.
- 10.3.2.2 Any dispute to an award decision must be received in writing by the Procurement Department no later than ten (10) days after the date of the award notification, or where a debriefing has been requested, no later than five (5) days after such debriefing is received. Any dispute that is not timely received or in writing will not receive further consideration.

10.4 Future Contract Amendments

10.4.1 The term of any contract and any options to extend the contract shall be set out in the Procurement. Subject to Section 10.4.2, extending the term of contract or increasing the scope of the contract beyond that set out in the Procurement shall be considered as, and subject to approval as, a Direct Procurement where the extension or increase affects the value of the Procurement.

10.4.2 Notwithstanding anything to the contrary herein, an extension of the term or increase in the scope of a contract beyond that set out in a Competitive Procurement shall be permitted, and shall not be considered a Direct Procurement, where a Proponent under an existing contract is requested to provide additional goods or services that are:

- (a) related to or a follow-up to goods or services procured through the Procurement; OR
- (b) required as a consequence of information that became known to CreateTO as a result of the supplier's work in providing the goods or services procured through the Procurement;
- (c) required as a consequence of requirements imposed by any governmental authority; AND
- (d) the possibility of the requirement for such additional goods or services was contemplated in the Procurement.

10.5 Procurement Records Retention and Access to Information

10.5.1 All submissions to CreateTO will become the property of CreateTO and will not be returned.

10.5.2 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 MFIPPA. The Proponent should identify any information in its bid, proposal or submission or any accompanying documentation that is supplied in confidence and that would meet the test for third party information to be protected from disclosure pursuant to access requests, as described in Section 10(1) of MFIPPA (the "**Protected Information**"). If no information in the bid, proposal or submission or any accompanying documentation is identified as Protected Information, CreateTO will assume that all submitted materials do not contain Protected Information.

10.5.3 All procurement documentation, as well as any other pertinent information shall be maintained, retained and only disposed of in accordance with CreateTO's Records Retention Policy.

11 AUTHORITIES

11.1 Authorities

11.1.1 The CreateTO Delegated Authorities Policy will govern the award of contracts under this Policy.

11.2 Reservation of Rights

11.2.1 In respect of any procurement that CreateTO may undertake, CreateTO reserves the following rights, to be exercised in its sole, absolute and unfettered discretion, without any liability whatsoever to any potential suppliers and/or proponents:

- (a) to cancel any procurement at any time and for any reason;
- (b) to reissue any cancelled procurement at any time and for any reason;
- (c) to seek clarification of the contents of any submission, or to require a respondent to submit further documentation;
- (d) to waive strict compliance with the terms of the procurement documentation;
- (e) to meet with some or all of the respondents to a procurement to discuss aspects of their respective submissions, however CreateTO is not obliged to seek clarification of any aspect of a submission;
- (f) to verify any information from third parties and receive additional information regarding any respondent, its directors, officers, shareholders or owners, and any other party associated with the respondent's submission, as CreateTO may require, in accordance with MFIPPA guidelines on protected information;
- (g) if only one submission is received, to accept or reject it;
- (h) to not accept the lowest priced or highest ranked submission;
- (i) to not accept any submission;
- (j) to accept a non-compliant submission;
- (k) to consider and apply any other evaluative criteria as CreateTO may see fit;
- (l) to alter the procurement schedule, procurement process, procedures and/or objectives; and
- (m) to amend or replace this Policy at any time.

11.3 Prior Procurement Policies

11.3.1 All prior Procurement Policies of BT, TPLC and CreateTO shall be automatically revoke upon approval of this policy by the respective entity's Board of Directors.

11.3.2 All existing Rosters of BT, TPLC and CreateTO are deemed to be in compliance with this policy upon approval of this policy by the respective entity's Board of Directors.

12 ETHICS & INTEGRITY IN PROCUREMENT CONDUCT

12.1 Ensuring Fairness in Direct Procurements

12.1.1 Generally speaking, a supplier who is successfully chosen for a procurement through a Direct Procurement will not be awarded a contract pursuant to back-

to-back Non-Competitive Procurements unless such an award can be justified as a result of an emergency or other compelling business need.

12.2 Non-Discrimination

12.2.1 The City of Toronto Human Rights and Anti-Harassment Policy requires that all firms or organizations who supply goods and services to CreateTO uphold policies which prohibit discrimination and harassment and which protect the right to be free of hate activity based on race, ancestry, place of origin, colour, ethnic origin, disability, citizenship, creed, sex, sexual orientation, gender identity, age, marital status, family status, receipt of public assistance, political affiliation, religious affiliation, record of offences, level of literacy, or any other personal characteristics by or within the organization. All proponents must execute and deliver to CreateTO a declaration confirming that they uphold such policies.

12.3 Supplier Code of Conduct

12.3.1 Confidentiality and Disclosure

- 12.3.1.1 Suppliers must maintain confidentiality of any confidential CreateTO information disclosed to the supplier as part of the Procurement process.
- 12.3.1.2 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 (“**MFIPPA**”).
- 12.3.1.3 Suppliers must comply with the City’s Fair Wage Policy in all Procurements and contracts for construction services.

12.3.2 Conflicts of Interest or Unfair Advantage

- 12.3.2.1 Suppliers and their sub-consultants 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 may include, but are not limited to:
 - (a) Engaging current or former CreateTO 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 CreateTO 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 procurement;
- (d) Prior access to confidential CreateTO and City information by the supplier, or affiliated persons, that is materially related to the procurement 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 CreateTO or the City in relation to a previous contract.

12.3.2.2 CreateTO shall retain sole discretion in determining, at any time in a procurement process, whether there is a perceived, potential or actual conflict of interest and the method required to mitigate the conflict of interest, if necessary.

12.3.2.3 CreateTO shall retain sole discretion in determining the extent of due diligence and investigation that is required to determine whether a conflict of interest exists, can be mitigated, and the extent to which the conflict of interest will affect (or will have a perceived effect on) the fairness of the evaluation.

12.3.3 Collusion or Unethical Bidding Practices

12.3.3.1 No supplier may discuss or communicate, directly or indirectly, with any other supplier or their affiliated persons about the preparation of the supplier's submission including, but not limited to, any connection, comparison of figures or arrangements with, or knowledge of any other supplier making a submission for the same work. Suppliers shall disclose to the Procurement Department any affiliations or other relationships with other suppliers that might be seen to compromise the principle of fair competition, including any proposed subcontracting relationships.

12.3.3.2 No presumption of any collusion risk or Conflict of Interest shall be created in a procurement simply by virtue of any one or more potential Proponents' participation in a market sounding process.

END OF POLICY