ATTACHMENT 1

TO Live

FINANCE POLICY

Title	Effective Date	Policy Number
Procurement	May 2019 March 31, 2022	313

Table of Contents

Policy Sections

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 Presentation.

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 City's in-house law firm, Legal Services provides expertise to 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:

    1. Having, or having access to, confidential information of TO Live in the preparation of its bid that is not available to other suppliers, or
    2. 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

1. 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:

   3. Could, or could be seen to, exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgment, or
   4. 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 contact 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 a 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 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:

(1) 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

(2) 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.
