

POLICY: **LOBBYING DISCLOSURE FOR REQUESTS FOR PROPOSALS
AND TENDER/QUOTATION CALLS**

SECTION: **II – General Policies – Finance & Property**

MOTION # / DATE:

1.0 Purpose

To enhance transparency in competitive procurement awards through a lobbying disclosure process for competitive Requests for Proposals and Tender and Quotation Calls issued by the Toronto Public Library Board.

2.0 Application

Lobbying disclosure shall apply to all competitive Requests or Calls issued by the Library of any dollar value excluding Sole-Source/ Single Source purchases or Departmental Purchase Orders made in accordance with approved policies.

3.0 Definitions

3.1 All references in Italics below refer to definitions contained within the Toronto Public Library Financial Control Policy, approved by the Board, June 9, 2003.

3.2 In this policy,

“Bid” means a formal price response to a Call issued by the Library;

“Bidder” means any legal entity submitting a competitive Bid in response to a Call by the Library;

“Call” means a *Solicitation* from the Library to external suppliers or providers to submit a *Tender* or a *Quotation*;



“Lobbying” for the purposes of this policy, means oral or written communications by Bidders/Proponents and/or representatives employed or retained by them, with members of Council, the Library Board, City or Library officials, and City or Library staff, in order to promote or oppose any Bidder or Proponent, as the case may be, responding to a Call or Request;

“Proponent” means any legal entity submitting a Proposal in response to a Request issued by the Library;

“Proposal” means an offer to furnish goods, services or construction, including professional or consulting services, as a basis for negotiations for entering into a contract;

“Purchasing Agent” means the person holding the position of Manager, Purchasing & Administration in the Finance Department and whose responsibility it is to supervise and carry out the procurement function on behalf of the Library and includes his or her designate;

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

“Request” means a *Solicitation* from the Library to external suppliers or providers to submit a Proposal;

“Single Source” means the procurement of Goods or Services from a particular vendor rather than through Solicitation of Bids or Proposals from other vendors;

“Sole Source” means the procurement of Goods or Services that are unique to a particular vendor and cannot be obtained from another source; and

“Tender” means an offer in respect of a Project at a fixed price as to total amount or on a unit basis, or both, and where all of the material terms, conditions and specifications to be met for the project, aside from price and, in some cases, time for completion, are contained in the Call and determined at the time a bid is opened so that there is no prospect of negotiations between the parties.

4.0 Process to Apply Criteria

- 4.1 All Requests or Calls issued by the Library and subject to this policy (see Section 2.0), shall include a statement which advises Proponents or Bidders that they are required to ensure that no communication is made by the Bidder/Proponent or its representatives (including a third party representative employed or retained by it to promote or oppose and Bid/Proposal) unless such communication relating to all meetings, written correspondence and telephone discussions that the representative has had with any member of Council, Library Board, City or Library officials, City or Library staff, appointed member of any City boards, agency, commission, task force, or related organizations – is disclosed by the filing of a disclosure form in accordance with this policy and that any false or misleading disclosure or non-disclosure may affect the award of future contracts. Proponents or Bidders shall also be informed that failure to file a complete form (non-disclosure) shall be assumed to mean that no lobbying has been conducted by the Proponent or Bidder, it employees or representatives.
- 4.2 Disclosures of Lobbying are to be submitted by Bidders/Proponents on a form to be approved by the City Librarian from time to time (“the disclosure form”). The disclosure forms must be up-to-date to the time of the meeting at which the award will be made and must be filed with the Purchasing Agent at or before that time.

Where there is not a set meeting at which an award will be made, by virtue of a delegated authority of a staff to make commitments (i.e. for contracts under \$500,000), Bidders/Proponents are nonetheless expected to comply with this policy by filing with the Purchasing Agent the disclosure form up-to-date until the time of the award determined by the Library. Bidders and Proponents are responsible for contacting the Purchasing Agent to ascertain award status and timing for the purpose of compliance with this policy.

- 4.3 Disclosures are to contain the following information:
- (i) the name, address and telephone number of the Proponent or Bidder;
 - (ii) the name, address and telephone number of each person retained,

employed or designated by such Proponent or Bidder who has engaged in Lobbying in relation to the Proposal or Bid;

- (iii) the Request or Call document number in respect of which each person retained, employed or designated by such Proponent or Bidder has engaged in Lobbying;
- (iv) a description of the general nature of communications that each person retained, employed or designated by such Proponent or Bidder has made in Lobbying; and
- (v) the name of the person and department before whom such Proponent or Bidder has engaged in Lobbying.

5.0 Availability of Disclosure Information

- 5.1 The Library will provide the disclosure information upon request to any members of Council, Library Board, Library staff or the public.

6.0 Insufficient Disclosure

- 6.1 Where a Proponent or Bidder has not fully disclosed Lobbying in accordance with this policy, or made false or misleading statements in any disclosure form filed with the Purchasing Agent, any Proposal or Bid received from the Proponent or Bidder, as the case may be, shall not be considered for award in any further Request or Call for a period of one year from the time of such non-disclosure or false disclosure coming to the attention of the Purchasing Agent, unless such Proposal or Bid is approved by the Library Board pursuant to a report from the City Librarian setting out the extent and nature of any non-disclosure or false or misleading disclosure.
- 6.2 Where a Proponent or Bidder is alleged not to have fully disclosed Lobbying or to have made false or misleading disclosure in respect of a Proposal or Bid, the Purchasing Agent shall investigate the allegation and make a determination whether in fact such has occurred.

7.0 Lobbying Prohibition

- 7.1 Despite the contents of this policy, the Library Board reserves the right to invoke a ‘prohibition’ requirement in any competitive Call or Request, namely, a “no lobbying” provision to the effect that a Bidder or Proponent and representatives employed or retained by it, can only make representations and present their arguments advancing or opposing a Library issued Call or Request in a public deputation to the Library Board under the provisions of the Library’s Procedural By-law, or to the media, and any designated contact party identified in the competitive Call or Request.