

CITY CLERK

Clause embodied in Report No. 2 of the Administration Committee, as adopted by the Council of the City of Toronto at its meeting held on March 1, 2 and 3, 2004.

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Policy to Exclude Bids from External Parties Involved in the Preparation or Development of a Specific Call/Request

(City Council on March 1, 2 and 3, 2004, adopted this Clause, without amendment.)

The Administration Committee recommends the adoption of the report (January 29, 2004) from the Chief Financial Officer and Treasurer:

Purpose:

This report recommends a policy to formalize the City of Toronto practice that restricts an external party from competing for, or being otherwise awarded, a contract on which the party has advised the City on a specific call/request or award content, format, or process. In this manner, the public, and eligible arms-length bidders/proponents are further assured of diligence in City procurement undertakings and the City mitigates its risk in terms of specification compliance.

Financial Implications and Impact Statement:

There are no direct budgetary requirements associated with implementing the recommendations of this report.

Recommendations:

It is recommended that:

- (1) current City practice be formalized by adopting Appendix A, the Policy to Exclude Bids from External Parties Involved in the Preparation or Development of a Specific Call/Request;
- (2) the Chief Financial Officer and Treasurer ensure Departments, vendors, consultant firms and other relevant parties are made aware of the formalized Policy;
- (3) City Agencies, Boards and Commissions, Council established Task Forces and City-controlled organizations, be requested to adopt the Policy; and
- (4) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Background:

On April 14, 15, and 16, 2003 Council adopted Audit Committee Report No. 1, Clause 8, Procurement Process Review – City of Toronto. Recommendation number 14 was to “develop a policy that formalizes the requirement to prohibit consulting firms who were involved in preparing a call/request from bidding on the respective project and to ensure this requirement is communicated to all applicable staff and vendors.” This report is in response to that request.

Comments:

In order to provide a level playing field for all bidders/proponents, a consultant/firm/supplier or other external party should not be eligible to compete in a call/request if they advised on, designed, prepared or otherwise participated in the preparation of the call/request.

Current City practice prohibits a vendor, firm or individual from competing for, or being otherwise awarded, a City call/request on which they assisted or advised on the development or preparation of the content, format or process. All bidders/proponents must be assured that there will be no advantage or preference given to any competitor over another.

In order to ensure a level playing field, to limit the perceptions of any unfair advantage and mitigate the City’s risk in terms of specifications compliance, it is recommended that current City practice be formalized by adopting Appendix A, the Policy to Exclude Bids from External Parties Involved in the Preparation or Development of a Specific Call/Request.

It is also recommended that the Chief Financial Officer and Treasurer ensure Departments are made aware of the formalized Policy requirement and, in addition, that City Agencies, Boards and Commissions, Council established Task Forces and City-controlled organizations, be requested to adopt the Policy.

It is further recommended that the Policy terms be included in all City procurement calls/requests as one of the conditions of eligibility for bidders/respondents.

Conclusion:

Current City practice prohibits a vendor, firm or individual from competing for, or being otherwise awarded, a competitive City project call/request on which they assisted or advised on the development or preparation of the content, format or process. By formalizing this practice in a “Policy to Exclude Bids from External Parties Involved in the Preparation or Development of a Specific Call/Request”, the City of Toronto will add clarity around contract competition eligibility.

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Appendix A

Policy to Exclude Bids from External Parties Involved in the Preparation or Development of a Specific Call/Request

1.0 Purpose:

To ensure Fair and Equal Treatment in its competitive procurements, the City of Toronto will undertake to:

- disallow bidders/proponent from submitting a bid to any Tender, Quotation, or Proposal all in which the bidders/proponent has participated in the preparation of the call document; and
- a bidders/proponent who fails to comply with this policy will result in disqualification of their response to the call/request.

2.0 Policy:

To prohibit an external party such as a vendor, consultant or firm, or supplier, from competing for, or being otherwise awarded, a procurement on which the party has advised the City on the content, format, or process of a specific Tender or Quotation Call, or Request for Proposal.

3.0 Procedure:

The terms of this Policy shall be included in all City procurement calls/requests as one of the conditions of eligibility for bidders/respondents.

The bidders/proponents will be requested in the call document to confirm that they comply with this policy.