

Corporate Policy and Procedure



Policy No. 03-06-01
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Effective Date 2000 12 11
Supersedes 1999 08 24

TAB: CORPORATE ADMINISTRATION
SECTION: ACQUISITION/DISPOSAL OF GOODS AND SERVICES
SUBJECT: BID IRREGULARITIES

POLICY STATEMENT Each sealed bid received in response to a formal bid request is reviewed to determine whether a bid irregularity exists, and action is taken according to the nature of the irregularity.

PURPOSE The City of Mississauga endeavours to conduct fair and consistent acquisition processes and to ensure equitable treatment of all bidders. This policy defines “bid irregularity”, and establishes the action which will be taken if an irregularity exists.

LEGISLATIVE AUTHORITY This policy is written in compliance with the City of Mississauga’s bylaw governing acquisition and disposal of goods and services, Bylaw 613-91, as amended.

DEFINITIONS

Formal Bid Request A “formal bid request” is any solicitation issued on the City of Mississauga’s standard tender or proposal forms, responses to which are required by Bylaw 613-91 to be opened or acknowledged as received in a public forum.

Purchasing Agent The “Purchasing Agent” is the Commissioner of Corporate Services and Clerk/Treasurer or designate.

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Bid Irregularity

A bid irregularity is a deviation between the requirements (terms, conditions, specifications, special instructions) of a bid request and the information provided in a bid response.

For the purposes of this policy, bid irregularities are further classified as “major irregularities” or “minor irregularities”.

A “major irregularity” is a deviation from the bid request which affects the price, quality, quantity or delivery, and is material to the award. If the deviation is permitted, the bidder could gain an unfair advantage over competitors. The Purchasing Agent must reject any bid which contains a major irregularity.

A “minor irregularity” is a deviation from the bid request which affects form, rather than substance. The effect on the price, quality, quantity or delivery is not material to the award. If the deviation is permitted or corrected, the bidder would not gain an unfair advantage over competitors. The Purchasing Agent may permit the bidder to correct a minor irregularity.

ACTION TAKEN

The Purchasing Agent is responsible for all action taken in dealing with bid irregularities, and acts in accordance with the nature of the irregularity:

- ! major irregularity;
- ! minor irregularity; or
- ! mathematical error (additions or extensions).

Major Irregularity - Automatic Rejection

Failure to meet any of the following requirements constitutes a major irregularity. The Purchasing Agent must reject the bid without further consideration.

1. The bid must be received and time-stamped by Materiel Management, Corporate Services Department by official bid closing time.

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2. Price-related information must be non-erasable (i.e. completed in ink, marker, or typewritten).
 3. Bid surety must be submitted with the bid when the bid request (or any addenda) indicated that such surety is required.
 4. Proof of authority to bind the bidder must be evident in the bid submission when the bid request (or any addenda) indicated that such proof is required.
 5. Bid surety must be in the form specified in the bid request or, alternatively, must provide equivalent or greater financial security for the City than the form of surety specified. Cash, cash equivalents (bank drafts, money orders), certified cheques, and letters of credit to City standard are considered equivalent from a financial security perspective. Bonds and letters of guarantee are not considered to provide equivalent or greater financial security than these noted forms of surety.
 6. Amount of bid surety must be equal to or greater than the amount indicated in the bid request.
 7. Bid or performance bonding company must be licensed to conduct business in Canada and in the province of Ontario.
 8. Prices must be complete and specified in accordance with the bid request.
 9. Notwithstanding provisions for “alternate bids” which may be contained in the bid request, bids must conform to the essential requirements in the specifications or terms of reference. Essential requirements are those which are necessary to perform the intended operation.
 10. Bidders must attend site meetings if such attendance is identified in the advertisement and bid request as mandatory.

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NOTE: The above list of irregularities should not be considered all-inclusive. The Purchasing Agent, after consultation with the requisitioning department, may reject a bid based on an irregularity not listed, but considered major.

Bidders whose bids are rejected due to a major irregularity will be notified by the Purchasing Agent prior to any bid award. Where the Purchasing Agent considers it appropriate, the responsibility for notifying bidders may be delegated to the requisitioning department.

Minor Irregularity - Bidder may Rectify

Failure to meet any of the following requirements constitutes a minor irregularity. The Purchasing Agent will notify the bidder and ask that the deviation from the bid request be rectified within a specified time (usually two working days from the time of notification). Where the Purchasing Agent considers it appropriate, the responsibility for notifying bidders may be delegated to the requisitioning department.

If the information is not provided within the specified time, the Purchasing Agent will reject the bid.

1. Agreements to provide surety must be submitted with the bid when the bid request indicated that such agreements are required.
2. The authorized signatures and the corporate seals of both the bidder and the bonding company must be supplied on the bid bond forms and agreements to bond.
3. All changes to information contained in the bid document must be initialled by an authorized representative of the bidder.
4. Technical specifications documents must be completed and submitted with the bid, when specified in the bid request.

NOTE: The above list of irregularities should not be considered all-inclusive. Minor irregularities not listed will be reviewed by the Purchasing Agent, in consultation with the

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requisitioning department. The Purchasing Agent may then accept the bid, or request that the bidder rectify the deviation.

Mathematical Errors - Rectified by Staff

Errors in mathematical extensions and/or taxes will be corrected by the Purchasing Agent, and the unit prices will govern. The responsibility for correcting mathematical errors may be delegated to the requisitioning department based on factors such as number of bids received, complexity of bids, and staff work-loads. Any such delegation will be made in writing on the bid summary sheet immediately following the public bid opening, and agreed to by the requisitioning department by signature of the department's representative on the bid summary sheet.

BID AWARD REPORT

Bidders are identified in the award report as follows:

- ! For each bid not rejected due to irregularities, the bidder is listed with the bid amount.
- ! For each bid considered after correction of mathematical errors, the corrected amount is listed beside the amount which was declared at the public bid opening.
- ! For each bid rejected due to an irregularity, the bidder is listed with the reason for rejection.

BIDDERS' RECOURSE

Bidders who have responded to a formal bid request have the right to register a bid protest, if they feel that the City's actions in evaluating bids, or recommending the award of a contract, have been unfair or inappropriate. Refer to Corporate Policy and Procedure - Bid Protests.

REFERENCE:

GC-414-93 - 1993 06 23
Revised - 1999 08 24 (housekeeping amendment to clarify "equivalent

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or greater financial security” re: certified cheques)
Revised - 2000 12 11 (housekeeping amendment to clarify “equivalent
or greater financial security” re: letters of credit)
Revised - 2002 01 16 (housekeeping amendment to reference
Corporate Policy and Procedure - Bid Protests

CONTACT:

For more information, contact Materiel Management, Corporate
Services Department.