

**Policy Title: Bid Irregularities – Publicly Advertised High Value Acquisitions**

**Policy Number: 03-06-02**

Section:	<b>Corporate Administration</b>	Subsection:	<b>Acquisition/Disposal Of Goods And Services</b>
Effective Date:	<b>March 30, 2020</b>	Last Review Date:	<b>March, 2020</b>
Approved by:	<b>Council</b>	Owner Division/Contact:	<b>Materiel Management, Revenue and Materiel Management, Corporate Services</b>

## Policy Statement

Publicly Advertised High Value Acquisition (HVA) Bids will be reviewed to determine if an Irregularity exists and action will be taken according to the nature of the Irregularity.

## Purpose

The City of Mississauga conducts fair and consistent procurement processes to ensure equitable treatment of all Bidders. Publicly Advertised HVA Bids are reviewed for Irregularities to ensure that all Bidders are treated equitably and that the integrity of the procurement process is maintained.

This policy defines “Irregularity” and establishes the action that will be taken if an Irregularity exists.

## Scope

This policy applies to all High Value Acquisitions undertaken and approved in accordance with the Purchasing By-Law.

## Legislative Authority

This policy complies with the provisions of City of Mississauga Purchasing By law 374-06, as amended, which governs the acquisition of goods and services and the disposal of surplus goods.

Disclosure of information is subject to the requirements of the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA). For additional information on MFIPPA refer to Corporate Policy and Procedure - Corporate Administration - Freedom of Information and Protection of Privacy.

## Definitions

For the purposes of this policy:

“Award” means the selection by the City of the Bidder and the Bidder’s goods and/or services as a result of a Bid Request.

“Bid” means an offer or submission from a Bidder, received in response to a Bid Request from the City.

“Bid Request” means a solicitation from the City to potential Bidders to submit a Bid.

“Bidder” means any legal entity submitting a Bid.

“Buyer” means a Buyer in the City’s Materiel Management section who is assigned responsibility for a particular acquisition.

“City” means The Corporation of the City of Mississauga.

“Closing Date and Time” means the date and time by which Bids must be submitted. The Closing Date and Time are specified on the Website for each Bid Request and can only be changed by addendum.

“High Value Acquisition” or “HVA” means an acquisition of goods or services, or both, having a value of more than \$100,000, exclusive of taxes.

“Irregularity” means a deviation between the requirements (terms, conditions, specifications, special instructions) of a HVA Bid Request and the information provided in a Bid response. Irregularities are further classified as “Major Irregularities” or “Minor Irregularities”.

“Major Irregularity” means a deviation from a HVA Bid Request which, as determined by the Manager, is substantial and material to the Award and which, if permitted, could give the Bidder an unfair advantage over competitors.

“Manager” means the Manager of Materiel Management, Corporate Services Department or their designate, in writing.

“Minor Irregularity” means a deviation from a HVA Bid Request which, as determined by the Manager, affects form rather than substance, with no material impact to the Award and which, if permitted, would not give the Bidder an unfair advantage over competitors.

“Publicly Advertised Bid Request” means the advertising by the City of Bid Requests on the internet.

“Purchasing By-law” (By-Law) means the City’s Purchasing By-law 374-06, as amended.

“Website” means the City of Mississauga Bid Opportunities Website.

## **Irregularities**

### **Review for Irregularities**

All HVA Bids will be reviewed by the Manager or the Buyer to determine if an Irregularity exists.

### **Action Taken**

The Manager is responsible for all action taken in dealing with 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**

The Manager must reject a Bid with a Major Irregularity without further consideration. Failure to meet any of the following requirements constitutes a Major Irregularity:

1. The Bid must be submitted electronically through the Website and received by the Bid Closing Date and Time. Bids submitted in any other manner will not be accepted. Late Bids will not be accepted under any circumstances.
2. A completed and duly authorized Form of Offer, if included in the Bid Request, must be submitted with the Bid.
3. Bid security must be submitted with the Bid when the Bid Request (or any addenda) indicated that such security is required.
4. Bid security 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 specified.
5. Amount of Bid security must be equal to or greater than the amount indicated in the Bid Request.
6. Bid or performance bonding company must be licensed to conduct business in Canada and in the province of Ontario.
7. Prices must be complete and specified in accordance with the Bid Request.
8. Bids must conform to the essential requirements in the specifications or statement of work. Essential requirements are those which are necessary to perform the intended operation and/or achieve the objectives of the procurement.
9. Failure to rectify Minor Irregularities if requested to do so.

NOTE: The above list of Major Irregularities should not be considered all-inclusive. The Manager, after consultation with the requisitioning department, may reject a Bid based on a Major Irregularity not listed here.

Bidders whose Bids are rejected due to a Major Irregularity will be notified by the Manager prior to any Bid Award.

### **Minor Irregularity**

Failure to meet any of the following requirements constitutes a Minor Irregularity. Where there is a Minor Irregularity, the Manager may, depending on the nature of the Irregularity, either waive the Irregularity or notify the Bidder that the Irregularity must be rectified within the time period specified in the notice. If not rectified, the Minor Irregularity shall be deemed to be a Major Irregularity.

1. Agreements to provide contract security 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, if adopted by the applicable entity, must be supplied on the Bid bond forms and agreements to bond.
3. Technical specifications documents must be completed and submitted with the Bid when specified in the Bid Request.
4. Statements in the Form of Offer must be true and correct.

NOTE: The above list of Minor Irregularities should not be considered all-inclusive. Minor Irregularities not listed will be reviewed by the Manager, in consultation with the requisitioning department. The Manager 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 may be corrected by the Manager or the Buyer.

### **Bid Award Report**

Bidders are identified in the Award report as follows:

- For each Bid not rejected due to Major 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 electronic Bid, and
- For each Bid rejected due to a Major Irregularity, the Bidder is listed, along with the reason for rejection

### **Bidders' Recourse**

Bidders who have responded to a 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 Awards and Bid Protests.

## Revision History

Reference	Description
GC-0016-2002 - 2002 01 16	
LT - March 22, 2012	Policy revised to apply to HVA only. Combined with Bid Irregularities policy, now rescinded
August, 2015	Revised policy to reflect definition of Commissioner in By-law 0188-2015
December, 2015	Scheduled review – no changes
November 30, 2017	Housekeeping to remove definition for BAR form – not applicable to the policy.
March 30, 2020	Removed references to Bid openings which are now covered by a separate policy; other minor changes as applicable for electronic bidding and related changes to business process.