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April 5, 2004

EXHIBITION PLACE

To: The Board of Governors of Exhibition Place

From: Dianne Young
General Manager & CEO

Subject: **Revision to Lobbying Disclosure Policy for Certain Requests for Proposals and Tender/Quotation Calls**

Recommendation:

It is recommended that the Board adopt the revised "Lobbying Disclosure Policy for Certain Requests for Proposals and Tender/Quotation Calls", attached as Appendix "A".

Background:

At its meeting of May 31, 2002, the Board adopted the City of Toronto's "Lobbying Disclosure Policy for Certain Requests for Proposals and Tender/Quotation Calls", as requested by City Council.

Discussion:

Since the adoption by the Board of the Lobbying Disclosure Policy for Certain Requests for Proposals and Tender/Quotation, City Council at its meeting of March 1, 2 and 3, 2004, amended the Lobbying Disclosure Policy for Certain Requests for Proposals and Tender/Quotation to be made applicable to all City calls and requests issued by the City after March 31, 2004. The Director of Finance and Manager of Purchasing have reviewed the amended City policy in light of the Board's by-laws. Attached is the revised Lobbying Disclosure Policy for Certain Requests for Proposals and Tender/Quotation Calls for Exhibition Place which is the same as the one amended by Council except for modifications to language to address the particular nature of Exhibition Place.

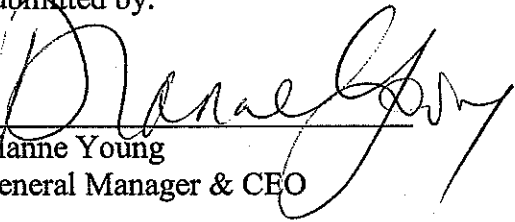
Conclusion:

This report recommends the adoption by the Board of the revised policy entitled "Lobbying Disclosure Policy for Certain Requests and Tender/Quotation Calls".

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Submitted by:



Dianne Young
General Manager & CEO

APPENDIX "A"

**Lobbying Disclosure Policy for Certain Requests
for Proposals**

1.0 Purpose:

To enhance transparency in competitive procurement awards through a lobbying disclosure process for certain competitive Requests for Proposals and Tender and Quotation Calls issued on behalf of the Board by the City of Toronto Purchasing and Materials Management Division (PMMD).

2.0 Application:

Lobbying disclosure shall apply to all competitive Requests or Calls of any dollar value excluding Sole-Source Purchases or Departmental Purchase Orders. ~~that are for high-value contracts (over \$1 million), or for long-term contracts, or high profile contracts with the likelihood of intense lobbying that could jeopardize objective decision-making, as defined in section 3.0 below.~~

3.0 Definitions:

3.1 In this policy,

"Bid" means a formal price response to a Call;

"Bidder" means any legal entity submitting a competitive Bid in response to a Call;

"Board" means the Board of Governors of Exhibition Place,

"Call" means a Solicitation to external suppliers or providers to submit a *Tender* or a Quotation;

~~"High value contract" means a contract estimated to have a value above \$1 million;~~

~~"High profile contract" means a contract that, in the opinion of the General Manager and CEO, has a policy significance beyond its monetary value and includes a contract in respect of which, in the opinion of the General Manager and CEO, the likelihood of intense lobbying may jeopardize objective decision making;~~

"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 the Board, Council, City and Board officials, and staff, in order to promote or oppose any Bidder or Proponents, as the case may be, responding to a PMMD Call or Request;

~~"Long term contract" means a contract that exceeds three years;~~

“Proponent” means any legal entity submitting a Proposal in response to a Request;

“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 Director of Purchasing and Materials Management for the City of Toronto;

“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; and

“Request” means a Solicitation from the City to external suppliers to providers to submit a Proposal;

“Sole Source” means purchases made to one vendor for proprietary/patent/copyright reasons or the General Manager and CEO has determined an emergency exists; and

“Solicitation” means the process of notifying prospective bidders or proponents that the Board wishes to receive offers through a Bid or Proposal.

4.0 Process to Apply Criteria:

~~4.1 The General Manager and CEO, before applying a lobbying disclosure requirement under this policy for a contract expected by the General Manager and CEO to have a value over \$1 million, shall consult with the Purchasing Agent.~~

~~4.1.1 The General Manager and CEO, in recommending a lobbying disclosure requirement for contracts expected by the General Manager and CEO to have a value under \$1 million, shall consult with the Purchasing Agent and obtain the approval of the Board.~~

4.2 All Requests or Calls issued by PMMD on behalf of the Board, ~~for high value contracts, high profile contracts, or long term contracts,~~ 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 any bid/proposal unless such communication, relating to all meetings, written correspondence and telephone discussions that the representative has had with any Member of the Board, Member of Council, City or Board employee, 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 completed form (non-disclosure) shall be assumed to mean that no lobbying has been conducted by the Proponent or Bidder, its employees or representatives.

- 4.3 Disclosures of Lobbying are to be submitted on a form to be approved by the City Clerk from time to time. Forms must be up-to-date to the time of the meeting where the award will be made and filed with the City Clerk up to the time of the meeting where the award of the Request or applicable Call will be made.
- 4.4 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 an department before whom such Proponent or Bidder has engaged in Lobbying.
- 5.0 Availability of Disclosure Information:
- 5.1 The City Clerk will provide the disclosure information upon request to any members of the Board, Council, City staff or the public.
- 5.2 The City Clerk shall post disclosure information on the City's Website.
- 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 City Clerk, 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 Council pursuant to a report from the Board 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 at the request of the Board, the allegation and make a determination whether in fact such has occurred.
- 7 Lobbying Prohibition:

- 7.1 Despite the contents of this policy, the 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 Call/Request in a public deputation to the Board under the provisions of the Board’s Procedural By-Law, or to the media, and any contact party identified in the competitive Call or Request.