



Procedure for Electronic Bid Submission

Tendering Procedures, Requirements and Materials

The following tendering procedures shall apply to the purchase of Goods and/or Services in an amount estimated to exceed the limit as stipulated in Article 4.05 of the By-law.

Definitions

- (a) **Bidding System** means the City's bid opportunities website, <https://oshawa.bidsandtenders.ca>.
- (b) **Electronic Bidding** means a method of issuing Solicitations and/or receiving Bids where the process of using and/or receiving Bids by internet is considered appropriate.
- (c) **Plan Takers** means a Bidder that has registered on the Bidding System and registered as a Plan Taker for a Bid Solicitation.

1.00 Roles

1.01 Designated Officials

The Designated Official(s) performs the following functions:

- (a) Clerical Duties
- (b) Tender Opening
- (c) Adjudication - answering queries of prospective Bidders, considering extensions of time, reviewing Bids received, ruling on the acceptance of those not completely meeting the Tender requirements and preparing a report and recommendations to Council.

Different Designated Officials may be designated to perform these three (3) functions or parts thereof.

- 1.02 **Pre-Qualification Process:** Pre-qualification is a procedure whereby a Bidder satisfies the City that it is capable of performing the work before it is allowed to submit a Tender or Proposal. Where Persons are required to be pre-qualified, the Contract, if awarded at all, must be awarded to the lowest Responsive and Responsible Bidder, subject to contrary direction by City Council.

Where the pre-qualification procedure is recommended by the initiating Department, the approval of the Designated Official must be obtained prior

to commencing the process. The pre-qualification process must be carried out by Finance Services staff in consultation with staff of the initiating Department.

2.00 Advertising

- 2.01 To attract as many competent Bidders as possible, Requests for Tender and Requests for Proposals, where practicable, shall be placed on the City's internet website and in at least one (1) major publication, where applicable and, if the City so desires, in the local press. Where applicable, the major publication will include a major construction trade publication. Tender requests for minor projects are an exception to this rule and may be placed, where applicable, on the City's internet website and in the local press only. Advertising in this manner is expected to attract the largest number of competent Bidders and increase competition. Coverage may be extended for Contracts requiring special techniques or type of work.
- 2.02 Advertisements, where applicable, must appear in the press with sufficient time between advertising and tender closing to permit a potential Bidder examine the site, obtain the tender documents, complete and submit its Tender.
- 2.03 Requests for Tenders and Proposals may be advertised on other government operated internet websites, where practicable, to attract competent Bidders.

3.00 Release of Information to Bidders

- 3.01 Upon the request of a prospective Bidder for information the Designated Official shall direct the prospective Bidder to the City of Oshawa's website to obtain all information pertaining to the Bid Solicitation where applicable.

4.00 Tender Requirements

- 4.01 All Tenders shall be submitted online through the City's Bidding System website, <https://oshawa.bidsandtenders.ca>. Tenders are required to conform to the conditions listed below and those failing to do so will be dealt with in the manner provided by Article 15.02 of this Appendix.
- (a) Late Bids shall not be accepted by the City's Bidding System.
 - (b) The Bid must not be qualified by any statement added to the Tender form or a covering letter, or alterations to the Tender forms (unless requested by the City).
 - (c) Adjustments by telephone, facsimile, electronic transmission or letter to a Tender already submitted will not be considered. A Bidder desiring to make adjustments to a Tender may do so through the City's Bidding System.

- (d) The Electronic Bidding system shall not accept bids unless the Bidder has checked a box confirming authority to submit a bid on behalf of the Bidder.
 - (e) The Bid Deposit (when required) shall be in the form of one of the two following Bid Deposit options and shall be submitted with the Bidder's Electronic bid submission, as instructed in 6.0.
 - (f) Agreement to Bond (when required) shall be in the form of one of the two following Bond options and shall be submitted with The Bidder's Electronic bid submission, as instructed in 6.0.
- 4.02 The Bidding System places all bid submissions into a virtual lock box where they cannot be viewed by the City until after the closing date and time.

5.0 Lease Requirements

- 5.01 Department Heads wishing to acquire or use Goods and/or Service via external third party financing lease must receive the approval of the City Treasurer or his designate prior to requesting the Designated Official undertake any competitive bidding process.
- 5.02 Any material financing leases executed to acquire or use municipal capital assets must be in compliance with Ontario Regulation 46/94 (as amended) made under the Municipal Act, 2001, S.O. 2001, c. 45, as amended.
- 5.03 Any external third party financing lease must be in accordance with the City's current Leasing Policy and Goods policy.

6.0 Bid Deposit and Agreement to Bond

- 6.01 Bidders shall upload both their Bid Deposit and Agreement to Bond (as instructed in 6.2), to the City's Bidding System, in the bid submission file labelled "Bid Deposit and Agreement to Bond".
- 6.02 Bidders shall create a **single zip file** (see Bidding System instructions on how to create a zip file) containing both their Bid Deposit and Agreement to Bond and upload the zipped file to the file labelled "Bid Deposit and Agreement to Bond".

7.0 Bid Deposit

- 7.01 Each Bidder shall be required to deposit security with its Tender, when specified in the Tender documents, the amount of which will vary depending upon the value of the Contract.
- 7.02 A Bid Bond using CCDC 220, or the same content in other form used by a Surety company, authorized by law to do business in the Province of Ontario, and acceptable to the City.

- 7.03 A Bid Deposit in the amount of **ten (10) percent of the total bid amount (including HST) Contract Amount**, shall be submitted with the Bidder's Bid Submission.
- 7.04 The Bid Deposit shall be in the form of **one of the two following** Bid Deposit options and **shall be submitted with the Bidder's Electronic bid submission**, as instructed above in 6.0.
- 7.05 If any of the Tender and deposit requirements have not been met the Bid shall be considered to be an "Improper Bid".

7.06 Option #1: A Digital Bid Bond.

Bidders shall **up-load** a copy of the Digital Bid Bond and follow the upload instructions as stated in 6.01 and 6.02.

If Bidders are using this option, the Bidder and the Bidder's Surety should refer to the e-bonding information on [Surety Association of Canada's website](#). Information at this site includes;

- A list of third parties that provide online surety digital bond services such as Mobile Bonds or Xenex. The City does not endorse or promote any third party digital bond service provider.
- An Industry Checklist which Digital Bonds provided should meet.

All instruction details for accessing authentication should be included with the up-loaded Bond.

7.07 Option # 2: A Scanned Paper Bid Bond / Certified Cheque, Bank Draft, Money Order (Pdf Format)

Bidders shall scan and up-load a copy of the Paper Bid Bond, Certified Cheque, Bank Draft, or Money Order and follow the up-load instructions as stated in 6.0. At a minimum the three (3) low bids will provide to the City the original Bid Bond, Certified Cheques, Bank Draft, and/or Money Order that were scanned into the Bidding System within 72 hours of bid closing. Failure to provide the above original document(s) or to enter into a contract may result in bidder being barred from future bid opportunities for an indeterminate period (minimum two years).

If an alternative Bid Bond is used, Bidders should request either an Ink seal from their Surety or trace over the embossed seal prior to scanning to allow for the seal to be visible to the City.

Applicable to both above options:

- 7.08 Bonds shall be issued by a Bonding Company licensed to carry on business in Ontario. Bid bonds must be irrevocable and open for bid acceptance for the time period outlined in the Bid Document. The Bid

Deposit is provided as assurance that should the Bid be accepted by the City; a Contract will be entered into for the proper performance of the work within ten (10) calendar days following written notification from the City to the selected Bidder.

- 7.09 When the Contract is executed by the selected Bidder and the City and the bid award is posted to the Bidding System by the City; the Bid Deposit of all Bidders, shall be null and void.
- 7.10 The security is held by the City to ensure that the Bidder will provide all documentation specified in the Bid Documents and that the Bidder will enter into a formal Contract with the City. When the Bidder enters a Contract with the City the security becomes null and void. The security of all Bidders, except that of the lowest and the two next lowest Bidders, become null and void immediately after the Bids are opened, checked and verified. The Bid Document shall state that the security will be forfeited to the City if the successful Bidder fails to enter into a formal Contract with the City or fails to provide all documentation specified in the tender document.

8.0 Agreement to Bond

The selected Bidder shall supply upon award:

- (a) A Performance Bond for the due completion of the Work in accordance with the terms and conditions of the Contract which bond shall be in an amount equal to 50% or 100% of the Sub Total Contract Price (including all applicable taxes) in the form of CCDC 221 or the most recent Ontario Provincial Standard Form or the Surety Association of Canada's performance bond; and
- (b) A Labour and Material Payment Bond which Bond shall be in an amount equal to 50% of the Sub Total Contract Price (including all applicable taxes) in the form of CCDC 222 or the most recent Ontario Provincial Standard Form.

All Bonds shall be issued by reputable Bonding Companies licensed to carry on business in Ontario. All bonds may be subject to the approval of the City. All Agreement to Bonds shall be irrevocable and open for acceptance for the time period outlined in the Bid Document.

The Bonds received from the selected Bidder shall remain in force throughout the duration of the Contract including the guarantee, warranty or maintenance period of the Contract and/or until the Contract is deemed complete by the City.

The Agreement to Bond shall be in **one of the two following options** and **shall be submitted with the Bidder's Electronic bid submission**, as instructed above in 6.01 and 6.02.

Bidders may also use **either** the City's Agreement to Bond Form provided in the Bid Solicitation or other form used by a Surety company, authorized by law to do business in the Province of Ontario, and acceptable to the City shall be submitted with the Bidder's Bid.

9.00 Bonding Requirements

- 9.01 To protect the City, security to guarantee the completion of the Contract is required. It is recommended that this security be in the form of a Performance Bond and Labour and Materials Bond issued by a Bonding Company for not less than 50% of the amount of the Total Bid Amount or approved equivalents to the Performance/Labour and Materials Payment Bonds as specified in the Bid Document or acceptable collateral, which can readily be converted into cash, totalling not less than 50% of the amount of the Total Bid Amount, where applicable. The bond or approved equivalent or collateral should be furnished by the successful Bidder when the Contract agreement is signed.
- 9.02 Under the provisions of the Workplace Safety and Insurance Act, 1997, S.O. 1997, c.17 a municipality is responsible for payments to the Workplace Safety and Insurance Board upon default by the contractor. Where applicable, the contractor will provide to the City, before payment of the final payment certificate, a clearance in the form of a certificate signed by the Workplace Safety and Insurance Board stating that the contractor is in good standing.

10.00 Changes to Bids under Call (Addenda, Extension of Time or Cancellation)

- 10.01 Preparation of Addenda
- (a) Interpretations should be made in reply to queries from Bidders only in the form of written addenda.
 - (b) When it becomes necessary to revise, delete, substitute or add to tendering material for a contract under call, the Designated Official shall approve the issuance of an addendum.
- 10.02 Notification of addenda to prospective Bidders shall be processed in the following manner:
- (a) An addendum will be posted on the City Bids Website and an email will notify the Plan Taker.
 - (b) When it becomes necessary to extend the closing date for receiving Bids, appropriate City departments and outside agencies shall be notified of the extension of time.
- 10.04 When a Bid is cancelled no Bids will be accepted.

11.00 Receiving Tenders

Bid Solicitations stating electronic bid submissions will only be received electronically through the City's Bidding System.

12.00 Withdrawal Procedures - Prior to Bid Closing

A Bidder who has submitted a Bid may withdrawal through the City's Bidding System before the closing time.

13.00 Bid Opening and Checking Procedures

13.01 Unofficial results are posted on the City's Bid Opportunities website shortly after bid closing.

13.02 The unofficial Bid Submissions are subject to review, verification, and calculation by the City in accordance with the terms and conditions of the Bid Solicitation and City's Purchasing By-law.

14.00 Review of Bids for Compliance and Accuracy

14.01 The purpose of reviewing Bids for compliance and accuracy is to determine whether

- (a) all tendering requirements have been met,
- (b) all unit prices have been correctly extended, and
- (c) the extensions have been correctly totalled.

14.02 Bids that do not conform to tender requirements or which require arithmetic correction(s) shall be deemed "Improper Bids".

14.03 The review of all Bids shall be completed by the Designated Official(s) responsible as soon as possible following the opening of Tenders.

14.04 All Bids shall be checked to ensure that:

- (a) Bids comply with the Bid Solicitation, and that all items as specified have been bid on, unless part Bids are permitted under the Solicitation.
- (b) Any Bid Irregularities shall be dealt with in the manner described in the Bid Solicitation and Purchasing By-law.
- (c) The deposit (when applicable) and undertaking to provide a Bond or Letter of Credit is sufficient and in an acceptable form.
- (d) All other tendering requirements have been met.

15.00 Award Procedures

15.01 After Bids have been checked, the Designated Official shall review the Bids so as to recommend an award.

15.02 All reasonable care must be exercised by the Designated Official(s) to ensure that Improper Bids are handled in a manner that is consistent and fair to other Bidders as well as to the public. Bids described in (a) to (f) inclusive must be rejected. Bids described in (g) to (j) may be accepted.

- (a) Late Bids will be rejected.
- (b) Bids not received through the Bidding System will be rejected.
- (c) Qualified Bid (if a Bid is restricted by a covering letter or information it must be rejected unless the change was requested by the City, e.g. F.O.B. point changed, escalator clause, etc.).
- (d) Bid Form not signed. The Electronic Bidding system will not accept bids unless the Bidder has checked a box confirming authority to submit a bid on behalf of the Bidder.
- (e) Agreement to Bond (if an Agreement to Bond is not submitted when required).
- (f) Bid Deposit not submitted (if the specified Bid Deposit or approved equivalent is not submitted with the Tender).
- (g) The City is unable to verify Digital Bonds (the Bidder will be allowed a reasonable amount of time to submit the original bond and/or letter of undertaking).
- (h) Bid Deposit of Insufficient Amount - If the Bid Deposit or approved equivalent is submitted in an insufficient amount, the Bidder will be allowed a reasonable amount of time to submit sufficient deposit. If the deposit is not received within the timeframe allotted, the Bid shall be rejected. In the case where the Tender that includes the Bid Deposit in an insufficient amount is the lowest Bid received and the Bidder fails to submit the required deposit in a reasonable time, the Designated Official may deem the Bid deposit forfeited.
- (i) Agreement to Bond - If an agreement to bond is not properly executed a Bidder will be allowed a reasonable amount of time to have it corrected. If the corrected agreement is not received within the time frame allotted, the Bid shall be rejected.
- (j) The City is unable to verify Digital Bond(s). Upon request by the City, the Bidder shall be given two (2) working days to either provide the verification to the City's satisfaction or to submit the original Bid Deposit

and/or Undertaking to provide a Bond or Letter of Credit to the City or the Bid shall be rejected.

16.00 Action When Tie Bids are Received

16.01 In the event that more than one (1) Bidder has submitted a low Bid in the same amount and all else is equal, the Designated Official shall enter into negotiations as permitted by Article 5.03(c) of the By-law. If negotiations fail to break the tie, the Bidders shall be advised that the Tender to be accepted will be decided by means of a draw. The names of tied Bidders shall be placed in a container and the Tender to be accepted shall be drawn by a Designated Official. The time and location of the draw shall be set by a Designated Official and the Bidders shall be so advised so that they may be present. The following individuals shall be present at the draw: two (2) or more Designated Officials and any of the Bidders or their authorized representatives.

16.02 Should any Bidder elect not to be represented at the draw, the draw will proceed regardless.

17.00 Decisions on Improper Bids

17.01 When an Improper Bid must be rejected as outlined in Article 15.03 of this Appendix A to the By-law, the amount of the Tender shall not be recorded on the "Bid Closing Submission Summary" but the words "Rejected Bid" shall be recorded instead.

17.02 When an Improper Bid is one that may be accepted as outlined in Article 15.03 of this Appendix A to the By-law, it shall be noted as an "Improper Bid" on the "Bid Closing Submission Summary" along with the amount of the Tender. All Tenders shall then be referred to a Designated Official for review. In the report to Council, the Designated Official shall include all Bids that are improper, shall recommend the acceptance or rejection of any Bid and shall recommend the award to the successful Bidder or, if necessary, the cancellation of the Request for Tender. Where Bids are recommended for rejection, the Bid amount shall not be provided in the report but shall be noted as "Rejected".

18.00 Notification of Acceptance of Tender

18.01 Upon the award of the Contract, the Designated Official shall immediately send a "Notice of Award" to the successful Bidder advising that his Tender has been accepted and, if applicable, that documents will follow for execution. (Notification of Acceptance and award of a Contract can be in the form of a City purchase order).

18.02 The acceptance of Tender and award of the Contract shall be carried out as quickly as possible. This is especially important if the Tender contains a

time limit for acceptance (usually 90 days) and it is necessary to obtain the approval of another authority before the Tender can be formally accepted.

19.00 Execution of Contract

19.01 When the Tender has been accepted, the Contract shall be sent to the successful Bidder for execution. The successful Bidder shall have ten (10) working days from the date of the City mailing the Contract to return the executed Contract to the Designated Official.

19.02 If the Bidder is a corporation, the seal of the corporation must accompany the signature. If the Bidder is a private individual his signature must be Witnessed.

20.00 Action on Acceptance of Contract

20.01 As soon as copies of the executed Contract and bonds, etc., if any, are returned and found acceptable to the Designated Official the bid deposit of the successful Bidder and all Bidders shall be null and void.

21.00 Action When Successful Bidder Does Not Finalize Contract

21.01 If a Contract has been awarded and the successful low Bidder fails to sign the Contract or provide a bond or other acceptable collateral within the specified time, the Designated Official may grant the successful low Bidder additional time to fulfil the necessary requirements or may recommend one (1) of the following:

(a) that the Contract be awarded to the next lowest Bidder; or

(b) that the Request for Tender be cancelled.

In the case of (a) or (b) above, the deposit of the low Bidder shall be forfeited. If a Contract is to be awarded to the second low Bidder its bid deposit shall be retained until it has executed the Contract.

21.02 If the second low Bidder fails or declines to execute the Contract if awarded to it, its deposit shall be forfeited.

21.03 The process outlined in Articles 21.01 and 21.02 will continue until the Contract is executed.

22.00 Absolute Right

22.01 Notwithstanding the provisions of this By-law, the City shall have absolute discretion in awarding Contracts and retains the right to reject any or all Bids.