

### 1. Definitions

Request for Bids: is used in place of Request for Tender, Quote, Proposal, and Information in the appropriate context. Bid: is used in place of quote, proposal or tender response. Bidder: a person, corporation or other entity that responds, or intends to respond to a Request for Bids. Successful Bidder: a person, corporation or other entity that is awarded the contract or purchase order resulting from a Request for Bids.

### 2. Additional General Conditions

Terms and Conditions dealing with the specific requirements of the Request for Bids are included in the Request for Bid documents.

### 3. Access to Information

The information submitted in response to this Bid will be treated in accordance with the relevant provisions of the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)* and in accordance with the [Library's Procurement of Goods and Services Policy](#). By submission of a response, the Bidder accepts that information will be treated accordingly.

### 4. Personal Information

In accordance with MFIPPA, the Successful Proponent, its directors, officers, employees, agents, volunteers and persons for whom it is at law responsible will hold confidential and will not disclose or release to any person at any time during or following the term of this contract, except where required by law, any information or document without obtaining the written consent of the individual/organization concerned prior to the release or disclosure of such information or document and shall comply with the requirements regarding Personal Information and Confidentiality.

### 5. Approved Forms – Collection of Personal Information

When collecting personal information under this contract, the Successful Proponent or subcontractor shall use only the forms approved by the Library for that purpose.

### 6. Bid Submission to be Considered an Offer

The submission of a Bid to the Library shall be deemed to constitute an "Offer" which may be accepted, at the option of the Library by:

- a) written acknowledgement of acceptance, OR
- b) the issuance of a "purchase order."

Upon such acceptance the terms, conditions and specifications herein set forth shall be confirmed and binding upon the Library and the Bidder. Upon acceptance of the Bid, both parties hereto agree to do everything necessary to ensure that the terms of this agreement take effect.

The failure of either party at any time to require performance by the other party of any provision hereof shall in no way affect their right thereafter to enforce such provision or to seek damages for the breach thereof. It is agreed between the parties that neither party shall be held responsible for damages caused by delay or failure to perform their undertakings hereunder when such delay or failure is due to fires, strikes, floods, Acts of God or the Queen's enemies, lawful acts of public authorities or delays or defaults caused by common carriers, which cannot reasonably be foreseen or provided against.

### **7. Acceptance/Award**

The award of this Bid may not necessarily be based on price. The Library will review Bids to determine which response most clearly meets the Library's requirements.

### **8. Qualifying of Bids**

Bidders are cautioned against qualifying their response in any manner whatsoever as this may result in their Bid being rejected.

### **9. Reservations for Rejection and Award**

The Library reserves the right to accept or reject any or all Bids or parts of Bids, to waive irregularities and technicalities and to request re-bids on the required material(s). It further reserves the right to award the contract on split-order basis, lump sum or individual item basis or such combination as shall best serve the interests of the Library in the opinion of the CEO or Director, Financial Services and the applicable Department or Branch, unless otherwise stated.

The Library also reserves the right to waive minor variations to specifications (interpretation of minor variances will be made by the applicable Department or Branch personnel).

### **10. One Bid Response Received**

In the event that only one (1) Bid is received at time of closing, the Director, Financial Services or designate will delay opening of the Bid and will consult with the respective Department or Branch as to whether to open or reject the Bid. A decision to re-bid will be made by the CEO or Director, Financial Services and the respective Department or Branch.

### **11. Laws**

It is agreed that the goods and services supplied shall comply with all Federal laws, applicable municipal by-laws and other Province of Ontario laws applying thereto.

The parties acknowledge that performance of the obligations required may be affected by changes in applicable laws of the Province of Ontario. In the event of a change in applicable legislation that results in a material impact on the performance of any act required by this contract, the parties shall renegotiate the provisions of this contract to achieve mutually acceptable terms for the performance of acts required. If the parties are unable to agree on the revised terms and conditions either party may submit the dispute to arbitration in accordance with the provisions of the Arbitration Act S.O. 1991, C. 17.

### **12. Oral Instructions or Suggestions**

The Library will assume no responsibility for oral instruction or suggestions. All official correspondence in regard to the specifications should be directed to and will be issued by the Library's Financial Services Department.

### **13. Specifications**

No Successful Bidder is relieved from supplying all components necessary to render the material(s) and/or service(s) fit for the use specified in the governing documents merely because detailed specifications on the various components are not set out in the documents.

### **14. Variations to Specifications**

For purposes of evaluation, Bidders MUST indicate any variances from our specifications, terms and/or conditions, no matter how slight. If variations are not stated or referenced it will be assumed the product or service fully complies with the Library's specifications, terms and conditions.

### **15. Brand Names and Alternative Products**

If and wherever in the specification a brand name, make, name of any manufacturer, trade name or vendor catalogue number is mentioned, it is for the purpose of establishing a grade or quality of material only, unless specified otherwise or indicated with "NO SUBSTITUTION". The Library does not wish to rule out other competition and equal brands or makes, the phrase "OR APPROVED EQUAL" may be added. Equivalent is described as a good or service equal to another in value or measure or force or effect or significance. The Library, in its absolute sole discretion, shall deem what is an approved equivalent.

If a product other than what is specified is to be used, it is the Bidder's responsibility to name such product and to prove to the Library that said product is equal to the specifications and to submit brochures, samples and/or specifications in detail on item(s) bid. The Library shall be the judge concerning the merits of Bids submitted.

Consideration will be given to Bids submitted on alternate commodities to the extent that such action is deemed to serve the best interests of the Library. If the Bidder does not indicate that the commodity they propose to furnish is other than specified, it will be construed to mean that the Bidder proposes to furnish the exact commodity as requested. However, descriptive literature may be included as long as its sole purpose is only to illustrate and simplify the Bid.

### **16. Samples and Demonstrations**

Evidence in the form of samples may be requested. Such samples are to be furnished when requested, unless otherwise stated in the document. If samples are requested, samples must be received by the Library no later than seven (7) days after formal request is made. When required, the Library may request full demonstrations of any unit(s) bid prior to the award of any contract. Samples, when requested, must be furnished free of expense to the Library and, if not used in testing, or destroyed, will, upon request within thirty (30) days of award, be returned at the Bidder's expense.

When requested, samples are to be mailed to, London Public Library, Financial Services, 251 Dundas Street, London, Ontario N6A 6H9.

### **17. Quality**

All materials used for the manufacture or construction of any supplies, materials or equipment covered by this Request for Bids shall be new. The items must be new, the latest model, of the best quality and highest grade workmanship.

### **18. Copyrights or Patent Rights**

The Bidder warrants that there has been no violation of copyrights or patent rights in manufacturing, producing or selling the goods shipped or ordered as a result of this Bid and seller agrees to hold the purchaser harmless from any and all liability, loss or expense occasioned by any such violation.

### **19. Date Compliance**

All products and services should be free from defects with regards to date processing. This includes, but is not limited to, the transition from one (1) year to another, the transition from one (1) century to another and the occurrence of leap years.

### **20. Warranties for Usage**

Whenever requests for Bids are issued, seeking a source of supply for materials or services, the quantities or usage shown are estimated only unless otherwise stated. No guarantee or warranty is given or implied by the Library as to the total amount that may or may not be purchased from any resulting contracts. These quantities are for Bidder's

information only and will be used for tabulation and presentation of Bid prices and the Library reserves the right to increase or decrease quantities as required.

### **21. Acceptance of Material**

The material delivered under this Request for Bids shall remain the property of the seller until a physical inspection and actual usage of this material and/or service is made and thereafter accepted to the satisfaction of the Library and must comply with the terms herein and be fully in accord with the specifications and of the highest quality. In the event the material and/or service supplied to the Library is found to be defective or does not conform to specifications, the Library reserves the right to cancel the order upon written notice to the seller and return the product to the seller at the seller's expense.

### **22. Safety Standards**

The Bidder warrants that the product supplied to the Library conforms in all respects to the standards set forth by Federal and Provincial agencies and failure to comply with this condition will be considered a breach of contract.

### **23. Manufacturer's Certification**

The Library reserves the right to request from the Bidder separate manufacturer's certification of all statements made in the Bid document.

### **24. Ownership of Materials, Reports, Designs, Specifications & Training Materials**

Any work completed at the Library's expense, on-site or remotely during the course of the project, including training materials, reports, designs, custom applications, specifications or otherwise shall become the exclusive property of the Library.

### **25. Delivery**

Time will be of the essence for any orders placed as a result of this Request for Bids. The Library reserves the right to cancel such orders, or any part thereof, without obligations if delivery is not made at the time(s) specified.

### **26. Code of Conduct**

The Successful Bidder is required to adhere to the [Library's Rules of Conduct](#).

### **27. Compliance with the Accessibility for Ontarians with Disabilities Act, 2005**

The Successful Bidder shall ensure that all its employees, agents, volunteers, or others for whom the Successful Bidder is legally responsible receive training regarding the provision of the goods, services and facilities contemplated herein to persons with disabilities in accordance with the Integrated Accessibility Standards Regulation Ontario Regulation 191/11 (the "Regulation") made under the Accessibility for Ontarians with

Disabilities Act, 2005, as amended the "Act"). The Successful Bidder shall ensure that such training includes, without limitation, a review of the purposes of the Act, the requirements of the Regulation, and the Human Rights Code as it pertains to persons with disabilities as well as instruction regarding all matters set out in Part IV.2 Customer Service Standards of the Regulation. The Successful Bidder shall submit to the Library, as required from time to time, documentation describing its Integrated Accessibility Standards, Human Rights Code and Customer Service training policies, practices and procedures, and a summary of its training program, together with a record of the dates on which training was provided and a list of the employees, agents volunteers or others who received such training. The Library reserves the right to require the Successful Bidder to amend its training policies to meet the requirements of the Act and the Regulation.

### **28. Bid Attachments**

A response to a Request for Bid which has attached a condition of sale or any other attachment which alters the specifications, conditions or terms, or makes it subordinate, may be cause for rejection.

### **29. Assignment and Successors**

Following award of the contract, the Successful Bidder shall not, without written consent of the Director, Financial Services or designate make any assignment or any subcontract for the execution of any service or product hereby quoted on. The consent of the Director, Financial Services or designate may be arbitrarily withheld. The contract shall apply to and be binding on the parties hereto and their successors, administrators, executors and assigns and each of them.

### **30. Assignment and Sub-Contracts**

The Successful Bidder shall not, without the written consent of the Library, make any assignment or sub-contract for the provision of any goods or services hereby Bid on.

### **31. Records Retention**

In the event that the Successful Proponent ceases operation, it is agreed that the Successful Proponent will not dispose of any records related to this agreement without the prior written consent of the Library, but when requested by the Library shall return the records to the Library forthwith.

### **32. Warranty**

In supplement of, and not by way of substitution for the terms and conditions or any warranty stipulated or implied by law and notwithstanding prior acceptance by the Library, the Successful Bidder will at any time within three (3) months of delivery thereof,

and at their expense replace any goods which are or become defective as a result of faulty or inefficient manufacture, materials or workmanship.

### **33. Non-Resident Withholding Tax**

Non-residents of Canada are subject to a withholding tax of 15% as per paragraph 153(1) (g) of the Canadian Income Tax Act and Section 105(1) of the Income Tax Regulations. As required by law, the Library will withhold 15% on all amounts payable to a non-resident vendor for services rendered in Canada. A Canada Revenue Agency approved waiver/reduction form must be submitted prior to payment processing in order to exempt/reduce the vendors required withholding tax amount. The withholding tax does not apply to GST or HST charged as well as any reimbursable costs (e.g. airfare, meals) provided they are itemized on the invoice.

The Library's withholding of tax under this section does not relieve the non-resident vendor of its obligation to withhold tax on payments to non-resident subcontractors nor does it necessarily relieve the vendor of its total Canadian tax liability. Vendors should apprise themselves of the non-resident withholding tax rules prior to bidding on Library requirements. Further information can be found on the Canada Revenue Agency website.

### **34. Default Provision**

In cases of default by the Successful Bidder, the Library may take such action as it deems appropriate, including the procurement of the articles or services from other sources and holding the Successful Bidder responsible for any excess costs occasioned or incurred thereby.

### **35. Disputes**

In cases of disputes as to whether or not the service quoted meets the conditions in the accepted quotation, the decision of the Director, Financial Services or Designate for the Library shall be final and binding on all parties.

### **36. Exclusion of Bidders in Litigation**

The Library may, in its absolute discretion, reject a Bid submitted by a Bidder if the Bidder, or any officer or director of the Bidder is or has been engaged, either directly or indirectly through another corporation, in a legal action against the Library, its elected or appointed officers and employees in relation to:

- a) Any other contract or services; or
- b) Any matter arising from the Library's exercise of its powers, duties, or functions.

In determining whether or not to reject a Bid under this clause, the Library will consider whether the litigation is likely to affect the Bidder's ability to work with the Library, its

consultants and representatives, and whether the Library's experience with the Bidder indicates that the Library is likely to incur increased staff and legal costs in the administration of the contract if it is awarded to the Bidder.

### **37. Exclusion of Bidders Due to Poor Performance**

The Department Director/Manager shall document evidence and advise Financial Services in writing where the performance of a supplier has been unsatisfactory in terms of failure to meet contract specifications, terms and conditions or for Health and Safety violations.

The CEO or Director, Financial Services may, in consultation with the Library's lawyer, prohibit an unsatisfactory supplier from bidding on future Contracts for a period of up to three (3) years.