



28 February 2008

## **Ottawa Congress Centre Redevelopment Program Procurement Policy**

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### **1. Purpose**

The purpose of this policy directive is to:

- Specify the principles that shall govern the planning, acquisition, vendor access and management of all procurement required by the Ottawa Congress Centre (OCC) for the Redevelopment Program
- Provide policy and guidelines that recognize the short schedule Redevelopment Program
- Specify the mandatory requirements for adherence to those principles
- Specify the responsibilities of OCC in the administration of this policy directive.

### **2. Policy Objective**

The objective of this policy is to articulate principles, guidelines and best practices to be followed that will ensure timely procurement, best value, enhance access, competition, transparency and fairness to vendors, while at the same time ensuring that the project schedule is achieved and that the best interests of the OCC are well served.

### **3. Application and Scope**

This policy directive applies exclusively to the planning, acquisition and management of all procurement as required for the delivery of the OCC Redevelopment Program, including procurement that is done on behalf of the OCC by a third party.

### **4. Definitions**

Refer to Appendix A.

## **5. Procurement Principles**

Procurement procedures will be governed by the following principles:

- 5.1** In acquiring goods, services and construction services, the OCC's procurement practices will be open, fair, transparent and geographically neutral, while complying with all applicable trade agreements.
- 5.2** In acquiring goods, services and construction services, OCC will award contracts in a way that is open, fair, transparent, competitive and consistent with principles of best value, and is otherwise acceptable to funders. This competitive process will ensure best value for funds expended: contracts will be awarded to the lowest qualified bidder, or, highest revenue submission, or, where the bid price or revenue generation is not the sole specified selection criterion, the highest ranked bidder or proponent. The OCC's operational needs will be served by the most economic, efficient and effective means possible, while at the same time contracting risks will be managed within acceptable limits.
- 5.3** All procuring will be carried out in strict accordance with all applicable labour, environmental and human rights legislation, and with delegated authorities, and all executions of authority will be properly documented.
- 5.4** Conflicts of interest will be avoided in the procurement process and in the contract that follows.
- 5.5** Procuring procedures will minimize the risk of allowing vendors in contract to gain a monopoly for a particular kind of work.
- 5.6** Any change in contract scope or other terms and conditions will be properly authorized and documented in accordance with the change control provisions of the contract.
- 5.7** The contract approval process will be a matter of record in all contract files, subject to privacy requirements, management of a competitive and advantageous procurement process, and to access information legislation, so as to:
  - provide a clear audit trail to authorized parties, including OCC's internal financial management staff, OCC's external auditor, and, where applicable, the auditors of funders
  - provide those in authority with sufficient information to make an informed decision
  - avoid delays in the approval process caused by lack of clarity or adequate information.

## **6. Mandatory Requirements**

### **6.1 Responsible Management:**

The OCC will define appropriate organizational structures, systems, policies, processes, procedures and training to enable responsible and effective management of the procurement of goods, services and construction in accordance with the contracting principles and requirements of this directive.

In managing the procurement process, the OCC will pay particular attention to the following requirements:

- All payments will be in accordance with contractual provisions
- Any overpayment will be recovered
- All assignments will require advance approval by the OCC (in accordance with the Table at page 6) and will be properly documented
- Vendor performance will be managed and documented and any performance issues will be addressed and resolved
- Approvals will be obtained for all material changes to contract scope and terms and conditions.

### **6.2 Planning:**

In developing a procurement strategy for the Redevelopment Program, the OCC will address and document the following requirements:

- Early identification of needs
- Clear definition of requirements
- Justification of requirements
- Compatibility of requirements with program delivery
- Availability of necessary human, financial, technical and accommodation resources
- Consideration of alternative ways to satisfy the needs and selection of the most appropriate delivery option

- An estimate of the procurement value
- Authorization to proceed

### **6.3 Responsibilities, Accountabilities and Authorities:**

The Ottawa Congress Centre is an Operational Enterprise Agency of the Crown in the Province of Ontario, governed by the Ottawa Congress Centre Act, with a mandate to operate, maintain and manage an international class convention centre facility in the City of Ottawa in a manner that will promote and develop tourism and industry in Ontario.

The Board of Directors of OCC (the OCC Board) is responsible for governing the affairs of the Centre. Among its responsibilities, relevant to procurement, are:

- establishing policy and strategic direction,
- specifying the powers and duties of the officers and employees of the Centre,
- monitoring compliance with the Ottawa Congress Centre Act, Management Board procurement directives, other applicable legislation and Ministry policies, and responding to any issues of non-compliance,
- ensuring a system is in place for accounting for the use of funds and assets to ensure they are used with integrity and honesty, and
- ensuring that the OCC is managed in an efficient and effective manner according to accepted business and financial practices.

This Procurement Policy has been approved by the OCC Board consistent with these powers and duties.

The OCC Board is accountable to the Minister of Tourism, through its Chairman. The Minister is accountable to the Legislature and Management Board for the Centre's fulfilment of its mandate, compliance and reporting.

The OCC Expansion Committee is a Committee of the OCC Board responsible for governing the OCC Redevelopment Program. The OCC Expansion Committee undertakes deliberative and policy work on behalf of the OCC Board, and recommends decisions on all aspects of the Redevelopment Program to the OCC Board, when these decisions exceed delegated authority levels of management. The OCC Expansion Committee is accountable to the OCC Board.

The President of the Centre is responsible for managing the day-to-day functions of the Centre and the fulfilment of its mandate. The President is accountable to the

OCC Board via its Chairman. The President has responsibility for the oversight and implementation of the Redevelopment Program.

As directed by the OCC Board, the President is responsible for managing all aspects of the Redevelopment Program. The President has functional and line accountability to the OCC Board through its Chairman.

The Project Management Authority is responsible for the day-to-day management of the Redevelopment Project. The Board has appointed a Development Advisor. The President will chair and lead the Project Management Authority. The Chairman of the OCC Board, President of the OCC, the Senior Vice President, Redevelopment and Client Service, the Chairman of the Expansion Committee of the OCC Board of Directors and Development Advisor are members of the Project Management Authority.

The Development Advisor is responsible for managing the Redevelopment Project on behalf of OCC, under a Consulting Services Agreement dated 18 September, 2007 and any subsequent amendments. Among its specific responsibilities are:

- developing the funding, business, approvals and competitive RFP management plans (“management plans”) for approval by the OCC’s Board of Directors
- managing and implementing the tasks and activities contained in the approved management plans
- developing a procurement plan that is consistent with the OCC Redevelopment Project Procurement Policy, which is also approved by the Board
- managing and implementing the tasks and activities contained in the approved procurement plan

The Development Advisor is accountable to OCC through the Chair of the Expansion Committee of the OCC Board of Directors, and to the President, to provide all these services consistent with, and suitable for satisfying the requirements of OCC. The President will chair and lead the Project Management Authority. Should the terms and conditions of the Consulting Services Agreement change, or if a different Development Advisor is selected, this section will be amended accordingly.

The following Table specifies the authorities associated with the procurement of goods and services for the Redevelopment Program of OCC.

Award Amount	Reporting Amount	Deliberative Level (Evaluation)	Approval Level (Decision)	Signing Level (Contract)
Over \$1M	Over \$50,000	Project Management Authority	Board	Board of Directors & President
\$500,000 to \$1M	Over \$50,000	Project Management Authority	Expansion Committee	President
\$50,000 to \$499,000	Over \$50,000	Project Management Authority	President	President
Under \$50,000	Over \$25,000	Development Advisor and/or Sr. Vice President, Redevelopment and Client Service	OCC Staff delegated by President	President

**Note: A comprehensive review of delegations of authority levels may occur at the time of signing significant contracts in order to align the authority levels with work packages, performance triggers, and phases that may form part of the deliverable. New authority levels will be designed to facilitate timely work flow and relevant contracted payments.**

“**Award Amount**” is the dollar level up to which a procurement contract is being awarded (calculated on a cumulative dollar value basis in the case of phased and/or multi-year contracts).

“**Reporting Amount**” means that the award decision can be made at a lower level, but the details of that decision must be reported at a higher management level.

“**Deliberative Level**” identifies the role that is responsible for evaluating bids and proposals, and recommending the successful vendor (see ‘Evaluation of Bids’ section below).

“**Approval Level**” identifies the role that is responsible to make the decision to award the contract.

**“Signing Level”** identifies the role that is a signatory to the contract, and therefore responsible to approve the award of the contract.

For contracts under \$50,000, the President may delegate approval authority to OCC staff and/or the Development Advisor. The Board of Directors must, in turn, approve this level of approval authority being delegated. The President may delegate deliberative (evaluation) authority without further approval. Signing authority may only be delegated by the Board of Directors.

At any time, the President or Expansion Committee may decide to submit any contract award for approval by the Board, if it is determined to be the best course of action.

The Board may undertake to review and approve a procurement in the interest of ensuring that the procurement is free of favouritism and bias.

Amendments to contracts will follow exactly the same decision and reporting levels.

#### **6.4 Competition and Best Value:**

The OCC will acquire goods, services and construction through a fair and open competitive process that seeks to achieve the best value for the funds expended to meet the specific needs of the Redevelopment Program and promotes fair dealings and equitable relationships with the private sector.

This competitive process will ensure best value for funds expended: contracts will be awarded to the lowest qualified bidder or proponent, or highest revenue submission or, where price is not the sole specified selection criterion, the highest ranked bidder or proponent. Inherent in procuring best value is (i) the consideration of the project schedule, and (ii) the consideration of all relevant costs over the useful life of the acquisition, not solely the initial or basic contractual cost.

The analysis necessary to achieve best value will not be confined to the actual procurement process. It will begin in the planning and appraisal of alternatives and continue through the definition of requirements which would include assessment and award criteria, evaluation of sources, selection of contractor, preparation, negotiation, execution and award of contract, contract administration and post-contract evaluation.

Competitive bids will be sought, by advertising widely using electronic tendering, for contracts for goods, services or construction valued at \$100,000 or more.

The OCC shall be entitled to amend any initial contract by extending the contract for up to one year, up to a maximum of three (3) times, under the following conditions:

1. The initial contract was awarded as a result of a competitive process;

2. The goods, services or construction services that are to be provided are directly related to the goods, services or construction services provided under the initial contract and where it can be demonstrated that re-tendering for the goods or services will not deliver best value;
3. A formal process has been followed to document the rationale for requesting a contract amendment and the request is submitted for approval in accordance with the established authorities associated with the procurement of goods, services or construction for the OCC's Redevelopment Program.

#### Vendor of Record

The OCC may undertake a competitive process to qualify a number of vendors for the purpose of establishing a standing offer, often referred to as a vendor of record. The vendor of record may be used where:

1. Continued access to the same goods, services or construction services is advantageous
2. OCC repeatedly orders the same goods, services or construction services and the actual demand is not known in advance, or
3. A need is anticipated for a range of goods, services and construction services for a particular purpose, but the actual demand is not known at the outset and delivery is to be made when a requirement arises.

There is no dollar value associated with the use of a vendor of record.

Although there is no requirement for the OCC to undertake a second stage competitive process once the vendor of record is in place, the OCC can, at its sole discretion, use the vendor of record as a source list for the purpose of inviting tenders or bids from qualified vendors.

Even where a vendor of record has been established to acquire particular goods or services, the OCC may decide, at its sole discretion, to undertake a competitive process for the same or similar goods, services or construction services as those available through a vendor of record.

“Competition” means that OCC will receive a minimum of three (3) written bids (proposals, offers, tenders). All procurements will comply with the review and approval requirements of the authorities table set out in section 6.3 of this Procurement Policy.

On an exception basis, approved by OCC's Board, the number of required written bids (proposals, offers, tenders) can be reduced if it has been demonstrated that the expertise required is specialized and not readily available, or required on a short notice basis to meet the project schedule. Where the minimum number of qualified bidders/proponents is not available for the bidders/proponents list, the reason and/or rationale for this occurrence shall be documented and included in the file.

Electronic media (including the MERX system and OCC website) will be used to give public notice of the intention to solicit bids. The use of electronic media enables instantaneous notification to vendors of the opportunity to bid or propose and facilitates bid or proposal submission by those who are interested. Depending on the circumstances, this sourcing method may be supplemented by the use of more traditional methods of calling for bids or proposals in newspapers or trade publications as well as source lists where, in the judgement of OCC, they are necessary to ensure adequate competition. Construction-related procurements will be advertised through the Daily Commercial News and/or Canada Newswire.

Sufficient lead time must be given for all vendors to develop proposals and submit bids or proposals that meet all the terms and conditions of the tender. Requests for proposal (RFP) and requests for tender (RFT) will be advertised for at least 15 calendar days unless a shorter period is approved by the Project Management Authority to meet the needs of the project schedule, and in accordance with the short notice basis requirements described under Section 6.5.

All questions regarding RFP's/RFT's must be submitted in writing, and all questions and answers distributed in writing to all expected, qualified, or registered bidders/proponents.

All bids and proposals must be sealed, with technical and financial aspects in separate envelopes where appropriate, and delivered to the designated location on time. The OCC will ensure that only bid/proposal materials that are received on time and in the manner prescribed in the tender/solicitation documents will be considered. In the case of electronic bids, OCC will also ensure that the documents are not altered, forged, changed or corrupted either intentionally or by error. Conditional proposals will be rejected. Unsealed or late bids or proposals will be returned to the bidder or proponent.

The OCC will adopt and implement an Access Security and Document Management Policy to ensure equal and fair access to all requests, tenders and proposals for goods, services and construction. Attached hereto at Appendix E is the current Access Security and Document Management Policy which may be amended from time to time.

### **6.5 Short Notice Process and Schedule Impact Documentation:**

The Redevelopment Program is working within a fixed schedule. The public interest and best value can be dramatically impacted by failure to meet the schedule. Where the number of bidders/proponents has been reduced below three (3) or the RFP/RFT notice process has been reduced, the Project Management Authority will provide a summary analysis of the costs and negative impacts of a delayed procurement or delivery of goods and/or services to the Board.

## **7. Exceptions to Competitive Contracting**

### **7.1 Sole Source Contracting:**

If a contract is awarded by any means other than the competitive bid process, the justification for such a decision must be clearly documented, approved by both the President and the Chair of the Expansion Committee of the OCC Board of Directors in writing, reported to the Expansion Committee, and included in the contract file prior to any award being made.

Sole sourcing may and should be considered when any of the following conditions apply:

- to ensure compliance with the project schedule where delay would negatively impact project delivery, cost and start-up of operations/revenue phase (documentation and analysis required pursuant to Section 6.5)
- to ensure compatibility with existing products
- introduction of products from other vendors would have negative operational impacts and thereby lead to additional maintenance costs
- a vendor has a monopoly on technology or service because of a patent, licensing position or unique expertise or qualifications
- the work required is as a result of an unforeseen emergency, and delay would be injurious to the OCC or to the public.

### **7.2 Limited Tendering and Proposal Calls:**

Limited tendering and proposal calls may and should be considered by the Project Management Authority when any of the following conditions apply:

- to ensure compliance with the project schedule where delay would negatively impact project delivery, cost and start-up of operations/revenue phase (documentation and analysis required pursuant to Section 6.5)
- if what is being procured is not in common commercial supply;
- the competence of the low bidder or a successful proponent must be verified through a qualification process before making the award and, for reasons of administrative cost, it is desirable to keep the number of such pre-award verifications to a minimum by including only firms that have the required qualifications, experience and resource capacity. In all limited tendering and/or proposal call situations, the record will include the rationale for the limited bidder/proponent list; or

- A vendor of record has been established and OCC is not inviting all prospective bidders/proponents to bid.

The end result is a list of pre-qualified bidders or proponents who are then eligible to proceed to the next stage of the contracting process.

### **7.3 Documentation in Support of Exceptions:**

Written documentation to those rare circumstances when the competitive bid process is not used and where the estimated total contract value exceeds \$100,000 (excluding GST) will address the following:

- a description of the circumstances, the requirements and the required timing
- the alternatives considered and the criteria used to evaluate the alternatives
- an explanation as to why the exception is the best alternative
- a description of the proposed procurement procedure, including all aspects that would differ from standard procurement procedures
- an assessment as to cost impact and an explanation as to how OCC will demonstrate best value
- where applicable, a description of the process and results of any previous procurement process that relates to this proposed procurement
- where applicable, copies of documentary evidence that are relevant to the justification
- a description of the potential vendor base with and without the requested exception
- in the case of a proposed sole source for the same or similar requirements, the number and value of all contracts awarded previously to this vendor over the course of the project
- an assessment as to the likelihood of any complaints from the vendor community as a result of the requested exception and a plan for managing and responding to such complaints
- an explanation as to why the circumstances for exception could not have been foreseen or avoided
- an explanation as to the impact that would occur if normal procurement procedures were followed

- an explanation as to whether similar circumstances are likely to re-occur
- if applicable, an explanation as to how similar circumstances will be avoided in future.
- where applicable, written analysis as per Section 6.5

## **8. Procurement Procedures – All Contracts**

### **8.1 Standards:**

In defining requirements in contracts, OCC will use industry recognized standards whenever possible and ensure that the requirements comply with authorities having jurisdiction. In the absence of an appropriate standard, OCC will adopt trade names or equivalents in defining requirements, and will include procedures for reviewing and accepting equivalent alternatives.

### **8.2 Requirements Definition:**

Requirements will be defined and specifications and estimates established before bids or proposals are solicited and contracts let, so that all prospective vendors are treated equally. Adequate specification details will be made available to all interested or qualified firms. The use of brand names or specific products, either directly or as implied by equivalent product specifications, is discouraged. Exceptions shall be approved by the Project Management Authority only.

In order to achieve a high quality of contract pricing:

- the requirements definition will be specific to the project need
- price will be defined in a format prescribed by OCC so that all submissions can be compared within one framework

### **8.3 Unstable Market Conditions:**

If the price of a normally stable product or services begins to escalate in an unusual pattern, the OCC will endeavor to reduce risk exposure by:

- reducing the period of the contract
- increasing production rates to compress the duration of the contract
- reducing the administrative time allowed in the procurement process (solicitation, award decision, issuance of contract and authority to commence work)

- postponing the procurement
- using substitute materiel
- reducing the unstable element separately (for construction this could lead to pre-tendering)
- isolating the unstable element and providing for price adjustment according to a reliable, predetermined formula such as an established economic index.

#### **8.4 Tax Adjustments:**

Contracts with OCC will provide for tax increases or decreases arising from changes in government legislation that become law after a contract has been awarded. The increase or decrease will be administered as an amendment to the contract.

#### **8.5 Sources of Supply:**

Sources of supply from the private sector will be addressed on the basis of geographic neutrality and reciprocal non-discrimination. This applies to all stages of procurement, including the setting of specifications, sourcing and evaluation criteria, tenders and proposals.

#### **8.6 Evaluation of Bids and Proposals:**

In selecting a bidder or proponent, the merits of each bid or proposal will be reviewed against any essential mandatory requirements, financial and non-financial as applicable. Non-compliance with a mandatory requirement will result in bid or proposal rejection. The contents of the financial submissions will not be disclosed to the evaluation committee.

The compliant bids or proposals will then be short-listed and evaluated using a weighted list of the criteria. Evaluation techniques, such as cost/benefit analysis, may be employed to define the best combinations of quality, service and time considerations, at the lowest total cost over the useful life of the acquisition. Criterion-by-criterion, bid/proposal evaluations may include the analysis of risk, as appropriate. Such analysis should be consistently applied to each bidder or proponent's bid or proposal. The resultant scoring should be risk-adjusted accordingly.

OCC may take into account any criteria and consideration as it sees fit in its evaluation of submitted bids and proposals. In no particular order, these criteria may include, but are not limited to:

- compliance of the proposal to the requirements of the RFP
- the experience of the vendor in carrying out similar contracts
- reputation of the vendor
- pricing/value
- financial stability of the vendor
- customer satisfaction performance record
- how long the vendor has been in business, and the vendor's track record
- depth and quality of managers
- subcontractors and material suppliers
- bonding
- quality of supplies and equipment
- calibre of management, supervision on site, and training programs
- labour relations record
- safety record
- insurability
- ability to meet or better schedules and respond to the OCC on a timely basis
- other such criteria as may be considered relevant to a particular contract.

These criteria will identify accurately all the performance elements significant to the success of the project and should measure both the competence of the firm and the worth of its particular technical approach. Competence includes, for example, such factors as managerial structure, key personnel, prior industrial experience, facilities and financial strength. Technical worth includes the firm's proposed work breakdown structure, identification of key technical problems and outlines of solutions, proposed schedule of milestones, cost and quality, and time control systems to be used, depending on the nature of the requirement. Any additional

terms and conditions the bidder or proponent may demand should also be considered. Finally, the expected price will be weighted so that it carries the appropriate degree of importance relative to the other factors.

Competing bidders or proponents will be informed as to the measurement criteria and the weight factors in the RFP document. These factors and their weighting will be established beforehand and adhered to strictly. Fairness to all bidders and proponents and transparency sufficient to ensure clarity in the award process are imperative.

The evaluation of price/cost shall be undertaken only after the evaluation of all technical requirements, before short listing and interviews, and after any other rated requirements have been completed. The contents of the financial submissions will not be disclosed to the evaluation committee. Scoring for the financial component will not occur until after the interviews.

The evaluation will be conducted by a deliberative body delegated this specific authority by Section 6.3 above. Depending on the value of the contract, this may be a formal evaluation committee, with representation from OCC's management and/or staff, and the Project Management Authority, and, if considered applicable, a qualified independent professional.

Persons assigned to evaluation teams should not be members of any OCC decision-making entity involved in the contract approval process. Appropriate members of an evaluation team should be qualified in the subject matter and, acting as advisors, provide independent evaluations to the decision-making authority.

In the evaluation of competitive bids or proposals, the maximum degree of objectivity should be applied generally through the use of metrics to minimize the degree of subjectivity. Where subjective evaluation is necessary, wherever possible, it should be corroborated by the opinion of an independent third party subject matter expert.

### **8.7 Debriefings:**

Debriefings will be provided to unsuccessful bidders or proponents on request and will include an outline of the factors and criteria used in the evaluation in relation to that bidder's or proponent's response only, while respecting each bidder's or proponent's right to the confidentiality of specific information, and the OCC's right to confidentiality. These de-briefings, however, will not take place until a vendor is confirmed in contract.

## **8.8 Records:**

OCC will retain, for a minimum of seven years after the completion of a contract, all approvals and procurement and contract management documentation, including:

- the procurement justification or business case or the competitive bid requirement
- information concerning all vendor consultations, including any requests for information undertaken in the development of the procurement justification or business case or competitive bid requirement
- all required approvals
- all requests for qualifications, proposals or tenders
- all advertisements of requests for information, qualifications, proposals or tenders
- all responses, submissions, proposals and bids received
- information regarding any issue that arose during the procurement process
- information regarding the evaluation of submissions, proposals and bids
- information regarding all respondent debriefings
- all contract award notifications
- all contracts
- information regarding the use of exceptional procurement procedures
- information regarding all changes to the terms and conditions of contract
- information regarding the management of the vendor, including how the vendor's contract was monitored and managed
- information regarding all disputes or vendor complaints
- evidence of receipt of deliverables

## **9. Buyer/Vendor Relationship**

### **9.1 Conflict of Interest:**

#### **9.1.1 Conflict of Interest Related to OCC Board of Directors, Employees or its Agents, Contractors**

A conflict of interest refers to situations in which personal, occupational or financial considerations may affect or appear to affect the objectivity or fairness of an individual.

A *real* conflict of interest arises when an individual has a private or personal interest e.g. a financial interest with an interested or a prospective bidder/proponent.

A *potential* conflict of interest may arise when an individual has a private or personal interest such as identified future commitment with an interested or a prospective bidder/proponent.

A *perceived or apparent* conflict of interest may exist when a reasonable well-informed person has a reasonable belief that he/she has a conflict of interest, even if there is no real conflict of interest.

In order to avoid any conflict of interest, individuals who are involved or will be involved during a procurement, should sign a “Code of Conduct” if they have not already otherwise done so. A Code of Conduct sets out the following acknowledgements:

1. That any individual who has been in the employ of, or a consultant to, a prospective or actual bidder/proponent within one year prior to the publication date of any solicitation documents may not participate in any procurement related activities of any committee or the Board.
2. That any members of any such committees or evaluation team or selection committees or panels must not, either directly or indirectly, accept any gift, reward or benefit of any kind from any member of any interested organization, special interest group, or interested or prospective bidder/proponent with whom they are brought into contact with by reason of their duties thereon.
3. That, as a participant during the procurement process including the development of the solicitation documents, and/or the evaluation of proposals including the selection of the winning proposal(s), that neither the individual nor any members of their immediate family are permitted to:

- have any direct or indirect financial interest in the award of a contract to any bidder/proponent;
  - be currently retained or employed by, or is a consultant to or under contract to a prospective or actual bidder/proponent;
  - be negotiating or have an arrangement concerning future employment or contracting with any prospective or actual bidder/proponent; or
  - have any ownership interest in, or be an officer or director of, any prospective or actual bidder/proponent.
4. That, as a participant during the procurement process including the development of the solicitation documents, and/or the evaluation of proposals including the selection of the winning proposal(s), any individual shall not give preferential treatment to any person or entity, including a person or entity in which the individual or a member of his or her family or a friend has an interest.

If any conflict of interest arises between the individual's work and an existing or potential supplier to OCC during the development of the solicitation document and/or the evaluation of proposals, the individual will immediately report it in writing to the OCC.

In fulfilling their duties as a member of a procurement-related committee, the individual must agree and acknowledge that they will:

- 1 - act fairly in the conduct of their duties;
- 2 - avoid impropriety and the appearance of impropriety and shall observe high standards of conduct so that the integrity and impartiality of the procurement process is preserved;
- 3 - be independent and impartial;
- 4 - not be influenced by self-interest, outside pressure, political considerations or fear of criticism;
- 5 - not allow past or existing financial, business, professional, family or social relationships or responsibilities influence their conduct or judgement;
- 6 - treat all interested parties with dignity and respect and in performing their duties, be collegial and assist colleagues through the exchange of views, information and opinions; and
- 7 - act with honesty and integrity and conduct them self in a manner consistent with the nature and the responsibilities and the maintenance of public confidence in the conduct of business of the committee(s) or team(s) on which they participate.

From time to time, it is important for individuals to reaffirm that, during the timeframe of a procurement project that their circumstances have not changed in a manner that would give rise to a conflict of interest.

### **9.1.2 Conflict of Interest Related to Bidders to a Procurement**

Bidders/proponents will be required to complete and sign a “Conflict of Interest Declaration” form and submit this form as part of their bid or proposal to confirm that they are not in a conflict of interest.

A “Conflict of Interest Declaration” form will ensure that the bidder/proponent acknowledges that:

1. Neither the bidder/proponent nor any of its advisors, directors, officers, employees, independent contractors or subcontractors have or will have any conflict of interest, real or potential or have or will have unfair advantage in submitting a proposal or if selected, in entering into the contract or with the contractual obligations of the bidder/proponent under the contract; OR
2. The bidder/proponent fully discloses any facts that may place them in a real or potential conflict of interest.

In addition to the “Conflict of Interest Declaration” provisions of the submission process, the contract that is entered into by the OCC and the selected bidder/proponent should include provisions to address conflicts of interest that may arise following contract award. Most particularly, the termination provisions of the contract should provide the OCC with the right to terminate a contract if, in the sole discretion of the OCC, it is determined that there is in a conflict of interest in connection with the services or goods being provided pursuant to the agreement.

The contract should also provide the OCC with the right not to permit the contractor to assign, transfer, subcontract or pledge any or all of its rights or obligations under the agreement to any individual or entity whose current or past interests (personal and corporate), in the sole discretion of the OCC, gives rise to a conflict of interest.

Bidders or proponents will also be required to confirm that they have not had access to any Confidential Information (as defined in Appendix A) that would be prejudicial to the OCC or to the vendor.

OCC reserves the right to determine at its sole discretion whether a conflict of interest situation exists for any reason whatsoever. Any conflict of interest situation identified by management must be reviewed and approved by the OCC Board.

### **9.2 Confidentiality of the Procurement Process:**

It is recognized that all purchasing transactions are of a confidential nature.

It is unethical and may well be damaging to a vendor’s competitive position to disclose pricing, contract concessions or other information of a competitive or

proprietary nature. Whether conducted in public or not, the receipt and opening of bid or proposal documents will be supervised, preferably by an independent third party reporting to the Project Management Authority or its delegate.

If information or materials are presented to OCC with a condition or stipulation of confidentiality attached, then OCC is obliged to respect this confidentiality in all cases whether stated or not.

Where conditions of confidentiality have not been imposed on information or materials supplied in the course of a competitive process, OCC nevertheless will not disclose information to other bidders or proponents other than that which would normally be made available during the course of such a process.

Any information provided by bidders or proponents as part of the procurement process shall be subject to Ontario's Freedom of Information and Protection of Privacy Act.

## **10. Contract Cancellation Clause**

All RFP's or tender documentation must indicate to potential proponents or bidders that the contractual terms eventually entered into will include cancellation terms required by the Board of Directors of the OCC (which may include termination for convenience by the OCC in the event that the purpose of the contract is no longer valid or funding is withdrawn). Such cancellation terms will include the ability to cancel with, or without, compensation, as the case may be, for, among other things, cancellation of funding, failure to receive design approvals from governmental authorities, unsatisfactory product or service and certain "force majeure" events.

As appropriate, contracts will contain termination provisions available to both contracting parties in the event of non-performance, whether on a phase-by-phase basis, or on the contract's entirety.

## **11. Disputes**

All contracts will include reference to dispute resolution mechanisms.

## **12. Intellectual Property**

All relevant contracts will contain clauses clearly defining the ownership of intellectual property and any provisions for the transfer of that ownership.

## **13. Contract Payments**

Method of payment and limit of payment will be prescribed in all contracts.

## **14. Procedures**

The Project Management Authority will prepare a comprehensive set of procurement procedures in order to implement this Procurement Policy.

The President will approve these procedures, and ensure they are consistent with this Policy and other applicable documents.

These procedures, and any amendments and updates, will be provided to the OCC Expansion Committee, and, through it, to the Board of Directors, for their information.

These procedures will include, but not be limited to:

Consulting with, and reporting to, the Ministry and funders on procurement strategy, evaluation, and contracting.

## **15. Reporting**

Throughout the duration of the redevelopment, the OCC will provide documentation on procurement activities to the Ministry of Tourism upon request.

End of Procurement Policy - Appendices Follow

**Appendix A: Definitions**

**Appendix B: Contracting Procedures for Professional /Technical Services**

**Appendix C: Contracting Procedures for Goods and Services**

**Appendix D: Contracting Procedures for Construction**

**Appendix E: Access Security and Document Management Policy**