



City and County of Denver

# General Services Purchasing Procurement Policy and Procedure Manual

John P Utterback – Director of Purchasing  
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## GENERAL INFORMATION

### PURPOSE:

The purpose of the Purchasing Policy/Procedure Directives is to establish and reaffirm the policies of the Purchasing Division with regard to everyday activities.

### COMPLIANCE:

Compliance with this Purchasing Policy/Procedure Directives is mandatory unless indicated otherwise in the specific Policy/Procedure Directive.

## AUTHORITY:

### DELEGATION OF AUTHORITY:

The Purchasing Director may delegate in writing such authority as may be deemed appropriate. Factors to be considered in making such delegation include, but are not limited to:

- a) the expertise of the potential delegate in terms of procurement knowledge and any specialized knowledge pertinent to the authority to be delegated;
- b) the past experience of the potential delegate in exercising similar authority;
- c) the degree of economy and efficiency to be achieved in meeting the City and County of Denver's requirements if authority is delegated.
- d) the available resources of the Purchasing Division to exercise the authority if it is not delegated; and
- e) the consistency of delegation under similar circumstances.

Such delegation shall be in writing and shall specify:

- a) the activity or function authorized;
- b) any limits or restrictions on the exercise of the delegated authority;
- c) whether the authority may be further delegated; and
- d) the duration of the delegation.

### PURCHASING DEPUTY DIRECTOR AUTHORITY

It shall be the policy of the Purchasing Division that the Purchasing Deputy Director shall be authorized to act on behalf of the Purchasing Director in all procurement matters.

### SIGNATURE AUTHORITY:

It shall be the policy of the Purchasing Division that signature approval is required on all procurement transactions based on actual or estimated dollar amounts for each procurement activity. The levels shall be set by the Director of Purchasing and may, from time to time, be adjusted

by the Director as he or she may determine to be in the best interests of the Division and the City. All personnel shall follow the authority levels below. Buyers shall use good judgment and obtain higher level approval when the complexity or sensitivity of a transaction warrants.

Buyer Level	Proposal /RFP Release Approval	Non- Competitive PO & Awards D.R.M.C. 20-64 Proposal Exceptions, Fewer than Three Proposals, Change Orders, and other Government Contracts	Competitive MPO, PO & Awards  Three or More Responses	Purchasing Approval of Payment Requests e.g. Other, Unauthorized, etc.	Regularly Executed Contracts CE, PC, XO, etc.
Staff Buyer	N/A	\$10,000	\$10,000	N/A	N/A
Associate Buyer	\$50,000	\$50,000	\$50,000	N/A	N/A
Senior Buyer	\$150,000	\$150,000	\$150,000	N/A	N/A
Buyer Supervisor	\$499,999	\$499,999	\$499,999	N/A	N/A
Purchasing Manager	\$999,999	\$999,999	\$999,999	\$999,999	N/A
Director of Purchasing	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited

### EXPENDING AUTHORITY DOLLAR AMOUNT:

With this policy and in accordance with DRMC 20.66 I authorize all buyers to conduct price changes on Requisitions and/or Purchase Orders up to \$100.00, effective immediately. Prior to making any change to a dollar amount beyond the \$100 threshold the buyer shall obtain e-mail authorization from the agency expending authority and attach the e-mail to the Purchase Order.

### DEFINITIONS:

The words defined in this Section shall have the meanings set forth below whenever they appear in these policies and procedures, unless:

- a) the context in which they are used clearly requires a different meaning; or
- b) a different definition is prescribed by legislation enacted subsequent to publication.

**BUSINESS:** means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

**CITY:** means the City and County of Denver

**CONSTRUCTION:** means the process of building, structurally altering, repairing, improving, or demolishing any public structure or building or any other structural improvements of any kind to any public real property.

**CONTRACTUAL SERVICES:** means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specified end product other than reports which are merely incidental to the required



performance. This term shall not include employment agreements, collective bargaining agreements, or professional services.

**CONTRACT / MASTER PURCHASE ORDERS (MPO) AND PURCHASE ORDERS:** means all types of City and County agreements, regardless of what they may be called, for the procurement or disposal of supplies, equipment, or contractual services.

**CONTRACT MODIFICATION:** means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

**CONTRACTOR:** means any person having a contract with a governmental body.

**CORA:** means the Colorado Open Records Act administered by the State of Colorado. Reference entire policy on the State of Colorado website.

**DATA:** means recorded information, regardless of form or characteristic.

**DELEGATED PURCHASING AUTHORITY:** The Director of Purchasing may delegate purchasing authority to departments, agencies, boards, commissions or authorities if the delegation of such is reasonable, responsible and in the best interests of the city.

**DESIGNEE:** means a duly authorized representative of a person holding a superior position.

**DIVERSITY:** Diversity refers to the extent to which a contractor/consultant has people from diverse background or communities working in its organization at all levels, is committed to providing equal access to business opportunities and achieving diversity in procurement decisions for supplies, equipment, and services, or promotes training and technical assistance to diverse businesses and communities such as mentoring and outreach programs and business engagement opportunities.

**EMPLOYEE:** is an individual drawing a salary from a governmental body, whether elected or not, and any non-compensated individual performing personal services for any governmental body.

**ESTABLISHED CATALOGUE PRICE:** means the price included in a catalogue, price list, schedule, or other form that:

- a) is regularly maintained by a manufacturer or contractor, and
- b) is either published or otherwise available for inspection by customers, and
- c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

**EQUIPMENT:** means personal property of durable nature which retains its identity throughout its useful life.

**FISCAL RULE:** set parameters for fiscal activities of the City and County of Denver.

**GOVERNMENTAL BODY:** means any department, commission, council, board, bureau, committee, institution, legislative body, agency, government, corporation, or other establishment or official of the executive, legislative, or judicial branch of this State.

**INCLUSIVENESS:** Inclusiveness, for purposes of Executive Order No. 101, includes the extent to which a contractor/consultant invites values, perspectives and contributions of people from diverse backgrounds and integrates diversity into its hiring and retention policies, training opportunities, and business development methods to provide an equal opportunity for each person to participate, contribute and succeed within the organization's workplace. Inclusiveness also includes the extent to which businesses have an equal opportunity to compete for new business opportunities and establish new business relationships in the private and public sector.

**ITEM FILE:** means an electronic catalog in the City's financial system containing items on an MPO available for order on a requisition.

**LOW VENDOR:** A "confirmed" low vendor shall be defined as an apparent low vendor who has been identified as a qualified, responsive, responsible vendor meeting all qualifications, conditions and requirements of the proposal document including but not limited to (if applicable) evidence of required insurances, bonding, and that the vendor has the capability in all respects to perform fully the requirements of the proposal, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment, and credit which will assure good faith performance.

**LOWEST RESPONSIBLE VENDOR:** means any person/business who/that has a proposal in compliance with the invitation to propose and within the requirements of the plans and specifications for a public contract who is the low vendor and who has furnished bonds or their equivalent if required by law.

**OFFICIAL RECORD:** means the official record is the official evidence of a city transaction. City and County of Denver Records: All documents, papers, letters, books, maps, photographs, sound or video recordings, microfilm, magnetic tape, electronic media, or other information recording media, regardless of physical form or characteristic and regardless of whether public access to them is open or restricted under the laws of the State of Colorado, created or received by the City and County of Denver. The term "Record" is covered by the Public Records Act as set forth in C.R.S. as amended, Section 24-72-201 through 206.

**OUTSIDE PROFESSIONAL SERVICES:** means a vocation, calling, occupation or employment involving labor, skill, education, special knowledge and compensation or profit, but the labor and skill involved is predominately mental or intellectual, rather than physical or manual. The education or special knowledge involved is characterized by its use for others as distinguished from self and the profits are dependent mainly upon the personal qualification of the person by whom it is carried on.

**CREDIT CARD:** means a Purchasing Method for types of transactions authorized by the Director of Purchasing, for which payment is made by a City issued credit card. Credit Cards are Procurement Card PCARD and Travel Card TCard.

**PERSON:** means any business, individual, union, committee, club, other organization, or group of individuals.

**PROCUREMENT:** means buying, purchasing, renting, leasing, or otherwise acquiring any supplies, equipment or contractual services. It also includes all functions that pertain to the obtaining of any supply, equipment or contractual service, including description of requirements, selection and solicitation of sources, preparation and award of contract and all phases of contract administration.

**PROTEST:** means a written statement concerning any unresolved disagreement or controversy arising out of the solicitation of award of a contract or purchase order with the City and County of Denver.

**PURCHASE REQUEST OR PURCHASE REQUISITION:** means that document whereby a using agency requests that a contract or purchase order be entered into for a specific need and may include, but is not limited to, the description of a requested item, delivery schedule, transportation data, criteria evaluation, suggested source of supply, and all information supplied for the making of a procurement decision.

**PURCHASING PROGRAM:** refers to Article V of Chapter 28 of the revised Municipal Code for nondiscrimination in city contracts and purchase orders for covered goods and covered services and opportunities for minority and woman-owned businesses and small business enterprises in procurements for covered goods and covered services. The Purchasing Program is administered by the Division of Small Business -Opportunity (DSBO) enacted April 1, 2014.

**REQUEST FOR PROPOSAL/FORMAL PROPOSAL/INFORMAL PROPOSAL:** means all documents, whether attached or incorporated by reference, used for soliciting proposals.

**REGULATION:** means a governmental body's statement having general or particular applicability and future effect, designed to implement, interpret, or prescribe law or policy, or describing organization, procedure, or practice requirements.

**SUPPLIES:** means all property, including but not limited to, equipment, materials. and insurance. The term does not include land, the purchase of an interest in land, water or mineral rights, workmen's compensation insurance, benefit insurance for City employees, or property furnished in connection with public printing.

**TRAVEL CARD (TCard):** means a Purchasing Method for types of transactions authorized by the Director of Purchasing, for which payment is made by a City issued credit card exclusively for City travel.

**UNAUTHORIZED PURCHASE:** means a purchase made without a valid procurement mechanism. The three types of unauthorized purchases are defined as follows:

- a) **After the Fact:** A purchase made where a valid procurement mechanism exists, but the purchase was made prior to the issuance of a Purchase Order. A purchase shall be considered “After the Fact” if it uses valid pricing and a vendor from a current Master Purchase Order or Contract managed by the Purchasing Division and does not exceed any single purchase dollar limits set in certain MPO’s. If set dollar limits are exceeded, then the purchase will be considered to be either a Fiscal Rule Violation, or a Code Violation, whichever is applicable.
- b) **Fiscal Rule Violation:** A purchase under \$10,000 made without a valid procurement mechanism.
- c) **Code Violation:** A purchase over \$10,000 made without a valid procurement mechanism.

**USING AGENCY:** means any governmental body of the City and County which used any supplies, equipment or contractual services, procured under these policies and procedures.

**VALID PROCUREMENT MECHANISM:** means a procurement process that is authorized by purchasing.

These include:

- a) Master Purchase Orders
- b) PCard Purchases
- c) Non-PO Voucher Payments
- d) Bidding processes completed by Purchasing
- e) DRMC 24-63 Exceptions (for example: Sole Source, Professional Preference)
- f) Emergencies

## ORGANIZATION:

### INTERNAL ORGANIZATIONAL CHART:

See current Budget.

## POLICIES

### DIVISION OF REQUIREMENTS:

It shall be the policy of the Purchasing Division that:

Buyers shall be diligent in preventing agency avoidance of the formal or informal bid thresholds or City Council required ordinance thresholds by artificially dividing requisitions to avoid any procurement regulations described in Article 20-64 of the Revised Municipal Code.

## **PROFESSIONAL AFFILIATIONS:**

It shall be the policy of the Purchasing Division that:

Purchasing personnel are encouraged to affiliate and participate with professional organizations and groups helpful for promoting the betterment of the purchasing service or for promoting a better public understanding of it. The Purchasing Director will determine the amount and level of assistance appropriate for such participation.

The City and County of Denver Purchasing Division subscribes to the principles and practices advocated by the National Institute of Governmental Purchasing (NIGP):

An employee of the City & County of Denver Purchasing Division

(1) does not seek or accept a position as head or employee of a governmental purchasing agency unless fully in accord with the professional principles of governmental purchasing and unless he/she is confident that he/she is qualified to serve under these principles to the advantage of the governmental jurisdiction which employs him/her.

(2) believes in the dignity and worth of the service rendered by government and his/her own social responsibility as a trusted public servant.

(3) governed by the highest ideals of honor and integrity in all public and personal relationships in order that he/she may merit the respect and inspire the confidence of the agency and the public which he serves.

(4) believes that personal aggrandizement or personal profit obtained through misuse of public or personal relationships is dishonest.

(5) believes that members of the Purchasing Division should at no time, or under any circumstances, accept, directly or indirectly, gifts or other things of value from vendors.

(6) keeps the governmental jurisdiction which employs him/her informed, through appropriate channels, on problems and progress of the agency which he/her serves, but keeps himself/herself in the background by emphasizing the importance of the facts.

(7) resists encroachment on his/her control of personnel in order to preserve his/her integrity as a professional administrator. He/she handles all personnel matters on a merit basis. Political, religious and racial considerations carry no weight in personnel administration in the agency which he directs or serves.

(8) does not seek nor dispense personal favors he/she handles each administrative problem objectively without discrimination on the basis of principle and justice.

(9) subscribes to and supports the professional objectives of the National Institute of Governmental Purchasing.

## **VEHICLE USE FOR CITY BUSINESS BY PURCHASING EMPLOYEES:**

It shall be the policy of the Purchasing Division that:

Usage of City Vehicles for City Business will be in accordance with XO 3 – Motor Vehicle Program.

## **PURCHASING COLLAB LAB (HUDDLE ROOM)**

Huddle rooms are defined as small conference areas that are equipped with audio, video and display system technology. The Collab Lab is for individuals or groups who want to get together for impromptu, personal calls, confidential or previously scheduled meetings to work on or collaborate on projects.

Reservations for the Collab Lab are suggested and may be requested through the Central Purchasing calendar. Reservations are accepted on a first come, first served basis. All General Services Divisions and the Mayor’s Office of Children’s Affairs may also reserve the room for up to one hour. The Collab Lab’s maximum occupancy is 6 persons.

Food is not permitted. Drinks are permitted. It is the responsibility of the requestor to ensure the room is clean and to dispose of any trash appropriately before leaving. The room is to be left orderly for the next user. This includes putting the chairs back in place, turning off the lights, cleaning the whiteboards, shutting off the PC and monitor.

The Huddle Room is not a break/lunch room.

Keep the volume low so that others are not disturbed.

Equipment:

- Laptop docking station
- Small table for docking station
- Wireless keyboard and mouse
- Wired and Wireless monitor connection.
- Chairs
- Work surface
- Large Monitor
- Webcam
- Phone
- Whiteboard and accessories

## **VENDOR VISITING HOURS:**

It shall be the policy of the Purchasing Division that:

Vendors may call upon any member of the Procurement Staff during normal business hours.

It is strongly suggested that scheduled appointments for all meetings be established, in order to maximize the relationship of suppliers and their agents as well as City and County employees.

Buyers will make all reasonable efforts to accommodate any request by a vendor to discuss all aspects of the procurement process affecting their business.

## **DOCUMENTS AND RECORDS:**

It shall be the policy of the Purchasing Division that:

Official Records are required to be retained by law. Other records of practical usefulness are preserved unless their destruction is justified and authorized by the Purchasing Director. Defacing or changing records, either hard copy or electronic, is expressly prohibited and will result in disciplinary action. Records or documents are not to be removed from their normal location in the Purchasing Division without approval of the Purchasing Director.

Records are systematically and securely housed and, if active, kept current. Records are maintained that make possible the determination of the status of any purchasing transaction at any time. Records are kept in accordance with the Purchasing Records Retention Schedule.

## **Colorado Open Records Act (CORA)**

The City shall conform to the provisions of the Colorado Open Records Act (CORA) (C.R.S. 24-72-201 to 24-72-309). The City's Records Manager will be notified of all CORA requests via email with a date, requestor, and description of request, responder and any other pertinent information.

## **Retention Schedule:**

Compliance shall follow the XO 64 that establishes the policy of the City and County of Denver concerning the management of official records.

The policy of the City and County of Denver is to provide economical and effective controls over the creation, distribution, organization, maintenance, use, and disposition of City and County records. It establishes a comprehensive system of integrated procedures for their management, from creation to ultimate disposition, consistent with the requirements of the Public Records Act of the State of Colorado, City and County of Denver Municipal Codes and Ordinances and accepted records management practice.

These shall be created, maintained and disposed of in accordance with the provisions of this policy or authorized procedures. All document imaging systems or electronic document management

systems implemented by a City Agency must meet the standards developed by the Records Advisory Committee with recommendations from the Records Manager.

Disposition and maintenance of records will be performed in accordance to the approved Records Retention Schedule on file at the State of Colorado Archives Department.

The Purchasing Retention Schedule shall be adhered to in accordance with Executive Order 64 – Records Management and XO16 – Electronic records.

### **Electronic Records:**

It shall be the policy of the Purchasing Division that electronic documents shall be the preferred format and is deemed the official format of records managed by the Purchasing Division under this internal policy unless otherwise deemed by the Director of Purchasing. The retention of records shall be in compliance with Denver’s General Records Retention Schedule.

Paper documents, after imaged electronically, audited precisely and stored securely in the City’s authorized electronic platform, are deemed duplicates (Non-records) and may be recycled at the discretion of the custodian. Confidential or sensitive information therein contained in the paper documents shall be securely shredded.

### **Electronic Records Storage Policy For All Solicitations:**

The City’s records retention policy and best practices for Purchasing require that a copy of all documentation and responses pertaining to any formal, informal bid or RFP be maintained in accordance with the City’s General Records Retention Schedule (GRS). All documents related to any formal, informal bid or RFP issued by the Purchasing Division will be stored on the “Shared” drive Bid Information appropriate folder by the responsible buyer and all archiving and data destruction will be managed by the Programs Group. Any other third-party solicitation posting system that may be utilized shall not serve as the City’s official repository for formal bids and RFPs issued by the Purchasing Division.

It shall be the policy of the Purchasing Division that employee designated electronic folders in the Shared drive are not to be deleted and are official records. Upon employee leaving the Purchasing Division the folders will be archived and maintained in accordance to the City’s General Records Retention Schedule (GRS) Vital Records:

The purpose of this policy is to establish the guidelines under which The City and County of Denver can be assured that its vital records are protected in order to reduce the risks associated with the loss of vital information. Risks include, but are not limited to, inability to maintain daily operations, inability to reconstruct City owned vehicles, and placement of the City in legal or financial jeopardy.

A vital record is recorded information, regardless of media, that must have additional protection due to its value for the continuance of daily operations in the event of a disaster. Vital records are central



to the function and mission of the City and crucial to uninterrupted City services and operations. Further, they protect the rights and interests of the staff and the public.

At the City and County of Denver it is the responsibility of the agency to identify and protect vital records in order to minimize risks associated with the loss of information. The Retention Schedule reflects the records series or types that are considered vital records. Responsible agency shall send to the Records Manager the location of the vital records for which they are responsible.

This policy shall be reviewed every three (3) years by the Records Management Analyst.

Vital records include the following: (Please note storage method)

Business Resumption Plan (Offsite on-line)

Bonds: Secure room in safe that meets NFPA standards for fire resistance. (No copies required)

Sureties: Secure room in safe that meets NFPA standards for fire resistance. (No copies required)

Checks for Bonds and Sureties: Secure room in safe that meets NFPA standards for fire resistance. (No copies required)

Vehicle Titles: Secure room in safe that meets NFPA standards for fire resistance. (No copies required)

## **COMPUTER/SOFTWARE/INTERNET USE:**

It shall be the policy of the Purchasing Division that computer equipment provided to personnel shall be used solely for the purpose of conducting City business and as a tool to enhance productivity, retain data and seek information directly related to City business.

Personnel shall not load any software on City-owned computer equipment, regardless of its content or applicability, without the approval of the Purchasing Director or his/her designee.

It shall be the policy of the Purchasing Division that use of the Internet by personnel shall be restricted solely to City business purposes.

## **PURCHASING TABLET POLICY:**

PC Tablets are being provided for use by staff and supervisors to aid them in carrying out their duties. It is required that this policy for use be adhered to when operating these tablets.

All tablets remain the property of the City and County of Denver and are subject to FAR 10.9 and the Technology Services policies listed. The City reserves the right to retain ownership of any applications provided or paid for by the City. The City reserves the right to inspect an employee's tablet to ensure compliance with the City's technology use policies.

## **Fiscal Rule and Associated policies are located on DOT.**

- Fiscal Accountability Rule 10.9 - Utilizing Mobile Devices
- Technology Services Mobile Device Policy

- City Owned Tablet Computer Device Policy

### Expectations:

- The tablet should be at work every day, unless the employee is using it on official City business.
- During office hours tablet should be utilized for work activity.
- When not in use the tablet must be kept in a secure location.

### Employee Responsibilities:

#### Accessories and Applications

- Employees are required to use protective cover/case for their tablet.
- City will pay for any work-related applications.
  - Director will review, approve or reject all requests.
  - Technology Services Heat Ticket will have to be submitted for installation.
- Employees are responsible for the purchase of any personal applications.
  - Technology Services will review, approve or reject these requests.
- Tablets and Accessories Include:
  - Tablet
  - Charger
  - Stylus
  - Ethernet Adapter
  - Keyboard
  - Protective Sleeve
  - Carrying Case

### Caring for the Tablet:

- Employee shall keep the tablet in a protective cover/case at all times.
- The tablet screen is made of glass and therefore subject to cracking and breaking if misused. Never drop nor place heavy objects (books, laptops, etc.) on top of the tablet.
- Only a soft cloth or approved laptop screen cleaning solution is to be used to clean the tablet screen.
- Do not remove the City ID tag or add stickers or wraps to the tablet.
- Do not subject the tablet to extreme heat or cold (do not store in vehicles).
- The tablet password should not be shared with anyone as the security of the tablet remains the employee's responsibility.
- Tablets must be hard wired to network once every 30 days to assure connectivity and that all software is up to date. (Restart Tablet and install updates)
- When Network Password is changed it is recommended that you be hard wired to the Network for the first login.

### **Lost, Damaged or Stolen Tablets:**

- If the tablet is lost, damaged or stolen, the City's Service Desk (Helpdesk) must be notified immediately so Technology Services can block any access to city resources.
  - Stolen tablets must be reported to the Police immediately and a copy of the Police report must be attached to the Helpdesk notification or within 24 hours and the heat ticket number referenced.
- The employee may be responsible for the cost for replacing a tablet that is lost, damaged or stolen.

### **Distribution:**

- Supervisors will distribute tablets to their staff. (3 tablets for Procurement Staff, 1 for Programs and Projects Staff)
  - One tablet has been designated to share at DIA because of location.
- Supervisors will keep an individual log of who is responsible for which tablet.
  - Each tablet is identified by a unique number.
  - For tablets not in use Supervisor will keep tablet in secure location.

### **PURCHASING PERSONNEL AND AUCTIONS:**

It is a specific policy of the Purchasing Division that employees working in Purchasing shall not participate as a vendor in the City's surplus or ACV auctions or in any way purchase or take possession of City surplus items or abandoned or confiscated items.

### **WRITTEN DOCUMENTS – SUPERVISORY REVIEW:**

It shall be the policy of the Purchasing Division that all written documents be reviewed by Supervisory personnel. Written documents shall include but may not be limited to the following:

(exception to this policy are use of pre-approved form letters)

- 1) Vendor's Proposals and/or RFPs
- 2) Addenda
- 3) Memoranda
- 4) Letters/correspondence to vendors or other non-City entities
- 5) Purchase Orders beyond signature authority

### **CONFLICT OF INTEREST AND GRATUITY POLICY:**

It is the policy of the Purchasing Division that management, buyers, clerical staff and all procurement personnel avoid any situation which involves a conflict between their personal interest and the interest of the City and County of Denver (an actual conflict of interest) and, further, it is Purchasing policy that all situations which may involve a conflict of interest are to be reported to either the Purchasing Director, the Manager of General Services, the City Attorney or to the Ethics Board, and, unless determined to be unobjectionable Purchasing Director will take appropriate action to resolve or remove the potential conflicts.

Procurement personnel have an obligation to preserve the public trust and to give their undivided loyalty to the City and County of Denver in all matters of official business. Procurement personnel have a multitude of relationships with outside persons and organizations as purchasers of goods, services and equipment. A relationship other than that of official business between a member of the purchasing staff and such an outside person or organization that may influence or appear to influence the employee's decisions and actions relating to City and County business must be avoided.

The following serves as a guide to the types of activity which constitute actual or potential conflicts-of-interest:

**Financial Interest:**

Any significant interest, either direct or indirect, in the success, failure or financial condition of any persons or organizations with which the City and County does business creates an actual conflict of interest and must be avoided. Such an interest may be held directly by an employee, or indirectly, through a trust, a family member, or another organization.

**Gifts, Favors, Gratuities:**

The direct or indirect receipt of gifts, favors or gratuities by a member of the procurement staff or by his/her family, from any person or organization which does or may potentially do business with the City and County of Denver, or anything of value (in excess of an ordinary business amenity) in the form of money, goods, services, entertainment, price concessions, preferential treatment, the use of property, equipment or facilities, loans, or in any other form, involves an actual conflict-of-interest and must be avoided, and any such offer shall be immediately reported in writing, in detail, to either the Purchasing Director, the Manager of General Services, or the City Attorney.

An "Ordinary business amenity" is a gift of incidental value (less than twenty five dollars) which is clearly intended as advertising or promotional material, and could not possibly suggest that it was given or received so as to influence the employee's judgment. Should a gift in excess of these guidelines be delivered to any employee in his/her absence, the gift must be immediately surrendered to the Purchasing Director or the Manager of General Services, who will make appropriate provision for its disposal or return.

**Conflicting Employment:**

All Purchasing Staff will comply with Section 2-59, 62, 63, 64 of the Revised Municipal Code in accordance with which acceptance of a position of secondary employment with any other organization, however structured (e.g. direct employee, consultant, fee-for-service, etc.), involves a potential conflict of interest. Employment by a supplier or potential supplier of the City and County of Denver constitutes an actual conflict of interest and must be avoided. In addition, a procurement staff employee may not engage in any business or secondary employment which, because of the

demands on his/her time, interferes with the performance of his/her duties and responsibilities to the City and County of Denver. Exceptions to the above may be granted at the discretion of the Manager of General Services; in such cases, written authorization will be retained in the employee's personnel file.

#### **Use of Public Office for Private Gain:**

An employee of the Purchasing Division must not disclose or use confidential information (that is, information not available to an employee except through the position held within the procurement staff) for his/her personal profit, gain, or advantage or for the profit, gain or advantage of any other party or organization. Such disclosure or use constitutes actual conflict-of-interest in accordance with Section 2-67 of the Revised Municipal Code. Any employee confronted with a possible, potential, or apparent conflict-of-interest must discuss it with the Purchasing Director, who in turn will notify the office of the City Attorney in order that any questions may be effectively resolved. Alternatively, the employee may choose to present the situation to the Manager of General Services, the City Attorney, or the Ethics Board.

A written record shall be made of the report and of any steps taken or advised, or action directed to eliminate or avoid a conflict; such record shall be retained in the employee's personnel file and a duplicate copy shall be retained by the Purchasing Director for such period of time as the conflict exists.

## **KRONOS TIME APPROVALS**

It shall be the policy of the Purchasing Division that:

All Kronos time entries for the pay period are to be reviewed and approved by the employee at the end of each pay period, no later than the last Saturday of the pay period at 11:59 p.m. (or earlier if the employee's schedule ends prior to Saturday at 11:59 p.m.), employees must review their timecards and approve them.

Supervisors (or a delegated supervisor) are to review and approve time in Kronos on pay week Mondays (i.e. Monday, February 2, 2009), supervisors using Kronos must review timecards for accuracy of their employee's timecard and approve no later than 10:00 a.m.

## **9/80 FLEXIBLE WORK ARRANGEMENT (FWA) POLICY**

A Flex Schedule is a benefit offered by the City and County of Denver to allow employees more flexibility in scheduling. Under a nine day/eighty-hour schedule, employees are scheduled to work four 9-hour days, plus one 8-hour day in a one week period, and four 9-hour days the following week, with a fifth day as a designated flex day. For non-exempt employees (hourly), the start and end date of the work week must be changed so that the work week does not contain more than forty (40) hours of scheduled work. This type of schedule can only be approved if the customer needs take first priority.

In order for flex scheduling to be successful, this work unit will follow this policy:

1. The FWA is a one (1) year pilot program starting 6/12/2016.
  - Program will be evaluated periodically and at the end of the term of the pilot program by the Executive Director and Director of Purchasing and a determination will be made if program will continue and/or if changes need to be made.
2. Employees must input FWA reoccurrence into their Outlook Calendars.
3. On flex days employees must activate their out of office for both Outlook and phone and include Supervisors contact information and main Purchasing phone number.
4. Schedules for the units and sections must be organized in a way that ensures that we provide adequate coverage to allow for quality work to continue and to maintain exceptional customer service.
  - Director of Purchasing or his designee determines staffing levels required during the work week.
  - It is expected that the employee will have a plan in place to cover his/her work during the employee's designated flex day.
  - At least one buyer will be required to work onsite at DEN each day during a standard work week.
  - Daily staffing must include all buyer levels: Seniors, Associates and Staff Buyers
    - (Example: All Buyers cannot have Fridays off.)
  - Buyer Supervisors will evaluate and distribute new urgent requisitions received on a Buyers flex day
5. Regardless of the flex schedule, nonexempt employee(s) cannot exceed 40 hours per work week without the prior approval from your supervisor.
  - For afterhours required meetings / events such as Outreach, Auctions, City Council, Official functions or other afterhours, employee must work with his/her Supervisor and adjust work schedule for the work week period.
6. Employees are not allowed to start prior to 7:00 AM or stay later than 6:00 PM in the office, other than approved afterhours business needs\* (Webb Building lights go on and off at these hours.)
7. Approved flex schedules will be loaded into Kronos. Non-Exempt employees must continue to record their hours worked by clocking in and out in Kronos. Exempt employees will be required to report their hours worked in Kronos.
8. Standard Purchasing meetings will be scheduled between the hours of 8 and 5.
9. Procurement staff cannot have pre-bids, bid openings, addendum or other proposal related items due on their flex day
10. ERP Workday project-related meetings will be scheduled for standard fully staffed days whenever possible. In the event that an ERP Workday project meeting is scheduled on a flex day, employee may be requested to attend in person or via conference call. I I. Employees must complete FWA approval form.
  - Employee must indicate which day will be their flex day.
  - Employees must indicate the standard length of their lunch and have the option of having a h hour or l hour lunch.
    - Staff at Surplus Warehouse may need to eat while working. (See Career Service Rule 9-71 B.)

11. Time off requests during regularly scheduled work hours will require use of approved paid or unpaid leave in order to ensure 40 hours per work period are documented. When taking time off using regularly scheduled sick, vacation or PTO time, for either a partial or full day, the total hours need to equal the hours for the schedule. Example: Friday flex day, employee requests time off the following week: Thursday vacation day 9 hours, Friday vacation 8 hours. If a holiday falls on a day employee is scheduled to work 9 hours, employee would submit 1 hour of approved leave to total 9.
12. Non-work related appointments that are during regularly scheduled work days must be managed per Career Service Rules.
13. Flexible schedules will be reviewed by the Executive Director or his/her designee annually to ensure that we are meeting the agency's and client's needs.
  - Once FWA schedule has been set, the FWA schedule will remain until the employee's annual review. The Director may grant a change to FWA on a case by case basis.
14. The Executive Director can discontinue FWA schedule for the division with a 30 calendar days' notice.
15. Employees with documented performance improvement plan, received a needs improvement rating, or progressive discipline, may not participate in FWA.
  - Director of Purchasing or his designee approves all requests for FWA, including request for reinstatement of FWA privileges.
16. For employees on a flex schedule, the following provisions apply for Holidays/Furlough
  - City Employees are granted 8 hours of Holiday Pay or Furlough Leave. If the Holiday/Furlough falls on a day an employee is scheduled to work 9 hours, Kronos will credit the employee for 8 hours and the other 1 hour will be employee leave (vacation, PTO or LWOP). No makeup time -will be allowed.
  - If the Holiday/Furlough falls on a scheduled flex day, the employee will use one hour leave, same as above, and take the flex day another day. The flex day should be scheduled on the business day right before or right after the Holiday/Furlough or as advised by the Supervisor, and will occur within the same work week. Holidays are paid at 8 hours per Career Service Rules.
17. Emergency Preparedness – In the event of a City declared emergency flex scheduling will not apply.
18. The following staff positions cannot have the same flex day.
  - Director of Purchasing and Deputy Purchasing Director
  - Buyer Supervisors
  - Management Analyst III's
  - Administrative Assistant IV and Management Analyst II (Administrative Backup)
  - Administrator II (Surplus) and Management Analyst II (Surplus Backup)
  - Surplus Administrator II flex day cannot be the week of an ACV auction
  - Stock Keepers cannot have Fridays as their flex day (Fridays are the busiest day).
19. Surplus ASA IV cannot flex the Friday or Monday before an ACV Auction.
20. Purchasing will appoint a FWA Manager to document and record flex usage for participating employees and employees who have decided not to do flex.
  - Administrator I (Programs and Projects) will manage flex time documentation.

21. Employees participating in FWA must maintain an approved set work schedule in place. If an employee is late or leaves early and fails to check in with his/her Supervisor, the FWA privileges may be rescinded.
  - Any change in flex day must be submitted in writing and approved by Supervisor. If not approved and communicated, privileges may be rescinded.
22. No more than 25% of staff may use flex time on the same day. An approved example: six staff off Fridays and six off on Mondays.
23. Supervisors are to oversee employee FWA schedules and communicate information to FWA manager to document changes.
  - Supervisors will track any late, short hours, lunch change, unexpected absence, FRO, vacation, etc....
24. Supervisors must coordinate FWA and time off requests to assure adequate coverage of all business hours.

#### Remember

1. Being granted a flexible work week is not an entitlement, but rather an earned privilege.
2. Employees are not required to use FWA.
  - It is the employee's choice to enroll in FWA if eligible.
3. Workload parity must be maintained.
4. The FWA manager will monitor employees flex schedules for patterns of abuse and will advise employee, Supervisor and Director of any concerns. FWA may be suspended or rescinded if abuse is determined.
5. If certain areas or individuals receive many customer/client complaints regarding staff availability, FWA may be discontinued for that area.
6. There will be no informal switching of days off without prior approval from employee's direct supervisor
7. To accommodate holidays and flex days, your supervisor will determine PTO and vacation requests based on business needs.
8. Due to business needs, scheduled vacation, or staff shortages, a supervisor may direct a change in employee FWA.
9. Employees are strongly encouraged to schedule non-work-related appointments on their flex day.

## WORK FROM HOME

Work from Home: Depending upon the position and the existence of a measurable work product, an occasional day at home to work may be helpful for projects, severe weather or other approved circumstances.

To work from home must have prior approval of the employee's supervisor. Such permission to participate in working from home will be considered on a per instance basis. This policy will be subject to review and may end if it is in the General Services/Purchasing's or the City's best interest Policy Guidelines:

- 1) All employees working from home must have pre-approval from their supervisor.



- 2) Each employee must:
  - a) Agree to the details contained in this policy.
  - b) Work normal scheduled hours
  - c) Accommodate the following minimum equipment/ connectivity requirements
    - i) Computer-required to be VPN Capable/Any Connect
    - ii) Phone-City phone calls to be transferred to home phone or cell phone or messages must be checked every hour.
    - iii) Internet Access
- 3) Participation in the work from home program may be cancelled for any employee at any time.
- 4) All of the requirements noted in the Flexible and Alternative Work Schedules apply for work at home requests.
- 5) If an employee is scheduled to work from home and is sick, time must be recorded as an absence per applicable CSA rules.
- 6) Meeting Requirements:  
Attendance is required for meetings. Options are to attend in person, video conferencing or call in.
- 7) Work from Home cannot be combined with a flex day within the same week unless preapproved by the Director of Purchasing.
- 8) Employee must comply with CSA Rule 9-80 F – Telecommuting and Telecommuting Guidelines Appendix 9.A.
- 9) In rare circumstances, it may be beneficial for an employee to work at home for a dedicated period. A proposal that includes an explanation of the circumstances that make it beneficial must be presented to and approved by the Director of Purchasing.
- 10) Work from home approval process:  
  
An email to the employee supervisor is required and must include:
  - a) Date employee will be working from home
  - b) Nature of work
  - c) Benefit to the City of working from home  
Unanticipated requests to work from home requires a phone call, text or email prior to the employee scheduled start time.

## OVERTIME

### Exempt Time Balance Policy:

It is the Policy of the Purchasing Division that: All overtime hours approved by the Director of Purchasing for Exempt status employees will be considered comp time and accumulated at a rate of 1.5 hours for every hour of overtime accrued.

CSA Rules:

Exempt salary schedules: applicable to those classifications exempted from overtime under the FLSA. Reference FLSA Regulations: § 541.604 Minimum guarantee plus extras.

FLSA Regulations

§ 541.604 Minimum guarantee plus extras.

(a) An employer may provide an exempt employee with additional compensation without losing the exemption or violating the salary basis requirement, if the employment arrangement also includes a guarantee of at least the minimum weekly-required amount paid on a salary basis. Thus, for example, an exempt employee guaranteed at least \$455 each week paid on a salary basis may also receive additional compensation of a one percent commission on sales. An exempt employee also may receive a percentage of the sales or profits of the employer if the employment arrangement also includes a guarantee of at least \$455 each week paid on a salary basis. Similarly, the exemption is not lost if an exempt employee who is guaranteed at least \$455 each week paid on a salary basis also receives additional compensation based on hours worked for work beyond the normal workweek. Such additional compensation may be paid on any basis (e.g., flat sum, bonus payment, straight-time hourly amount, time and one-half or any other basis), and may include paid time off.

## VOUCHERS

It shall be the policy of the Purchasing Division that:

All Voucher payment requests for purchasing expenditures shall be signed by either the Deputy Director or the Director.

## APPROVAL ROUTING SHEET FOR PROPOSALS

It shall be the policy of the Purchasing Division that:

All Routing Sheets for Proposals for Purchasing shall be signed by the Buyer and if applicable the appropriate signature authority and reviewed by the Buyer Supervisor, Deputy Director or the Director in accordance with the above signature authority table.

## INCREASE ALLOWABLE SPEND:

It shall be the policy of the Purchasing Division when increasing spend against Contracts / Master Purchase Orders (MPO) or Purchase Orders that the allowable spend internal form be completed and approved by the appropriate signature level for all increases.

For Contracts / Master Purchase Orders (MPO) or Purchase Orders that exceed \$500K or any amendments/change orders/revisions over \$500K already approved by City Council will be taken again to City Council for approval. The City Attorney will require a revised, countersigned Contract or Purchase Order with an updated amount to file the Ordinance.

## **QUALITY ASSURANCE:**

It shall be the policy of the Purchasing Division that a significant and continuous effort by the City is preformed to assure that goods and services of the proper quality level are purchased and received. This effort is the primary responsibility of the Purchasing Division, but cannot be accomplished without the assistance and cooperation of the user agencies.

### **Testing for Quality:**

Little is gained by identifying quality unless the user can assure that the proper quality is received. Two methods used to verify that goods or services are of the quality required by specifications are to pre-qualify or test and inspect for quality after delivery.

The pre-qualification effort by agency staff and with the knowledge of the Purchasing staff may result in a specification in which various brands have been inspected, tested, and approved. When a proposal with restrictive specifications is issued, the proposal is limited to only those approved products listed, and no other products are considered.

The second method used to pre-qualify goods is to require the vendor to submit a statement of product conformance (certification) prior to delivery.

If the purchase is made on the basis of a brand name or equal, it is the City's responsibility to assure that the "equal" product is in fact equal to or greater than the specified brand name.

Vendors are responsible for making replacements, or otherwise compensating the City for any short comings of products not meeting specifications.

If the receiving City department discovers a defect of obvious nonconformity to the specifications, or quantity, or if the using agency discovers a latent defect in the goods, it is the responsibility of the agency to contact the vendor. The vendor's response will determine if any follow-up action is required. Should this response be less than completely satisfactory, the using agency should prepare the Vendor Deviation/Deficiency Report and forward it to the Purchasing Division for appropriate action and resolution.

### **Types of Quality Tests:**

Physical, chemical or other tests are performed as may be necessary to ensure conformity to specifications with respect to the quality of materials. The City, if it chooses, retains the samples or specimens as proof of its findings.

In no instance shall samples be released to City of Denver employees for private use or consumption. Reports on analysis of test findings are for the City's use only, and other use or reproduction is prohibited.

## **OVERRIDE POLICY FOR MATCH EXCEPTIONS AND PROCEDURE**

It shall be the policy of the Purchasing Division that all Match Exceptions will be handled by the Accounts Payable Division of the Controller's Office.

## **SUPPLIER CATALOG POLICY:**

Buyers shall examine each new bidding opportunity for potential inclusion in the supplier catalog . One facet of the Purchasing Division's overall strategy is to increase the use of supplier catalog Purchase Orders, which can be generated by agency personnel without the involvement of a Buyer, however, the official policy of the Purchasing Division shall not necessarily be that more items are added, but that the correct items are added to maximize efficiency.

Efforts will continue to "right size" the Supplier Catalog, adding items, deleting items and moving some previously Supplier Catalog procurement to P-Card or Blanket Purchase Orders, where this makes good business sense .

## **ACQUISITION OF MATERIALS:**

It shall be the policy of the Purchasing Division that Knowledge of Needs.

Buyers shall examine long bill and work with Budget Management Office to determine upcoming large procurements and develop strategies.

Most of the City and County of Denver's needs are similar from year to year, but the City Purchasing Division is only aware of these needs when the using agencies have submitted their requisitions for purchase. The requisition is the beginning of the process of buying.

### **Requirements Planning for Using Agencies**

When requests for goods and services are anticipated, an agency should notify the Purchasing Division as soon as possible in order to provide sufficient lead time for the City's procurement for goods or services. Acquiring goods and services is a many-faceted process that requires interaction and cooperation among all persons involved. Proper planning for future requirements and communication of these needs to the Purchasing Division will result in materials and services being available when needed by a using agency.

Through effective planning the user may:

- (1) avoid lost personnel hours caused by material stock-outs and/or shortages;
- (2) reduce the number of "rush" purchases necessary to avoid emergencies;
- (3) avoid increased acquisition costs often occurring in "rush" purchase situations;
- (4) increase the overall efficiency of the City through reduced procurement costs;

(5) identify goods which can be standardized throughout the City and County of Denver; and

(6) reduce the cost of goods or services through the continuous evaluation and modification of specifications to identify and delete items which add cost, but not value, to the product.

(7) improve the sustainability of the goods and services used

### **EMERGENCY PURCHASES OF MATERIAL AND SERVICES POLICY:**

It shall be the policy of the Purchasing Division that the provisions of D.R.M.C 20-64 (b) are strictly adhered to.

In accordance with D.R.M.C. 20-64 (b) An emergency condition is a situation which, which if it continues to exist, would endanger the health or safety of the public or employees and requires a remedy sooner than the supplies, materials, equipment, personal property or services would be delivered if the normal purchasing procedures were followed; or, a situation which would place an excessive financial burden on the City unless addressed in a shorter time than the bidding procedures require.

Urgent circumstances created by the negligence of an employee, and "improper or poor inventory controls or management are typically not valid emergency justifications."

### **EXCEPTIONS TO THE BIDDING PROCESS – NON PO VOUCHER LIST:**

It shall be the policy of the Purchasing Division that the list of Non-PO Vouchers situations it has been determined by the Purchasing Director that a competitive process provides little or no value therefore, a buyer may forego the Bidding process when it is in the best interest of the City. The buyer must still assure that the purchase is made in the most economical manner possible. However, a requisition and Purchase Order may still be required unless stated otherwise.

### **SPEND ANALYSIS REQUIREMENT:**

**Spend analysis requirement for master purchase order/contract renewal or rebid:** In support of the current policy that requires all Master Purchase Orders and Contracts generated by the Purchasing Division to be kept in an active state, it shall be the policy of the Purchasing Division that during the evaluation process for either a rebid or renewal a spend analysis based on Contract ID shall be conducted 90 days prior to the expiration date.

### **UNAUTHORIZED PURCHASES:**

It shall be the policy of the Purchasing Division that all purchases must have a Purchase Order prior to the goods or services being ordered by the City, except for:

- Purchases governed by a contract created by the City Attorney's Office
- Purchases which fall under Emergency definitions
- Purchases made using a P-Card
- Purchases authorized to be placed on a Non-PO Voucher

Purchases made outside of these guidelines will fall within the following categories:

### **After the Fact (ATF):**

A purchase made where a valid procurement mechanism exists, but the purchase was made prior to the issuance of a Purchase Order. A purchase shall be considered “After the Fact” if it uses valid pricing and a vendor from a current Master Purchase Order or Contract managed by the Purchasing Division and does not exceed any single purchase dollar limits set in certain MPO’s. If set dollar limits are exceeded, then the purchase will be considered to be either a Fiscal Rule Violation, or a Code Violation, whichever is applicable.

### **Fiscal Rule Violation (FRV):**

A purchase under \$10,000 made without a valid procurement mechanism.

### **Code Violation (CV):**

A purchase over \$10,000 made without a valid procurement mechanism.

Buyers are required to use the applicable Standard Comment (ATF, FRV, CV) for each unauthorized Purchase Order processed. The Programs Group will prepare reports as required, but Quarterly at a minimum, detailing the unauthorized transactions that have occurred to date. Buyers are to review this information, looking for any trends within their assigned agencies.

Beginning on January 1, 2014, buyers are to require the completion of the UNA Form for FRV and COV coded Purchase Orders prior to release of the Purchase Order. FRV transactions require the signatures of the employee and their direct Supervisor, COV transactions require the signatures of the employee, their direct Supervisor and their agency head or designee.

## **INFORMAL PROPOSAL POLICY:**

It shall be the policy of the Purchasing Division that informal proposal procedures shall comply with all Charter and Denver Revised Municipal Code requirements with regard to purchases with the following exceptions:

- (1) Advertising in the Official Publication is not required.
- (2) Receipt of proposals in a “sealed form” is not required.
- (3) A public proposal opening is not required.
- (4) The standard maximum number of days a proposal is “open” (usually fourteen calendar days for formal proposals) is not required. However, depending upon the complexity of the solicitation or other factors that may be taken into consideration, the buyer must assure adequate time for the vendor to return the proposal.

Reference Informal Proposal Procedure.

## **PROPOSAL FORMAT POLICY:**

It is the Policy of the Purchasing Division to ensure that the Proposals/RFP's contain clear vendor instructions, proposal submission criteria, well defined scope of work, distinct proposal items, terms and conditions or sample contract, required attachments i.e. drawings, disclosure, prevailing wage or any other pertinent information which will allow the vendor the best opportunity to provide the City with a responsive proposal.

The following are the standardized sections for Proposals/RFP's:

- Section A – Vendor Instructions, proposal submission criteria, award determination
- Section B – Scope of Work
- Section C – Pricing / Proposal Items
- Section D – Terms and Conditions / Sample Contract
- Section E – Additional Information
- Additional sections as required for attachments or other pertinent information

Included with the proposal package shall be a vendor list, approved cover page, opportunity to propose, evaluation documentation and approved routing sheet.

## **FILE APPEARANCE:**

### **Proposal/RFP Main File**

It is the Policy of the Purchasing Division that the Main File shall be defined as where all official documentation concerning a proposal/RFP is to be kept. This file may be either hardcopy or electronic. All hardcopy files are to be found in the file room if they are not being worked on by the assigned buyer and/or his/her supervisor. All other official records of the proposal are to be kept in the PDF or electronic file that is supervised by the Administrative Staff.

The appearance of the file is to be governed by the procedure document that is in line with legal requirements. These requirements may be subject to change and the buyer is to be responsible for what is in the file. In the event that a bid or RFP is submitted electronically, a copy of each complete vendor submittal is to be downloaded from the Third party solicitation posting system website by the buyer and stored in the corresponding electronic bid/RFP file. All documentation and communications that make up the file and or the proposal/RFP award process shall be easily found in the Main File. In the event that a bid or RFP is submitted in hard copy, the buyer shall scan the bid into the corresponding electronic bid/RFP file.

## **ANNUAL/TERM PROPOSAL RE-PROPOSALS:**

It shall be the policy of the Purchasing Division that rebid for Annual/Term Proposals, either informal or formal, shall be processed in the following manner:

For annual/term proposals that require a reevaluation prior to being re-proposed, there shall be no break in the active status of the current award unless a break in the active status of the award is not

onerous for the agency(s) AND the Buyer Supervisor AND the Purchasing Director have authorized, in writing, that a break in the active status of the proposal is acceptable. Said authorization for a break in the active status of a proposal MUST be approved no later than thirty (30) days prior to the expiration date of the proposal and placed in the Master File.

## **PROPOSAL DOCUMENT:**

It shall be the policy of the Purchasing Division that the Invitation for Proposals shall include the following:

- a) instructions and information to vendors concerning the proposal submission requirements, including the time and closing date for submission of proposals, the address of the office to which proposals are to be delivered, the maximum time for proposal acceptance by the City, and any other special information;
- b) the purchase description, evaluation factors, delivery or performance schedule, and inspection and acceptance requirements not included in the purchase description; and
- c) the contract terms and conditions, including warranty and bonding or other security requirements, as applicable.

## **VENDOR LISTS:**

It shall be the policy of the Purchasing Division that every effort shall be made to ensure that the proposal vendor list shall be composed of at least three (3) vendors who are actively involved in that commodity and/or service. Agency Personnel, DSBO and Prevailing Wage must be included on the list when appropriate. The vendor listing shall accompany the approved cover page for a formal solicitation. All Formal solicitations shall be posted on the third party solicitation posting system website.

## **PROPOSAL/RFP ADDENDA:**

It shall be the policy of the Purchasing Division that:

- (1) Addenda to Vendor's Proposals or Requests for Proposals shall be identified as such and the Purchasing Division may require that the vendor or proposer acknowledge receipt of the same by their signature thereon. The addendum shall reference explicitly the specific portion(s) of the Vendor's Proposal or RFP that is being modified. The addendum shall be provided to all prospective vendors or proposers who are known to have received the Vendor's Proposal or RFP. If the time set for the proposal opening or receipt of RFPs will not allow prospective vendors or proposers to fully consider and comply with the content of the Addendum the proposal opening or receipt of proposal date and/or time shall be modified by the addendum to permit such reasonable consideration or compliance;



- 2) During the proposal/RFP process if vendor question(s) are received the City response to such requests shall be in the form of an addendum.
- 3.) The issuance of addenda will be accomplished via posting by the Buyer on the third party solicitation posting system website. However fax, U.S. Mail, vendor pick-up or other reasonable method of distribution may be used when in the best interest of the City.

## **PRE-PROPOSAL CONFERENCE POLICY:**

Pre-proposal conferences may be conducted to explain the procurement requirements. They shall be announced to all prospective vendors through the web posting, legal advertisement and on the cover page of the proposal. The conference should be held long enough after the Invitation for Proposal has been issued to allow vendors to become familiar with it, but with adequate time before proposal opening to allow consideration of the conference results in preparing their proposals. Nothing stated at the pre-proposal conference shall change the Invitation for Proposal unless a change is made by written amendment.

It shall be the policy of the Purchasing Division that mandatory or voluntary pre-proposals shall be conducted for all formal proposals that:

1. have either Prevailing Wage and/or Denver Small Business Office (DSBO) Goals (other than 0/0) attached to them
2. the complexity of the procurement requires that additional diligence be applied to assure all potential vendors understand the requirements of the vendor's proposal.

The decision to identify the pre-proposal as mandatory or voluntary shall be left to the buyer's discretion with written approval of their supervisor.

This policy is necessary to assure that all potential vendors are absolutely aware of the requirements (to include "complex" procurements) and the processes involved with Prevailing Wage and/or the DSBO Goals program. It is essential that all potential vendors are schooled in the intricacies of Prevailing Wage and/or the DSBO Goals program – if applicable to the specific proposal – because of the necessity to create a "level playing field" for all potential vendors. Additionally, potential vendors offering pricing on proposals requiring Prevailing Wage and/or DSBO Goals and/or procurements of a complex nature cannot provide valid costs without understanding all the requirements of the proposal.

For all formal proposals issued with either Prevailing Wage or DSBO Goals requirements contained therein, Buyers shall ensure that the Auditor's Office of Prevailing Wage and/or the DSBO are notified, and shall send the Invitation to Propose notification to the Auditor's Office of Prevailing Wage and/or the Denver Small Business Office at the time of issuance. Buyers are encouraged to ensure that a representative of the Auditor's Office of Prevailing Wage and/or the Denver Small

Business Office is in attendance at the Pre-Proposal conference for the purpose of explaining their requirements.

Buyers shall practice due diligence in notifying potential vendors of a pre-proposal conference by listing the date and time on the proposal cover page, providing the pre-proposal location address in the bid document and making sure that it is listed in the legal advertisement. If in the Buyer's best judgment, notifying the vendor directly may be advisable.

Buyers are expected to consult their Supervisors to determine if the requirements of a particular proposal process that does not have Prevailing Wage and/or DSBO Goals, requires a mandatory or voluntary pre-proposal due to the complexity of the proposal requirements.

Exceptions to this Purchasing Policy/Procedure may be made, but only upon consultation with and written approval of the Buyer Supervisor.

### **RECEIPT, OPENING AND RECORDING OF PROPOSALS POLICY:**

It shall be the policy of the Purchasing Division that upon receipt, all proposals and modifications will be date and time-stamped but not opened and shall be stored in a secure place until the identified time and date set for proposal opening.

### **PRE-OPENING WITHDRAWAL OF PROPOSALS BY SUPPLIER POLICY:**

It shall be the policy of the Purchasing Division that:

- a) Proposals may only be withdrawn by written notice received in this office prior to the time and date set for proposal opening.
- b) If a proposal is withdrawn in accordance with this Section, the unopened sealed proposal shall be returned to the vendor. If the vendor is unable to pick up the proposal then it may be returned via a mailing service at the vendor's expense.
- c) A person withdrawing a proposal shall be properly identified and must execute a signed receipt.
- d) All documents relating to the withdrawal of proposals shall be made a part of the appropriate procurement file.

### **REJECTION OF INDIVIDUAL PROPOSALS:**

This policy applies to rejections of individual proposals in whole or in part

Reasons for rejecting a proposal include but are not limited to:

- a) The business that submitted the proposal is non-responsible.
- b) The proposal is not responsive, that is, it does not conform in all material respects to the proposal.
- c) The supply, equipment or contractual service offered in the proposal is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternatives or other acceptability criteria set forth in the proposal.
- d) The proposal document was received by the Purchasing Office after the specified bid opening date and time.

Upon request vendors who are rejected for the above reasons shall be advised of the reasons.

## **CURE:**

It shall be the policy of the Purchasing Division that:

CURE Period: A proposer shall have an opportunity to cure non-critical omitted documents. If a party fails to comply with any provision of a proposal, Purchasing shall inform the proposer of the non-compliance. If the non-compliance is not cured within the timeline communicated by the Buyer after the delivery of such notice ("Cure Period"), the failure to comply shall result in the proposal being deemed to be non-responsive and the proposal shall not be considered.

## **SINGLE PROPOSAL RECEIVED:**

It shall be the policy of the Purchasing Division that:

If only one (1) responsive proposal is received in response to a proposal, an award may be made to the single vendor if the Purchasing Director finds that the price submitted is fair and reasonable and that other prospective vendors had reasonable opportunity to respond. Otherwise the proposal may be rejected and/or:

- a) New proposals may be solicited, assuring that all reasonable efforts are made to contact all potential providers of the good/service to determine why there was insufficient interest pursuant to the initial proposal or proposal
- b) the proposed procurement may be cancelled; or
- c) if the Purchasing Director determines in writing that the need for the supply equipment, or contractual service continues, but that the price of the one proposal is not fair and reasonable and there is no time for resolicitation or resolicitation would likely be futile, the procurement may then be conducted as an Emergency Procurement, as appropriate.

## **LATE PROPOSALS:**

It shall be the policy of the Purchasing Division that no proposal/RFP received by any means will be accepted and/or opened if that proposal is received at the Purchasing Division after the time and

date established for the proposal opening. A “late proposal” shall be considered a “non-responsive” proposal.

## **TABULATION AND AWARD OF PROPOSALS/RFPs:**

It shall be the policy of the Purchasing Division that for Proposals/RFPs issued pursuant to Formal Procedures.

(1) Following the proposal opening, the Buyer shall prepare a detailed tabulation of pricing provided from all proposals received:

- a) in differences between the unit prices and extended totals in a proposal, the unit price shall prevail.
- b) In differences between written words and numeric figures provided by a vendor, the written words shall govern
- c) The buyer is to be aware that the tab sheet should be created in such a manner that it may be released upon request to the public or other City entities.
- d) Award(s) for RFP's shall be made to the responsible, responsive and qualified vendor whose proposal is determined to be the best overall value to the City based on the evaluation factors set forth in the invitation for Proposal.

NOTE: The public receipt of proposals pursuant to a Formal Proposal process must include the public reading of pricing offered. Following examination and tabulation of the proposals by the Purchasing Division, the results shall be subject to examination by competing vendors. (See D.R.M.C. Section 20-63.)

(2) Following the receipt of proposals (RFP) the Purchasing Division shall either follow the provisions of this policy or shall secure the RFP documents for later review and evaluation by the evaluation committee, if established.

NOTE: The public receipt of Proposals pursuant to an RFP process shall NOT include the revealing of pricing or the content of the proposal. Only the names of the responding proposers shall be revealed. Inspection of the proposals shall be allowed ONLY after an award has been made and in compliance with CORA requirements. (See D.R.M.C. Section 20-63.)

(3) Once a successful vendor or proposer has been identified, a Notice to Apparent Low Vendor or Notice to Apparent Successful Proposer shall be issued which shall require the Apparent Low Vendor or Apparent Successful Proposer to submit all additional documentation of insurances and bonding and/or any other documentation of materials necessary for the Purchasing Division to make an award, recommend an award or recommend the contract process be initiated. This Notice shall require receipt of the additional documentation or materials within ten (10) days of receipt of the Notice by the Apparent Low Vendor or Apparent Successful Proposer, unless a shorter period of time is identified by the Buyer due to the necessity to expedite an award.

(4) Once all additional documentation or materials are received, the Purchasing Division shall issue a Purchase Order or Master Purchase Order or Contract. . Master Purchase Orders (MPO's) shall be executed by the Vendor(s) and the Buyer. The completed MPO is to be forwarded to the Programs Staff with the appropriate documentation for financial database input and agency notification of award.

For Proposals/RFPs issued pursuant to Informal Procedures:

(5) All requirements set forth in Items 1 through 4 above shall be complied with, with the exception that:

- a) Advertising in the Official Newspaper is not required.
- b) Receipt of proposals in a "sealed form" is not required.
- c) A public proposal opening is not required.
- d) The standard maximum number of days a proposal is "open" (usually fourteen days for formal proposals) is not required. Depending upon the complexity of the solicitation or other factors that may be taken into consideration, the buyer must assure adequate time for the vendor to return the proposal.

## **CANCELLATION OF SOLICITATIONS: REJECTION OF PROPOSALS:**

It shall be the policy of the Purchasing Division that:

### **1. General**

An Invitation for Bid, or other solicitation, may be cancelled, or any or all Bid may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interest of the City as stipulated by the Purchasing Director. The reasons shall be made part of the contract file.

Scope of this Policy: The provisions of this policy shall govern the cancellation of any solicitations whether issued by the City under competitive sealed "proposal, informal proposal, or any other source selection method, and rejection of proposal in whole or in part.

Policy: Solicitations should only be issued when there is a valid procurement need, unless the solicitation states that it is for informational purposes only. Preparing and distributing a solicitation requires the expenditure of City time and funds. Therefore, although issuance of a solicitation does not compel award of a contract, a solicitation is to be cancelled only with the approval of a Supervisor and when there are compelling reasons to believe that the cancellation of the solicitation is in the City's best interest.

### **2. Cancellation of Solicitation; Rejection of All Proposals.**

#### **A. Prior to Opening.**

(1) As used in this section, "opening" means the date set for opening of competitive sealed proposals.

(2) Prior to opening, a solicitation may be cancelled in whole or in part when the Purchasing Director determines that such action is in the City's best interest for reasons including but not limited to:

- a) the City no longer requires the supplies, equipment, or contractual services.
- b) the City no longer can reasonably expect to fund the procurement; or
- c) proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable.

(3) When a solicitation is cancelled prior to opening, notice of cancellation shall be sent to all businesses solicited.

(4) The notice of cancellation shall:

- a) identify the solicitation;
- b) briefly explain the reason for cancellation; and
- c) where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurements of similar supplies or services.

#### B. After Opening.

(1) After opening but prior to award, all proposals or proposals may be rejected in whole or in part when the:

Director of Purchasing determines in writing that such action is in the City's best interest for reasons including but not limited to:

- a) the supplies or services being procured are no longer required;
- b) ambiguous or otherwise inadequate specifications were part of the solicitation;
- c) the solicitation did not provide for consideration of all factors for determining what is in the best interest of the City and County of Denver.
- d) prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
- e) all otherwise acceptable proposals or proposals received are at clearly unreasonable prices; or
- f) there is reason to believe that the proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.

(2) A notice of rejection shall be sent to all businesses that submitted proposals.

(3) Documentation. The reasons for cancellation or rejection. shall be made a part of the procurement file and shall be available for public inspection.

(4) Disposition of proposals. When proposals are rejected, or a solicitation cancelled after proposals are received the proposals which have been opened shall be retained in the procurement file, or if unopened, returned to the vendors upon request.

## **PROPOSAL/RFP EVALUATION:**

It shall be the policy of the Purchasing Division that:

1. Proposal and RFP evaluations shall be made in conformance with all applicable Denver Revised Municipal Code provisions.
2. The Proposal or RFP document shall set forth the requirements and criteria which will be used to determine the successful proposal or RFP which is in the best interest of the City. No Proposal or RFP shall be evaluated for any requirement or criterion that is not disclosed in the evaluation criteria section of the Proposal or RFP;
3. Such evaluation criteria other than cost, which may be characterized as Best Value and/or Life-Cycle costing. The following (not limited to) may be considered in the award evaluation:
  - a) delivery time
  - b) warranties
  - c) results of product/equipment sampling/testing
  - d) local servicing availability
  - e) trade-in value
  - f) safety, health and training factors
  - g) environmental factors
  - h) cost of operation
  - i) financial terms, if not a cash purchase
  - j) esthetics
  - k) references
  - l) financial condition of the vendor or proposer
  - m) past performance
  - n) documented experience in/with the good or service required
  - o) green or environmentally preferred
  - p) functionality
  - q) technical merit
  - r) product demonstration
  - s) laboratory testing
4. The Proposal or RFP evaluation may require:
  - a) the submission of proposal samples
  - b) inspection or testing of a good to determine characteristics of quality or workmanship

- c) inspection or site visit evaluations of locations or customers which the vendor or proposer has recently or is currently servicing
- d) any other reasonable requirements or due diligence activities that will assist in determining the acceptability of a good or service and the extent to which that good or service conforms to the requirements and specifications of the Proposal or RFP

5. An evaluation committee may be comprised of:

- a) informed agency users of the good/service being solicited
- b) unbiased persons from the private sector or other governmental jurisdictions who possess expertise in the good/service being solicited
- c) member(s) of the Denver City Council or the Mayor's staff
- d) any other persons who may provide an unbiased and responsible evaluation of the good/service being solicited may be established by the Purchasing Division to evaluate proposals or proposals.

Purchasing Division personnel administering the proposal or RFP process will, in most cases, serve as the facilitator of the evaluation committee and will not participate in the actual scoring of proposals.

Section 20-62.5 of the Denver Revised Municipal Code provides the operative guideline for evaluation committee scoring, to include, "...the records required to be maintained ... shall include the identity of the persons or agencies who evaluated the proposal or proposals, the written recommendation for the award of the contract, and the basis for the recommendation."

## **PROPOSAL SAMPLES AND DESCRIPTIVE LITERATURE:**

It shall be the policy of the Purchasing Division that samples may be requested when necessary for a thorough evaluation. If samples are requested, they will be held until after the proposal award is made unless otherwise specified. Samples from the vendor who is awarded a proposal are to be held in a secure area determined by the Buyer for the duration of the contract. Upon completion of the contract, the samples will be returned to the vendor, or may be retained pursuant to the Invitation for Bid.

- a) "Descriptive literature" means information available in the ordinary course of business which shows the characteristics, construction, or operation of an item which enables the City and County of Denver to consider whether the item meets its needs.
- b) "Proposal sample" means a sample to be furnished by a vendor to show the characteristics of the item offered in the proposal.
- c) Proposal samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items proposal.
- d) Regardless of any attempt by a vendor to condition the proposal, unsolicited proposal samples or descriptive literature which are submitted at the vendor's risk will not be examined or tested, and will not be deemed to vary any of the provisions of the Invitation for Bid.



If a buyer determines that samples will be requested. Information outlining the sampling process should be included in the proposal. Buyers may choose to indicate:

- a) duration of time allowed before the samples are delivered
- b) location where the sample is to be delivered
- c) how the sample is to be labeled
- d) quantity of samples that will be requested
- e) if the item being sampled is a large dollar item it may be made a part of the order

## **PROPOSAL EVALUATION:**

It shall be the policy of the Purchasing Division that:

### **Awards:**

Awards shall be made with reasonable promptness by giving written notice to all the successful vendors whose response best conforms to the proposal and will be the most advantageous to the City and County of Denver with respect to price, conformity to the specifications and other evaluation criteria. As stipulated in the Proposal, the following criteria may be considered but is not limited to in evaluating any proposal response:

- a) delivery date after receipt of order
- b) cash discounts
- c) warranties (type and length)
- d) product and future availability
- e) results of product testing and or sampling
- f) local service
- g) cost of maintenance agreements
- h) future trade-in value or availability of re-purchase agreement
- i) availability of training courses
- j) financial terms if not a cash purchase
- k) space limitations
- l) esthetics
- m) adaptability to environment
- n) cost of operation (if any)
- o) safety and health features relating to the regulatory codes of requirements
- p) environmental preferred aspects
- q) meeting specifications as detailed in product brochures
- r) inspection or testing of a product prior to award for such characteristics as quality or workmanship;
- s) examination of such elements as appearance, finish, taste, or feel; or
- t) other examinations to determine whether it conforms with any other purchase description requirements.

Awards may be made to other than the low price proposal with the appropriate documentation. Award shall not be released until all required approvals have been obtained. The Proposal shall set forth the requirements and criteria which will be used to determine the most advantageous vendor. No proposal shall be evaluated for any requirement or criterion that is not disclosed in the Proposal.

Product Acceptability: The Proposal shall set forth evaluation criterion to be used in determining product acceptability. It may require the submission of proposal samples, descriptive literature, technical data, or other material. It may also provide for accomplishing any of the following prior to award:

The acceptability evaluation is not conducted for the purpose of determining whether one vendor's item is superior to another but only to determine that a vendor's offering is acceptable as set forth in the Invitation for Bid. Any vendor's offering which does not meet the acceptability requirements shall be rejected as non-responsive.

2. Determination of Lowest Priced Vendor. Following determination of product acceptability, proposals may be evaluated to determine which vendor offers the lowest cost to the City in accordance with specifications. They may be evaluated in accordance with value analysis or life cycle cost formulas. If such formulas are to be used, they shall be objectively measurable and shall be set forth in the Invitation for Proposals. Such evaluation factors need not be precise predictors of actual future costs, but to the extent possible they shall:

- a) be reasonable estimates based upon information the City and County of Denver has available concerning future use; and
- b) treat all proposals equitably.

3. Restrictions: An award may not be made to a vendor submitting a higher quality item than that designated in the Proposal unless such vendor is also the lowest vendor as determined by value analysis or life cycle cost formulas as permitted in this section.

### **Low Tie Proposals:**

In the event of the receipt of two (2) or more responsive proposals that are identical in price and meet all the requirements and criteria set forth in the proposal or RFP, the determination of the successful vendor or proposer shall be made by a coin toss. Documentation of all such coin tosses shall be made on the proposal or proposal tab sheet and such documentation shall include the signature of at least a Buyer Supervisor witnessing the coin toss. For awards that will exceed \$10,000.00, the competing vendors shall be invited to attend the coin toss and their attendance will be documented on a Coin Toss Sign-In sheet which shall be preserved with the proposal or proposal documents. For coin toss exceeding \$50,000 Purchasing Director approval is required.

In those incidents where the tie is on a per line item basis the Buyer may make the award to the vendor who clearly wins the majority of the line items or whose estimated monetary award is greater.

For those recurring proposal circumstances such as the perishable commodities (i.e. Produce Proposal and Grocery Proposal) line items may be awarded in such a manner that the timeliness of the award is not compromised and where the vendors have an equal opportunity of being awarded the item.

Every effort shall be made to ensure that the proposal vendor list shall be composed of at least three (3) vendors who are actively involved in that commodity and/or service. Agency Personnel, DSBO and Prevailing Wage must be included on the mailing list when appropriate. The vendor listing shall accompany the approved cover page for a formal solicitation. All Formal solicitations shall be posted on the Purchasing website.

### **EMERGENCY EXTENSION OF MASTER PURCHASE ORDER (MPO):**

It shall be the policy of the Purchasing Division that the period of performance/term of a contract with an indefinite quantity contract may be extended upon agreement of the parties, provided the extension is for 90 calendar days or less and the Purchasing Director determines in writing that it is not practical or not in the best interests of the City and County of Denver to award another contract at the time of such extension. No more than one such extension shall be granted.

### **ANNUAL/TERM PROPOSAL RENEWALS:**

It shall be the policy of the Purchasing Division that rebids/renewals for Master Purchase Orders and other applicable contracts, either informal or formal, shall be processed in the following manner: Such agencies shall include Prevailing Wage and DSBO – MBE/WBE program if applicable.

1. Documented “Rebid/Renew Notices” shall be forwarded to the appropriate agency(s) no later than ninety (90) calendar days prior to the expiration date of the current term of the proposal.
2. As part of the decision making process regarding renewal or rebid, a spend analysis shall be conducted to determine the aggregate spend. A cost savings strategy should be contemplated and opportunities for environmentally preferred purchasing strategies shall be considered.
3. Buyers shall require the Agency to return the “Rebid/Renew Notice” no later than sixty (60) days prior to the expiration date of the current term of the proposal.
4. Documented renewal offers to vendors/contractors shall be issued no later than forty-five (45) days prior to the expiration date of the current term of the proposal.
5. For proposals that are to be extended (renewal option accepted), documented notices of the extension shall be issued to the agency(s) no later than fifteen (15) days prior to the expiration date of the current term of the proposal.
6. Term proposals (Effective period(s) of less than one year, but not “one time” proposals) shall be renewed in the same manner as set out above with the exception that timeframes noted in Points 1,

2 & 3 shall not be applicable. Term proposal timeframes related to Points 1, 2 & 3 shall be reasonable and appropriate to assure a timely renewal process.

**7. For proposals which include Prevailing Wage and/or MBE/WBE participation, the Auditor's Office – Prevailing Wage and/or the Denver Small Business Office shall be copied with the documented notice of extension of the same, per paragraph 4, above.**

#### **Inactivate a Master Purchase Order (MPO)**

It shall be the policy of the Purchasing Division that:

A detailed reason in writing from the assigned Buyer and a written approval by the Deputy Director and the Buyer Supervisor are required. This information is to be reviewed and approved by the Deputy Director of Purchasing before an MPO can be inactivated and Closed in the Financial System.

#### **Close a Master Purchase Order (MPO)**

It shall be the policy of the Purchasing Division that:

A detailed reason in writing from the assigned Buyer is required for rebids, and a written approval by the Buyer Supervisor are required if an MPO is not renewed and a new procurement method is identified before an MPO can be Closed in the Financial System. For new awards for existing MPO's the old version will be closed when the new award is input.

### **REQUEST FOR INFORMATION CONFERENCES:**

It shall be the policy of the Purchasing Division Request for Information (RFI) Conferences may be conducted to obtain specific commodity related knowledge of a technical or market nature. Notice of RFI shall be e-mailed or otherwise furnished to all vendors for the specific commodity classification being reviewed.

### **DIVERSITY AND INCLUSIVENESS – EXECUTIVE ORDER #101:**

It shall be the policy of the Purchasing Division that:

**The following clause along with the *“Diversity and Inclusiveness in City Solicitations Request Form”* will be included in ALL solicitations issued by the Purchasing Division and the results for all responding vendors will be entered into an electronic format by the proposer created by the Division of Small Business Opportunity for tracking purposes. All vendor responses will be retained in the electronic bid file for future reference.**

#### **Definitions**

#### **Requirements**

Using the attached form, entitled “Diversity and Inclusiveness in City Solicitations Information Request Form”, please state whether you have a diversity and inclusiveness program for employment and retention, procurement and supply chain activities, or customer service, and

provide the additional information requested on the form. The information provided on the Diversity and Inclusiveness in City Solicitations Request Form will provide an opportunity for City contractors/consultants to describe their own diversity and inclusiveness practices.

Contractors/Consultants are not expected to conduct intrusive examinations of their employees, managers, or business partners in order to describe diversity and inclusiveness measures. Rather, the City simply seeks a description of the contractor/consultant's current practices, if any.

Diversity and Inclusiveness information provided by City contractors/consultants in response to City solicitations for services or goods will be collated, analyzed, and made available in reports consistent with City Executive Order No. 101. However, no personally identifiable information provided by or obtained from contractors/consultants will be in such reports.

***A completed copy of the "Diversity and Inclusiveness in City Solicitations Request Form" must be included with your bid or RFP response. Failure to include this form will render your bid or RFP non-responsive.***

## **BIDDING EXCEPTIONS:**

It shall be the policy of the Purchasing Division that:

Bidding Exceptions as defined in 20-64 a(1), a(3), a(4) and (5) should generally be considered contrary to public purchasing procedures, and therefore, the selection of products or services based on a bidding exception must be limited as much as possible.

Any request by a using agency that a procurement be restricted to one (1) potential vendor shall be accompanied by a complete and detailed explanation as to why no other will be suitable or acceptable to meet the need. In cases of reasonable doubt, competition is to be solicited.

When bidding exceptions are used in lieu of a competitive process, the assigned buyer shall conduct negotiations, as appropriate, as to price, delivery, potential added value and terms.

## **Sole Source Procurement:**

A purchase order may be awarded for a supply, equipment or contractual service item without competition when, in accordance with the provisions of the Revised Municipal Code 20-64 (a)1, the Manager of a Department states in writing the necessity of sole source procurement and receives the approval of the Purchasing Director or designee in accordance with established signature authority.

## **Professional Preference Procurement:**

Supplies, equipment or services required by reason of preference based on professional advice. As described in 20-64 a(3) a "professional" shall be defined as a person(s) who is uniquely knowledgeable and technically qualified in the supply, equipment or services to be provided due to an on-going day-to-day familiarity with the supply, equipment or service to be provided and because of professional qualifications such as a degree or professional certification related hereto.

## Standardization

Supplies required by reason of practicality, to-wit, supplies required in respect to uniformity of equipment. As described in 20-64 a(4) "standardization" shall be defined as equipment presently in operation as it relates to the day-to-day operation of the equipment and replacement and repair parts for said equipment. All purchases under this section shall be made in the most economical manner possible (standardization purchases);

## Cooperative Purchases

Sec. 20-64.5. Cooperative purchasing.

If the manager of general services determines that such purchases are in the best interests of the city, he or she may authorize purchases under any general bid or purchase contracts of the United States Government, State of Colorado, or other governmental jurisdictions at the prices, terms, and conditions therein contained, anything to the contrary in this division notwithstanding. The manager of general services may authorize purchases of goods and services pursuant to any intergovernmental agreement which, in the opinion of the manager of general services, is in the best interest of the city. Further, the manager of general services or his or her designee may authorize participation in the sponsorship or administration of any cooperative procurement endeavor undertaken by any governmental jurisdiction, any cooperative procurement endeavor undertaken on behalf of any governmental jurisdiction or any cooperative procurement endeavor which utilizes general public bidding guidelines and may authorize purchases related thereto.

Local municipalities, County and State governments, benefit from joint purchasing by pooling and consolidating of certain of their common use needs. The effect of these agreements is that certain goods and supplies are purchased jointly, from common contracts or awards.

D.R.M.C. 20-64.5 provides purchase authority from "any contract of the U.S. Government, State of Colorado, or other governmental jurisdictions".

The purchase of items using other governmental contracts will be done only when it is in the best interest of the City and County.

In all instances for purchases made against other governmental contracts, the Buyer must establish that the prices being paid and the terms and conditions are fair and reasonable and that use of the existing contract is in the City's best interest. Purchases can only be made using a City Purchase Order or contract. The same dollar thresholds and supervisory approval must still be adhered to like any other purchase.

In addition, purchases shall not be made against other governmental contracts unless a copy of the contract or related government correspondence is filed in purchasing to verify that:

- (1) a current contract exists;
- (2) the contract number referenced is correct; and

(3) the prices being paid are the applicable contract prices

## **PROCUREMENT LEGAL RESPONSIBILITIES POLICIES:**

### **Public Notice/Advertisement:**

It shall be the policy of the Purchasing Division that:

Invitations for Proposals shall be e-mailed or otherwise furnished to all appropriate vendors for the specific commodity classification being requested unless exempted by the Purchasing Director. Notice of Invitation for Proposals shall indicate where, when, and for how long Proposals may be obtained; describe the supplies, equipment, contractual service desired; date and time of pre-proposal conference, if any; and may contain other appropriate information. Formal advertisement by publication shall occur once the Proposal is posted on the website for any award for supplies in accordance with provisions of 20-63 of the Revised Municipal Code.

Advertisements will be prepared in a concise manner consistent with legal requirements, and describe the character of the proposed contract or agreement in sufficient detail to enable the vendors to know what the scope will be, either in the advertisement itself, or by reference to detailed plans and specifications on file at the time of publication of the first announcement when deemed appropriate by the Purchasing Director, an announcement by advertisement in the official newspaper can be supplemented by other advertising or by any other means to encourage proposal.

### **Payment And Performance Bonds For Supply, Equipment Or Service Contracts:**

It shall be the policy of the Purchasing Division that payment and performance bonds or other security may be required for supply, equipment or service contracts as the Purchasing Director, the Manager of General Services, the City Attorney or the Office of Risk Management deems advisable to protect the interest of the City. Any such requirements must be set forth in the solicitation. Proposal or performance bonds shall not be used as a substitute for a determination of vendor responsibility.

Bonds should not be used to inhibit competition.

### **Termination Of A Contract:**

It shall be the policy of the Purchasing Division that:

Terminating a contract is normally the last alternative after all other administration means have been sought to resolve a problem between the City and a contractor. There are two reasons for terminating or canceling a City contract;

(1) for convenience and (2) for cause (default).

### *Termination for Convenience:*

There are two types of terminations for convenience used by the City: (1) for the mutual convenience of the City and the contractor and (2) for the unilateral convenience of the City.

#### (1) Mutual Convenience

An example of this type is a situation wherein a contractor is no longer able to provide the service or product to the City through no fault of his own.

#### (2) City Convenience Only

This type of termination also is through no fault of the contractor. It occurs whenever the City unilaterally determines that it no longer has a need for the services or product furnished by the contractor.

The contractor is entitled to as much notice as is practicable, or as stipulated in the Invitation for Proposal. The contract/MPO must contain termination for convenience language.

### *Termination for Cause:*

This type of termination is employed when the contractor is in default. In the case of default, the City may, by written notice, terminate the contract. However, the City must satisfy legal administrative requirements prior to the actual termination.

(1) A "Cure Notice" must be sent, in some cases the Buyer should consider using registered or certified mail, to the contractor setting forth the details regarding the deficiencies and the dates and background information supporting nonperformance or substandard performance.

The buyer must establish a definite "cure" deadline date. The period must be a reasonable length of time to cure the deficiencies – normally the time period varies from 7 to 30 days, depending upon the individual circumstances of each case. This "Cure Notice" requires the approval of the Purchasing Director. The Buyer should take under consideration the adverse affects this situation is having on the City agency(ies) involved to determine what number of days is in the City's best interest.

Assuming the contractor did not cure the deficiencies satisfactorily, the buyer will initiate the necessary steps to terminate the agreement and document the final action accordingly, upon approval of the Purchasing Director and concurrence of the City Attorney. The original notice to cure letter should include information on what these steps are and when they would be instigated.

In all termination actions, the buyer must rely on the user department/agency to provide all necessary documentation to justify contractual decisions made by Purchasing. The using organization personnel are the "eyes and ears" of the City, expressing satisfaction with contractor performance. The Purchasing Division either resolves problems or terminates the appropriate



contracts. All termination actions must have the full knowledge and approval of the Director of Purchasing and his/her designee.

### **Debarment (Federal Funded) Excluded Parties List Program (Sam):**

The policy is regarding the correct procedure to be followed by all buyers to ensure that parties excluded from Federal Procurement, and identified on Non-Procurement Program Lists, do not receive orders from the City which involve Federal funding. The System for Award Management (SAM) identifies those parties excluded throughout the U.S. Government from receiving contracts which have Federal funding. It also identifies parties excluded from certain types of Federal financial and non-financial assistance and benefits

When a requisition is received or an annual proposal is established and the funding source includes any Federal dollars, the buyer must access the SAM website ([www.sam.gov](http://www.sam.gov)) and enter the vendor name via the search. If the buyer is unsure of all funding sources or agencies that may use the annual proposal, they must check the website. The buyer is to print out the search results and attach them to the requisition or award. For detailed instructions see the Public Users Manual on the SAM site.

If the buyer finds any vendor on this list, no award shall be made to that vendor per OMB Circular A-133 and the buyer shall notify the Director of Purchasing.

### **Anti-Competitive Practices Among Vendors:**

It shall be the policy of the Purchasing Division that:

When, for any reason, collusion or other anticompetitive practices are suspected among any vendors, a notice of the relevant facts shall be transmitted to the District Attorney.

An anticompetitive practice is defined as an action among vendors which reduces or eliminates competition or restrains trade. An anticompetitive practice can result from an agreement or understanding among competitors to restrain trade such as submitting collusive proposals or request for proposals, or result from illicit business actions which have the effect of restraining trade, such as controlling the resale price of products or an improper collective refusal to proposal. Indications of suspected anticompetitive practices include, but are not limited to, identical proposals or request for proposals, rotated low proposals or request for proposals, sharing of the business, "tie-in" sales, resale price maintenance, and group boycotts.

Vendors are prohibited by Federal law from collectively responding to a solicitation in a manner that controls directly or indirectly the price of a supply, service, or construction item sought. This prohibition may extend generally to such actions as establishing any of the following: minimum or maximum prices, uniform list prices, uniform credit terms, uniform discounts, uniform costs and mark-ups, uniform trade-in allowances, specified price differentials between varying grades of the same product, price ranges, price scales or price calculation formulas, and minimum fee schedules.

In order to assist in ascertaining whether or not an anticompetitive practice may have occurred or may be occurring, the buyer should be alert and sensitive to conditions of the market place and will often find it necessary to study past procurements including, as appropriate, the following:

- (a) a study of the proposal history of a supply, equipment or contractual service, over a period of time sufficient to determine any significant proposal patterns or changes;
- (b) a review of similar City and County of Denver or State contract awards over a period of time; or
- (c) consultation with outside sources of information, such as vendors who have competed for similar City and County of Denver business in the past but who are no longer competing for such business.

The term "identical proposal" means the submission by vendors of the same total price or the same price on a particular line item. The submission of identical proposals may or may not signify the existence of collusion. Identical proposals for supplies and equipment are more likely to occur in the absence of collusion if:

- (a) the supply is a commodity with a well-established market price or a brand name with a "suggested retail price";
- (b) the quantity being purchased is small in relation to the supplier's total sales;
- (c) early delivery is required; or
- (d) transportation expenses are low relative to total costs.

In seeking to determine whether collusion has taken place, the Buyer should view the identical proposals against present and past pricing policies of the vendors, the structure of the industry involved including comparisons of prices, F.O.B. shipping point and F.O.B. destination, and the nature of the supply, equipment or contractual service involved.

### **Other Anti-Competitive Practices Which Shall Be Reported To The District Attorney Include:**

#### ***Rotated Low Proposals or Request for Proposals:***

Rotated low proposals or request for proposals result where all vendors participating in the collusive scheme submit proposals and by agreement alternate being the lowest vendor. To aid in determining whether rotation may be occurring, the Buyer must review past similar procurements in which the same vendors have participated.

### *Resale Price Maintenance:*

The practice of resale price maintenance consists of an agreement between a manufacturer and a distributor or a dealer to fix the resale price of a supply item. A Buyer should consider the possibility that such an agreement exists where prices offered adhere to an established pattern, such as published price schedule, and when identical proposal occurs.

### *Sharing of Business:*

Sharing of the business occurs where potential vendors allocate business among themselves based on the customers or the territory involved. Thus, a Buyer might discover that a potential vendor is not participating in a City and procurement because a particular City agency, or a particular territory, has not been allocated to such vendor by the producer or manufacturer.

### *"Tie-in" Sales:*

"Tie-in" sales are those in which a vendor attempts to sell one supply or service only upon the condition that the City purchases another particular supply or service.

### *Group Boycott:*

A group boycott results from an agreement between competitors not to deal with another competitor or not to participate in, for instance, procurement until the boycotting competitors' conditions are met by the boycotted competitor or the City. The boycott of a competitor by other competitors may have an effect on the market structure or price of a supply, equipment or contractual service needed by the City.

## **PROCUREMENT VENDOR POLICIES:**

### **Agency Relationship With Vendors:**

It is essential that a proper relationship be established and maintained between personnel in the user agencies and the vendors that provide the goods and services to support agency operations.

Vendors are normally present in the agency environment either as a service provider or for public relations/business solicitation purposes. In the latter case it is important for agency personnel to appreciate the following considerations regarding the vendor's presence:

Be courteous to visiting vendors and assist them in any way necessary to facilitate their participating in the City procurement program. Their participation makes the competitive proposing process work.

The vendor is there at the pleasure of the agency.

The vendor should not be led to believe that the agency personnel can place an order outside the DPA Fiscal Rule 8.1 guidelines or other Purchasing Division authority.

Buyers are to be able to communicate City policy regarding acceptable standards of ethical conduct. A periodic review of Charter and Code provisions is highly recommended.

Buyers are to:

- Discourage a vendor that does not have a contract from making disparaging comments about a vendor that does have a contract.
- Seek sources for vendor evaluations from the agencies being served, not competing vendors.

Each agency has the right to expect vendor support to the full extent contemplated in the applicable contract. Problems related to delivery or quality should be communicated directly to the vendor for resolution. In those cases where a vendor cannot, or will not, perform according to the terms of the applicable contract the matter should be referred to the Purchasing Division via the vendor Deviation Report.

### Vendor Performance Records:

Vendor performance reports are a record of a vendor's performance regarding quality, or timeliness of product or service. Often the reports are generated on the basis of what the user subjectively considers good or bad performance without regard to the contractual commitment made by the vendor and accepted by the City.

It is essential that using agencies monitor and report incidents of unsatisfactory performance through the Vendor Deficiency Report system described below on a consistent and timely basis.

The Vendor Deficiency Report: (VDR) is to be prepared by the user whenever the performance of a vendor does not fulfill the terms of the contract or purchase order and the user cannot resolve the problem satisfactorily with the vendor.

Records of a vendor's performance on current or past contracts are one of the tools used in evaluating proposals and selecting vendors for future awards. Contracts and purchase orders normally define the quality and quantity of a specified item and when delivery is to be made. A vendor's inability to perform in accordance with the terms of his contract is a serious matter that should be recorded and reported on the Vendor Deficiency Report. Following is a list of some performance factors that should be considered in vendor evaluations:

A. Delivery:

- (1) Was delivery of a normal quantity order made within the time limits specified in the contract?
- (2) Was the delivery documentation complete and properly cross-referenced to the packages?
- (3) Was delivery made during the hours published for normal delivery?

(4) Was the vendor's delivery staff courteous and helpful?

**B. Inspection:**

(1) Was the proper quantity delivered?

(2) Was the design, quality, grade, etc. as specified in the contract or purchase order?

(3) Did the packaging, labeling and marking conform to specification or to acceptable commercial practice?

(4) Was the vendor's delivery staff courteous and helpful?

**C. Vendor Report**

(1) If merchandise did not pass inspection, was the vendor prompt and courteous in correcting or replacing the order?

(2) Did the vendor provide necessary installation or warranty maintenance promptly and adequately?

(3) Is the vendor cooperative in dealings with the user?

**Vendor Management:**

1. Vendor Management consists of actions which must be taken by Purchasing from the time a contract/MPO is awarded until the supplies or services have been delivered, accepted, and payment has been made or until contract or MPO has expired. Once the purchase has been made or the contract awarded, the Vendor Management function is the primary link between the vendor and the using department to handle problems arising from the procurement action. If used properly it may become a tool that keeps problems from arising because the communication avenues it creates allows all parties to express concerns prior to them arising.

The Vendor Management activity is responsible for assuring that the vendor delivers the product or service to the City user in accordance with the terms and conditions of the contract issued by the City and County of Denver. To insure consistent contractor compliance, the Vendor Management activity must be able to accomplish the following tasks:

(1) Attend pre-proposal and pre-performance conferences to emphasize City requirements and contractor responsibilities under certain complex or critical contract programs;

(2) Follow-up with the contractor and using department on problems occurring during the period of performance;

(3) Take necessary actions to amend existing contracts through required approval channels;

- (4) Take necessary actions to terminate existing contracts, when necessary, through required approval channels;
- (5) Resolve contract provision disputes;
- (6) Determine which contracts require payment or performance bonds and/or insurance certification from the vendor.
- (7) Develop performance measurements and methodology to monitor that performance.

## 2. Types of Contracts

There are many different types of contracts. Generally, the City uses only "fixed price" contracts, but in some instances, because of market conditions, utilizes contracts with price escalation/reductions provisions.

All of the procurement transactions handled by Purchasing are "contracts," in that they represent a meeting of the minds and have been reduced to writing. Therefore, each written purchase order is a "contract", as well as the more formal written agreements (regularly executed contracts) which are developed with the assistance of the City Attorney Office.

Master Purchase Orders are active fixed price agreements set up to provide for recurring purchases from the same supplier for a specified period of time. The Purchasing Division maintains a "Vendor Contract Listing" of all current Master Purchase Orders. It is available on-line for using departments/agencies that are authorized to place orders directly to a contractor or supplier. To ensure this listing is always accurate Buyers are responsible for updating all applicable information in coordination with the Administrative Staff.

## **VOLUNTARY PRICE REDUCTION:**

It shall be the policy of the Purchasing Division that:

Voluntary Price Reductions may be accepted from apparent low vendors, confirmed low vendors or award recipients pursuant to any proposal process conducted by the Purchasing Division. Voluntary Price Reductions shall be defined as any reduction in proposal pricing as offered by the aforementioned. A Voluntary Price Reduction may be accepted from an aforementioned vendor after review by the buyer to see if it is in the City's best interest. A voluntary Price Reduction may be accepted at any time prior to award, during the award process or at any time during the contract period.

Voluntary Price Reductions must be offered to the City in the form of a written offer from the apparent low vendor, confirmed low vendor or award winner, and must detail the vendor's original proposal pricing and the specific reduction or percentage of reduction the vendor is offering to lower the same. The written document must be signed by an authorized representative of the vendor's

firm and must be approved by the buyer and the buyer supervisor. Upon approval of a written offer for a Voluntary Price Reduction, the appropriate buyer shall document the acceptance of the offer and shall provide a copy of the same to the vendor as well as notification to user agencies of the Voluntary Price Reduction.

## **PROCUREMENT FINANCING POLICIES:**

### **Capital Lease Financings:**

It shall be the policy of the Purchasing Division to follow the guidelines set out in the attached process which may be modified from time to time by the Treasury Department.

#### **A. Purpose**

This policy has been developed for City agencies that are non-Enterprise Funds, as defined by TABOR, to ensure that Capital Lease Financings for City agencies are accomplished in a manner that meets the agencies' needs and comply with all legal requirements. Available revenue resources are critical evaluation factors in acquiring capital equipment. Paying cash for City acquisitions eliminates the need to incur interest and other financing costs so it is the preferred method of purchasing capital items. Financing equipment, including computer software, over a period of time offers the City the flexibility to acquire critically needed equipment when the City does not have sufficient financial resources in the year of acquisition. There are legal restrictions against the City incurring multi-year fiscal obligations and the Department of Revenue has adopted a Debt Policy to address bond and certificates of participation financings. Properly structured Capital Lease Financings are not legally defined as debt and are permissible under Colorado statutes and the DRMC. This policy statement has been prepared to document the policy for City of Denver Capital Lease Financing transactions.

#### **B. Authority**

1. Article XX of the Colorado Constitution.
2. City of Denver Charter Sections 2.5.1, 7.2.2, 7.51, and 7.53.
3. Denver Revised Municipal Code Sections 20-1 and 20-97.

#### **C. Definitions**

1. For purposes of this Policy, capital equipment, including computer software, are defined as tangible items that have a useful life of no less than three years and a cost of no less than \$7,500.
2. Leases that meet one or more of the following criteria are Capital Leases:
  - a. The lease transfers ownership of the property to the City
  - b. The lease contains a bargain purchase option
  - c. The lease term is equal to 75% or more of the estimated economic life of the leased asset

- d. The present value of the minimal lease payments (including executor costs) equals or exceeds 90% of the fair value of the leased asset.
- e. Any leases that do not meet any of the four criteria above are operating leases and are not subject to this Policy.

#### **D. Policy**

1. To be eligible to be financed through a Capital Lease Purchase transaction:
  - a. Capital Lease Purchase transactions must be structured to comply with all applicable laws, regulations and covenants and shall not be entered into if it jeopardizes the credit worthiness of the City. Only financing entities that meet the City's legal requirements may provide lease purchase financing.
  - b. As a general rule the minimum cost of equipment financed through a capital lease should be \$500,000 with a useful life of five (5) years.
  - c. The term of the Capital Lease Purchase shall not exceed the depreciable life of the asset acquired.
2. Periodically, the Treasury Division will assist the Purchasing Division with a selection process to identify a pool of financing entities with which the City may contract to enter into Capital Lease Purchase transactions.
3. Representatives of Purchasing, Treasury, Budget, and the City Attorney's Office will meet periodically to review proposed and/or approved capital acquisitions that a Capital Lease financing may be undertaken. The Purchasing Division will be responsible for the scheduling of these meetings as needed.
4. When an acquisition through a Capital Lease Financing has been approved by the Office of Budget and Management, the Agency responsible for the use or administration of the equipment will designate an agency contact and Agency Representative (if different than the contact) who will provide to Treasury the information contained in Exhibit I to this Policy Statement. Copies of completed Exhibit I are to be provided to the Budget Office and Purchasing.

#### **E. Responsibility and Applicability**

1. The execution of a Capital Lease Purchase requires the coordination of a number of City departments with various responsibilities under this Policy Statement:
  - a. City Agency requesting capital equipment
  - b. City Attorney's Office
  - c. Office of Budget and Management
  - d. Purchasing Division of the Department of General Services
  - e. Treasury Division of the Revenue Department
2. City Agency Requesting Capital Equipment –
  - a. When each agency prepares its capital budget, the agency is responsible for identifying and prioritizing its capital needs for the subsequent year. If an agency is proposing financing the acquisition of equipment with a Capital Lease, agencies are to prepare an analysis of potential sources to make annual lease payments for new



- equipment such as from grants, donations, potential new revenue streams, or cost reductions from the acquisition.
- b. A staff member who is most familiar with the equipment will be identified as the agency contact through the Capital Lease Purchase process. The agency contact will coordinate the provision of information to the other city agencies with responsibilities for Capital Lease transactions. All inquiries from other departments working on the transaction will be returned promptly. Individuals designated as an Agency Representative have legal responsibilities under the terms of executed leases and may or may not be the agency contact.
  - c. The agency contact will be responsible for the completion and provision of City documents required by other agencies, including
    - i. Purchase Requisition – to Purchasing
    - ii. Form 42 for the Vendor Contract (Treasury will complete the Form 42 for the lease) to City Attorney
    - iii. Exhibit I to Treasury, with copies to Budget and Purchasing
  - d. Payment of and accounting for rental payments will be the responsibility of the Agency, with copies of all requests for payment provided to Treasury.
3. Office of Budget and Management –
- a. As the agency that initially receives capital equipment requests from City agencies, the Budget Office will be responsible for recommending the approval of equipment in the capital budget.
  - b. A cost/benefit analysis shall be prepared in cooperation with the submitting Agency.
  - c. Based upon the cost/benefit analysis, the Office of Budget and Management is responsible for identifying equipment which will need to be financed through a Capital Lease Purchase transaction and will forward the approved equipment to the designated individuals in the Treasury and Purchasing Divisions.
4. Purchasing Division of the Department of General Services -
- a. Once the subsequent year's Capital Equipment Budget has been adopted, the Purchasing Division will be responsible for working with each agency to prioritize and coordinate the acquisition of approved equipment.
  - b. When an item that has been identified to be acquired through a Capital Lease Purchase transaction, Purchasing will notify Treasury of the item, agency contact, and the information contained in Exhibit I, which includes:
    - i. the schedule for acquisition
    - ii. the Agency contact information
    - iii. expected cost
    - iv. planned repayment structure
    - v. expected date of installation,
    - vi. date of acceptance – the item is expected to be certified for use
    - vii. projected annual amounts available for lease payments
    - viii. schedule for vendor selection

- ix. conduct a proposal process of the pool of identified financing entities
  - c. Purchasing will facilitate the Form 42 process for the Vendor Contract and assist the agency contact with the negotiation of terms and conditions.
5. Treasury Division of the Department of Revenue – Upon notification of a proposed purchase requiring a Capital Lease Purchase.
- a. Treasury staff will review the financing proposals received by Purchasing and recommend which entity shall provide the financing.
  - b. Contact the City Attorney’s Office and obtain a designated attorney for the transaction.
  - c. Prepare the Form 42 for the lease purchase transaction
  - d. Assist in the drafting of the Lease Agreement
  - e. If an Escrow Agent is necessary, assist in the selection of the entity to provide these services and assist in the preparation of an Escrow Agreement
  - f. Prepare the accounting entry to record the capital lease transaction and the recognition of the equipment in the City’s Fixed Assets
  - g. As needed, assist the Agency with the processing of rental payments and maintain the repayment schedule in the Treasury debt management software system (the DBC System)
  - h. Maintain all financing documents, including IRS forms 8038/8038G, notices of assignment, etc.
  - i. Confirm payments are made timely and recorded accurately in the City’s General Ledger, properly recognizing the Principal and Interest components and the inclusion in the City’s Fix Asset Account Group.
  - j. Upon completion of the lease terms, work with the Agency to obtain title to the redeemed equipment.
6. City Attorney’s Office – Upon being contacted to prepare an agreement for equipment being acquired through a Capital Lease Purchase, City Attorney staff will
- a. Identify the attorney(s) who will be responsible to work with the agency, Purchasing and Treasury staff in preparing the Vendor Contract and Lease Agreements.
  - b. Assist in the negotiation of the vendor and lease documents to ensure the structure of the transaction complies with state and local laws.
  - c. Assist Treasury with recording and filing any information with the Secretary of State Office or other title recording/release needed.
  - d. Prepare ordinance for Council consideration for approving the lease documents and, if necessary, approving the vendor documents.

**EXHIBIT I**

**Acquisition of Equipment through a Capital Lease**

**1. AGENCY INFORMATION**

Agency: \_\_\_\_\_

Agency Contact:            Name: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

Person designated as Agency Representative - if different: \_\_\_\_\_

**2. DESCRIPTION OF ITEM BEING ACQUIRED:**

\_\_\_\_\_  
\_\_\_\_\_

Estimated Life of Equipment: \_\_\_\_\_

Is this replacement Equipment \_\_\_\_\_ or new equipment \_\_\_\_\_?

Is this equipment essential for the operation of the agency? \_\_\_\_\_ Yes    \_\_\_\_\_ No

**3. PURCHASING INFORMATION:**

Name of Buyer Assigned: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax: \_\_\_\_\_

Date Approved for Capital Lease Financing: \_\_\_\_\_

Date Needed by Agency: \_\_\_\_\_

Vendor: \_\_\_\_\_

Vendor Tax I.D. \_\_\_\_\_

General Ledger Account Code to be charged for current year lease payments:

\_\_\_\_\_

Exhibit I – Page 2 Acquisition of Equipment through a Capital Lease

4. OTHER INFORMATION:

A. Estimated Cost \_\_\_\_\_

B. Revenue Source for Repayment: \_\_\_\_\_  
\_\_\_\_\_

C. Annual amounts available for repayment: \_\_\_\_\_

D. Agency's preferred Repayment Schedule (attach suggested schedule if not equal annual payments):  
\_\_\_\_\_

E. Provide reference for the acquisition to the approved budget:  
\_\_\_\_\_

F. Does the Vendor Offer financing for inclusion in the proposal process for the lease:

\_\_\_\_\_ No \_\_\_\_\_ Yes - if yes provide

Name of firm: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Representative name and phone number: \_\_\_\_\_  
\_\_\_\_\_

Email Address: \_\_\_\_\_

Cc: Budget and Management  
Purchasing Division

On a separate sheet of paper, please provide a description of the plans for implementation from receipt of the item(s) to when it(they) will be placed into service, including any special needs to carry out the plan.

## **PROCUREMENT CONSTRUCTION PROJECT POLICIES:**

It shall be the policy of the Purchasing Division that no projects for “new” construction shall be bid or authorized through the Purchasing Division. The Purchasing Division may bid projects that require remodeling, renovation and reconstruction which do not involve designing or structural changes which is solely within the purview of the Department of Public Works or Facilities Planning and Management.

Projects which require assembly of pre-manufactured items and which may require incidental concrete footings may be accomplished by the Purchasing Division on a case by case basis with approval of the Purchasing Director.

The Buyer Supervisor will be consulted by the Buyer if uncertainties/questions arise with regard to what is and what is not new construction.

The Purchasing Director shall be consulted by the Buyer in instances where there is a variance/dispute between the agency and/or the Purchasing Division and/or the Department of Public Works in the interpretation of the nature of the work to be done.

## PROCEDURES

### CITY COUNCIL

Certain contracts and other written instruments may not be signed by the Mayor until they have been approved by the City Council. Contracts meeting specific criteria are filed with the City Clerk for public information, and a bill for an ordinance authorizing the City's execution of the contract is considered by City Council. Types of contracts or written instruments requiring Council approval may be specified in the Charter, Revised Municipal Code, or Executive Orders. The Mayor may request that other contracts or written instruments be presented to City Council for approval. Except for government grant agreements (see below), the necessary bill for an ordinance shall be drafted by the City Attorney's Office. The following types of contracts must be approved by City Council:

#### Expenditure Contracts:

Expenditure Contracts / Master Purchase Orders (MPO) and Purchase Orders:

Contracts and Purchase Orders that may require the City to expend \$500,000 or more, and amendments/change orders/revisions which cause the total contract to exceed that amount or any amendments/change orders/revisions over \$500,000 already approved by Council.

Master Purchase Orders (MPO) that may require the City to expend \$500,000 or more. Because Master Purchase Orders (MPO) do not encumber funds any amendments/change orders/revisions for MPO's already approved by Council are not required to go through Council again.

Change Orders which cause a construction contract to equal or exceed \$500,000. This expenditure is to one (1) vendor and as a result of a single procurement process.

DIA Purchase Orders of \$500,000 or more must also receive City Council approval.

NOTE: For Denver International Airport: Construction contracts do not require City council approval unless they exceed \$5,000,000.00;

Revenue Contracts of any amount (exceptions listed below)

#### Revenue Contracts:

Contracts by which the City will receive \$500,000 or more, and amendments that cause the total contract to exceed that amount; All contracts where the Contractor receives a percentage of the revenue generated (e.g., Concessions contracts).

Federal, State and private grants require the filing of an authorizing ordinance if they: 1) exceed \$500,000, 2) require a matching contribution by the city in the form of an expenditure for which a budget appropriation has not previously been approved by Council, or 3) the city council president has required the mayor to submit the grant to City Council. If a special revenue fund has not been established for a grant, then an ordinance creating such a fund must be filed. (These ordinances are filed by the Budget and Management Office at the Initiating Authority's request only after the City Attorney's Office has approved the form of contract.)

The following revenue contracts at Denver International Airport do not require City Council approval:

- Farm leases
- Residential leases less than one year and under \$100,000.00
- Storage, office, or support space leases on Airport Property provided the lease is ancillary to and in support of an existing concession or airline lease which has been submitted to Council for approval
- Leases or licenses to place vending machines on Airport property
- Leases or licenses not exceeding a term of one year for the purpose of offering seasonal services or information to the public
- Leases, licenses, or easements for the privilege of placing utility lines or pipes, conducting surveys or investigations, or accessing construction sites, on, under, or adjacent to airport property.
- City-Owned Real Property: Sale, lease, conveyance, or other use or disposition of any interest in City-owned property (in which exclusive use of the City property may continue in excess of 30 days)

### Intergovernmental Agreements:

Intergovernmental agreements that provide for tax revenue sharing.

Intergovernmental agreements that require further legislative action by City Councilor that otherwise impact the legislative authority of the Council, or that require City Council approval pursuant to any other law.

### Amendments, (but not Change Orders):

Any contract previously approved by City Council. Amendments to grant agreements that do not change the purpose of the grant do not require City Council approval.

#### 1. Process

When a contract or other written instrument must be approved by City Council, the Initiating Authority is responsible for preparing a Council request package (See Appendix G) which consists of a request to be placed on the appropriate committee agenda (Appendix G), a request for ordinance form, and

an executive summary. This package must be signed by the Purchasing Director and forwarded to the Mayor's Office for submission to the appropriate committee agenda. When the Committee of Reference approves the item (if required) the Mayor's Office places it on the agenda of the following Tuesday's Mayor Council meeting. If Mayor-Council approves the item for filing, the City Attorney's office will then file a bill for an Ordinance for City Council consideration on the following Thursday. The bill then proceeds to first and second reading with City Council and becomes an ordinance upon publication after the Mayor and Council have given their approval. The Initiating Authority must obtain the signatures of the Contractor and all "Recommending and Approving" signatories listed and forward the contract and all its counterparts to the City Attorney before the City Attorney's Office can file the bill for the ordinance.

If this process is for a Master Purchase Order or a Purchase Order the ordinance number marks the end of the process unless the City Attorney recommends additional steps.

## 2. City Council Approves Contract

Once City Council approves the bill, it is presented to the Mayor for Signature and published, at which point it becomes an ordinance.

## 3. City Council Does Not Approve Contract

If the bill is defeated, the City Attorney shall return it to the Initiating Authority who shall again evaluate the necessity and desirability of undertaking the task. If the Initiating Authority again determines to proceed with a contract or other written instrument, the procedures set forth herein shall be repeated with whatever modifications the Initiating Authority shall deem appropriate.

## **PUBLIC AVAILABILITY OF RECORDS: CORA**

Reference: Policy concerning the Colorado Open Records Act (CORA)

The following clause shall be included in all formal bids/RFPs:

All proposals become a matter of public record and shall be regarded as Public Records, with the exception of those specific elements in each proposal which are designated by the proposer as Business or Trade Secrets and plainly marked "Trade Secrets", "Confidential", "Proprietary", or "Trade Secret". Such vendor designation is subject to the City's approval. Items so marked shall not be disclosed unless disclosure is otherwise required under the Open Records Act. If such items are requested under the Open Records Act, the City will use reasonable efforts to notify the proposer, and it will be the responsibility of the proposer to seek a court order protecting the records, and to defend, indemnify, and hold harmless the City from any claim or action related to the City's non-disclosure of such information.

A copy of the Invitation for Bid shall be made available for public inspection at the Purchasing Division Office.



The names of the vendor submitting quotations and the date and amount of each quotation shall be recorded and maintained as a public record.

All documents relating to the withdrawal of proposals shall be made a part of the appropriate procurement file, and shall be a matter of public record.

All records shall be made available after an award for public inspection upon request and in accordance with CORA. Bid documents that are awarded based upon low responsive, responsible proposals shall be made available immediately and Requests for Proposal (RFP) in accordance with CORA. Such inspection shall be witnessed by a Buyer or the Purchasing Director, who shall be responsible to ensure that the integrity of these records shall not be compromised.

Name and addresses on vendor's lists shall be available for public inspection, after award, provided these lists shall not be used for private promotional, commercial, or marketing purposes.

A variation of the following response is sent out to the requesting vendor:

I acknowledge receipt of your correspondence requesting the items detailed from the responses submitted by \_\_\_\_\_ to the above mentioned Bid or RFP. The City will be happy to comply with your request and will follow the requirements of the Colorado Open Records Act (CORA) as follows:

In order to pay for the cost of staff, custodians for public records within the City and County of Denver may charge for research and retrieval time necessary to respond to request for records under CORA. Pursuant to C.R.S. 24-72-205(6), effective July 1, 2014, staff time may be charged at a rate not to exceed \$30.00 per hour. There shall be no charge for the first hour of time for research and retrieval of records. For files that exist electronically, there will be no "per page" charge to e-mail these records to you. Any request for hard copies will involve an additional \$0.25 per page charge to copy the documents, plus any applicable postage charges. If the information requested is voluminous, information may be transferred to an electronic format which will be available for \$15.00, plus staff preparation time. As much as possible, Purchasing will transmit responsive documents via email at no cost.

It is difficult at this time to estimate what the total charges will be. A deposit of \$\_\_\_\_\_ will be necessary to begin this process, and payment in full will be required before any records are released.

Should you wish to undertake this process, please respond to this correspondence in writing and provide the required deposit amount no later than \_\_\_\_\_ to my attention at the mailing address listed in the header above. An e-mailed response sent to \_\_\_\_\_ is acceptable. Upon receipt of your confirmation to proceed and your deposit check the City will begin to process the request.

The following notification is sent to the vendors whose records are requested:

Please consider this e-mail to be official notification of a request by \_\_\_\_\_ for a copy of your submittal in response to the above referenced Request for Proposals. Submitted pricing has already been released as it is not subject to protection.

Please review all documentation and reply with a detailed list of requested redactions, if any, for consideration by the City Attorney. Your request should indicate the document involved, the applicable section or page number and a description of the specific passages or items that you are requesting redaction on. You may provide a justification for each requested redaction, but the final decision will be the City's.

Please provide this information to me on signed letterhead, no later than \_\_\_\_\_ by 5:00PM (Mountain Time). Unless the City is otherwise notified, all requested material may be released to \_\_\_\_\_ on \_\_\_\_\_.

If a records requestor or the City files an action relating to records withheld from a requestor, it will be the responsibility of the proposer to intervene in and defend any claim or action related to the City's non-disclosure of such information.

## **COMPETITIVE PROPOSAL PROCEDURES:**

The purpose of D.R.M.C. 20-62 & 63 is to provide procurement staff with adequate authority to conduct the City's procurement transactions by fair and open competition under varying market conditions in order to satisfy its needs for supplies, equipment, services, and maintenance and repair at the most economical prices.

Fair and open competition is a basic tenet of public procurement. Such competition reduces the opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically. Since the marketplace is different for various supplies, equipment, services and maintenance and repair, these policies authorize a variety of source selection techniques designed to provide the best competitive solutions.

Competitive sealed proposal and simplified small purchase procedures, therefore, are recognized as valid competitive procurement methods when used in accordance with the criteria and conditions set forth in D.R.M.C. 20-62 & 63.

It shall be the policy of this department that D.R.M.C 20-62 & 63 are strictly adhered to.

## **ENVIRONMENTALLY PREFERRED PURCHASING (EPP)**

All formal bids shall include an EPP assessment.

All purchase orders against "One-time" bids require the Standard EPP Comment containing "NA" on the Attributes line and the one-time bid number on the One-Time Bid line, or an established

Environmental Positive Attribute code on the Attributes line and the one-time bid number on the One-Time Bid line; no other text is to be entered on these lines. Comments are to be entered in the established format as shown in the below examples. Adding text in the Informal and Comments lines is optional

All Master Purchase Orders resulting with EPP attributes require the Standard EPP Comment in the Comments of the contract. Environmental Positive Attribute code on the Attributes line are to be entered, no other text is to be entered on these lines. Comments are to be entered in the established format as shown in the below examples.

Environmental Positive Attributes not applicable

Attributes: NA  
One-Time Bid:1234  
Informal Bid: NA  
Comments: NA

Example: Environmental Positive Attributes achieved

Attributes: BB  
One-Time Bid: 1234  
Informal Bid: NA  
Comments: NA

Purchasing will follow the guidelines established in XO-123: Denver Office and Sustainability Policy

PURPOSE: This Executive Order creates the Office of Sustainability and establishes it as the successor to the Greenprint Denver Office. and establishes the sustainability policy for the City and County of Denver. The following Executive Orders and Memoranda are hereby canceled and superseded  
by this Executive Order 123, dated March 11, 2013.

## INFORMAL PROPOSAL PROCEDURES

Per Denver Revised Municipal Code Section 20-63 (b) informal proposal procedures shall be undertaken in a manner that will provide for maximum competition among vendors and maximum economy to the City. Solicitations for proposals (informal process) may include posting on the third party solicitation posting system website, telephone, email, fax or a written document containing all terms and conditions normally incorporated by formal proposal procedures which is posted on and required to be returned in a “sealed form;” or any combination of the above. The method of informal solicitation shall be at the buyers’ discretion.

Using informal proposal procedures for supplies or services which amount to or are less than \$10,000 or “Open Market,” is at the Buyers’ discretion.

## **FILE APPEARANCE:**

### **PROCEDURE: Purchasing Division Proposal/RFP File Appearance**

These files should be labeled with the appropriate contract, proposal and request for proposal (RFP) number.

Standardized File Naming Convention

#### **All Purchasing files should be comprised of:**

- a. Correspondence should include original specifications from the agency(ies), any of their modifications, and the final approved draft. This may also contain in its own section any correspondence from the agency(ies) in regards to the award recommendation.
- b. E-mails and letters, any communications received or noted during the entire proposal, proposal and award process may only be disclosed after talking to a City Attorney.
- c. The buyer is to include in this section of the file any audit sheet that gives detailed reason as to why a proposal or proposal was rejected.
- d. It is recommended that any work sheets and drafts other than final draft should be disposed of upon acceptance of proposal/RFP for evaluation or at the latest when a final award or contract has been completed. .
- e. Proposals should include-vendor download lists and the original proposal/RFP document including any addenda or official correspondence that was sent out to all who received a proposal. All proposals received from the vendors must be included. Finally included in this section should be the vendor pricing tab sheet that the buyer creates, along with a summary of the technical evaluation scoring and the individual technical evaluation score sheets provided by evaluators (in the case of RFPs).
- f. Vendor responses are public record and may be released upon request, in strict accordance with the requirements of the Colorado Open Records Act. It is required that such request should be received in writing. However, the City Attorney does desire notification of such requests if the award is being questioned or if the requested shows dissatisfaction with the award process.
- g. It is recommended that when a request comes through during the term of the award/contract for previous pricing that the buyer's pricing tab sheet be the one sent to the requestor upon such a request. Such a release is to be made as soon as possible. If the requestor asks for additional information and the proposal process was an RFP process then such requests are subject to CORA. If the procurement process was a bid process where the award was governed by a responsible, responsive bid providing low bid meeting specifications then the documents may be

released or open for public viewing. If the buyer has any questions regarding what should be released such questions should be directed to the Buyer Supervisor or Deputy Director.

- h. Award documentation should include the supervisory approvals, copies of letters and or memos notifying the vendor and appropriate City agencies of the award and or contract process.

**Any files that may be reviewed by a dissatisfied vendor/proposer and or may be involved in litigation should include a separate folder that may contain the following**

- 2. Attorney/Client Privilege -Work product that is done for the City Attorney or at his/her request is “privileged”. This includes charts, letters, E-mails.
  - a. Do not give this information to a third party because that action waves the attorney/client privilege.

## **SOLICITATION TIME:**

Except as provided under emergency procedures, the minimum time for the proposal opening after placing formal level solicitations on the third party solicitation posting system website shall be not less than ten (10) business days. When special requirements or conditions exist, the Purchasing Director may shorten the proposal time, but in no case shall the time cycle be shortened to reduce competition.

Lengthy or complicated procurements or when a pre-proposal is scheduled may have a time period which is longer than the standard ten (10) business days. The buyer is responsible for evaluating the complexity of the proposal process and the possible vendor responses to determine if additional time is needed.

It is recommended that if the proposal process includes a pre-bid that such an event take place no less than seven (7) calendar days from the date of release. The buyer may shorten this timeframe with approval from his/her supervisor.

Proposal / RFP Time Due for openings, where hard copy responses are required or allowed, should allow for internal mail delivery to the Purchasing Division. Mail delivery is guaranteed to Purchasing by Noon every business day. Openings should be scheduled during afternoon hours.

Any formal level solicitations requiring less than ten (10) business days between date of advertisement and opening date must be approved by the Director of Purchasing.

Requests for Proposals (RFP's) for some services may require a minimum of thirty (30) calendar days for a response.

## **PROPOSAL DOCUMENT:**

### **Incorporation by Reference:**

Solicitations may incorporate documents by reference provided that the Invitation for Proposals' specifies where such documents can be obtained or includes copies of such documents.

### **Acknowledgement of Addenda:**

The Invitation for Proposals shall require the acknowledgement of the receipt of all addenda issued.

### **Proposal Time.**

Proposal time is the period of time between the date of the Advertisement for Proposals and the date set for opening of proposals. In each case proposal time will be set to provide vendors a reasonable time to prepare their proposals

## **RECEIPT, OPENING AND RECORDING OF PROPOSALS:**

### **Opening and Recording: (Excluding RFP's)**

Proposals shall be opened publicly, in the presence of one or more witnesses, at the time and place designated in the proposal. Formal Proposals submitted electronically on the third party solicitation posting system website shall still be opened and read publically. At the discretion of the buyer, vendors may be offered a printout of the information, as it would otherwise be read.

The names of attendees shall also be recorded at the opening.

The names of the vendors, the proposal price, addenda received, alternates, proposal security, time of completion, and such other information as is appropriate, shall be read aloud or offered via a printout. Proposals shall be tabulated or a proposal abstract made as soon as possible.

All proposal responses shall be the responsibility of the Buyer until after the time of award when the file has been placed in the File Room or stored electronically.

After the proposal is awarded the proposals shall be available for public inspection except to the extent the vendor designates trade secrets or other proprietary data to be confidential

Material designated as confidential in the vendor's proposal shall be isolated and identified within the proposal in order to facilitate public inspection of the non-confidential portion of the proposal. Prices, makes and model or catalog numbers of the items offered, deliveries, and terms of payment shall be publicly available at the time of proposal opening regardless of any designation to the contrary. The Purchasing Director or his designee shall examine the proposals to determine the validity of any requests for nondisclosure of the trade secrets and other proprietary data identified in writing) in compliance with CORA.

Data regarding any particular proposal becomes public information immediately after a decision or award relating to that proposal has been made.

## **RESPONSIBILITY AND RESPONSIVENESS OF VENDORS:**

### **Standards of Responsibility:**

#### A) Standards.

Factors to be considered in determining whether the standard of responsibility has been met include whether a prospective contractor or vendor has:

- (1) the available and the appropriate financial, material, equipment, facility, and personnel resources and expertise, or the ability to obtain them necessary to prove capability to meet all contractual requirements;
- (2) a satisfactory record of performance;
- (3) a satisfactory record of integrity;
- (4) qualified legally to contract with the City; and
- (5) supplied all necessary information in connection with the inquiry concerning responsibility.

#### B) Information Pertaining to Responsibility.

The proposer shall supply information requested by the Purchasing Division concerning the responsibility of such proposer. If such proposer fails to supply the requested information, the Purchasing Director shall base the determination of responsibility upon any available information or may find the prospective proposer non-responsible if such failure is unreasonable.

#### C) Ability to Meet Standards:

The prospective proposer or vendor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:

- (1) evidence that such proposer possesses such necessary items;
- (2) acceptable plans to subcontract for such necessary items; or
- (3) a documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.

#### D) Written Determination of Non-responsibility Required

If a vendor who otherwise would have been awarded a contract is found non-responsible, a written determination of non-responsibility shall be prepared by the buyer and approved by the Purchasing Director. A copy of the determination shall be sent promptly to the non-responsible vendor. The final determination shall be made part of the procurement file.

Responsiveness of proposals is defined as "a vendor who has submitted a proposal which conforms in all material respects to the proposal.

### **PROCUREMENT PURCHASE ORDER FOLLOW UP:**

In the event the goods/services are not furnished by the required due date, the requesting department should first:

- contact the vendor to determine the reasons for delay
- identify when the goods/services will be furnished
- document such contact information including, name of the person spoken with, date and time of the contact.

In the event the vendor indicates that they do not intend to furnish the goods/services, or the reason for the delivery delay is not acceptable, the requesting department should immediately contact the Buyer. The necessary steps will be initiated to secure the goods/services from other available sources and determine whether or not appropriate steps should be taken to recover the additional cost which may be incurred by the City.

### **PROCEDURE FOR HANDLING CONSTRUCTION RELATED PURCHASE ORDERS AND ANNUAL PROPOSALS WITH SBE GOALS**

- (1) Construction related projects with a value under \$25,000 will receive a 0% SBE Goal and do not need to go through the Goals Setting process.
- (2) If a Purchase Order over \$25,000 is received that involves construction related activities, the buyer shall first contact the City Attorney responsible for Public Works for a determination that the project in question is Goals worthy and should be submitted to the Division of Small Business Opportunity.
- (3) If the City Attorney determines that the project is subject to SBE Goals, the Buyer must contact the responsible Agency representative. The Agency shall be responsible for coordinating the presentation to the Division of Small Business Opportunity.
- (4) Projects over \$25,000 and up to \$100,000 will have their Goals set by the DSBO Director and a Goals Form detailing the project needs to be submitted to the Division of Small Business Opportunity.
- (5) Projects over \$100,000 will need to have a Goals Committee Form submitted and will need to be reviewed by the Construction Goals Committee which meets the 2nd and 4th Mondays of each month.



- (6) After a Goals % determination has been reached, the Buyer shall be responsible for making sure that the proper SBE/Goals paperwork is included in the proposal document before it is sent out to the vendor community.
- (7) A representative of the Division of Small Business Opportunity shall be invited to all pre-proposal/pre-proposal conferences involving Goals.
- (8) When proposals are returned by the vendors, the buyer shall forward a copy of the three low proposals, along with the required SBE paperwork that the vendor has provided, to the Division of Small Business Opportunity for evaluation. In the case of an RFP where an evaluation committee/process is involved, submit all paperwork on the selected vendor for review by SBOD, along with a memo explaining that this vendor was not selected using the standard three low proposal scenario. If there is a viable second alternative to the committee selected vendor, their proposal should be submitted as well. It is the buyer's responsibility to inform the selection committee and the agency that the vendor selection is contingent upon approval by SBOD.
- (9) In ALL instances, SBOD must receive a copy of the final Purchase Order or Contract document for their records.

## SPECIAL PROGRAMS

### COST SAVINGS/COST REDUCTION PROGRAM:

One of the best indicators of an effective procurement function is the measurement of its contribution to cost reduction. Buyers are in a unique position to have a significant effect on the cost of services or supplies, and by being constantly on the alert for cost reduction opportunities can stretch to its maximum value every tax dollar expended by the City and County of Denver.

To stimulate the Purchasing Division's contribution to City-wide cost savings, a formal Cost Savings/Cost Reduction Program has been established.

The Cost Reduction Report quantifies and documents savings achieved by the unusual and extraordinary efforts of any member of the procurement staff. Cost savings/reduction categories include:

- operational savings
- design change
- specification change
- substitution
- new source
- consolidated buy
- incremental savings
- cost avoidance
- negotiated savings
- discount terms
- duration of order
- make or buy
- re-proposal
- proposal reduction

Procurement Staff shall make every effort to achieve cost savings on all procurements. Accordingly all instances of cost savings, cost reductions and cost avoidances shall be documented in the cost savings data base within thirty (30) calendar days from issuance of Contract, MPO or PO.

In an effort to capture all Savings the following criteria is offered for savings on an MPO. Cost Savings does sometimes occur when there isn't a requisition. It can be recorded as cost savings or avoidance using the methodologies as outlined below:

### Previous Item \$ vs. This Item \$:

- Unit \$, apples to apples - similar or same Qty

Item Price Previously locked in on MPO versus Item Price Currently locked in for new MPO

Use quantities as defined by the agency or estimated by the buyer for the annual usage:

- Take the old MPO's price times estimated quantity to realize the annual extended amount. Do this for each identified item to get a total for the entire contract.

- Take new MPO's price times estimated quantity to realize the annual extended amount. Do this for each identified item to get a total for the entire contract.

If awarding to a different manufacturer:

- Take this year's incumbent vendor price times estimated quantities to realize the potential annual extended amount. Do this for each identified item to get a total for the entire contract.

This provides three different potential total annual usage amounts on an MPO. The cost savings will occur if the current MPO's total annual cost is less than one or both of the other total amounts.

If the amount paid by the City goes up from the previous MPO, it is still possible that there might be a cost savings/avoidance. For example:

- Even if the price goes up may be able to reference other government bid as benchmark (See Section below on Government Competitive and Non Competitive Bids)

The buyer and supervisor should determine which methodology is the best method for recording the anticipated cost savings for the first year of the Master Purchase Order.

The objective is to record justifiable savings that can be defended.

- Typically, one would take the current MPO's total amount less the previous MPO's total amount, which is the only option if the manufacturer line is not changing. The buyer must ensure that the pricing from the last MPO is so old, it's not defensible.
- If the manufacturer is changing, an approach to cost savings is to take the incumbent vendor bid pricing less the new vendor pricing. This provides us with actual pricing from today. If we were to sole source the contract and accept all price increases we would pay what the incumbent submitted, but due to competitive bidding and/or accepting approved acceptable equals, a savings is realized.

### 3rd Party/Index Pricing:

#### *Introduction*

Third party price indices are a normalized average of prices for a given class of goods or services in a given region, during a specific interval of time. It is designed to help compare how prices, taken as a whole, differ between time periods and/or geographical locations.

Several examples of third party price indices include

- Consumer Price Index
- Producer Price Index
- Gross Domestic Product Deflator/Inflator
- Producer Price Index for Finished Lubes.

### *Purchasing Applications*

Price indices have several potential uses for our Purchasing Department. Broad indices such as the Consumer Price Index, measure the economy's price level or a cost of living and may be useful with MPO's for certain consumables. More narrow price indices such as the Producer Price Index for Finished Lubes can be useful in determining fluctuations within a particular product area, such as our Oil and Lubrication MPO.

Price indices may also be used to establish a "benchmark" for cost savings during the duration of a given MPO. For example, if you use a price index established at the beginning of a MPO, and do not allow any price increases during the duration of the MPO, you may be able to document cost savings by comparing the index after one year to the beginning benchmark established at the beginning of the MPO.

### *Guide For Using Indices*

When using price indices, you must first identify the index that most accurately reflects the market conditions for your commodity. One way to do this is to "Google" the commodity area with the words "price index" included, i.e., price index for finished lubrication. This may be useful in determining the feasibility of using (or not using) the index to allow price increases/decreases during the term of the MPO. If the commodity is particularly volatile, as in steel, you may want to use an index so you can get the best price at the inception of the MPO and also allow for price increase/decrease during the duration of the contract. If the commodity is not particularly volatile, you may determine that the index should be used only for establishing a benchmark for cost savings.

### *6 Key Points When Using Indices*

Several things to keep in mind when using indices include:

- Determine volatility of your commodity
- Try to find an index that most accurately reflects the given commodity
- Determine whether or not it would be advantageous to utilize an index
- If price changes will be allowed during the contract period, determine time frame for price adjustments (monthly, quarterly, bi-annually or annually) by reviewing the used index and look at how often the index is updated
- By looking at the volatility of the index, you may be able to determine whether or not it will increase competition by allowing for price adjustments.
- Consult your supervisor for feasibility using price indexing

### **Government Competitive and Non Competitive Bids:**

Buyer must weigh each point to determine what's in best interest of City:

Non Competitive and Competitive Government Bids:

- Comparative buying power : Are they buying for similar size entity, similar/same products or services

- Are these really competitive prices? Or just price Agreements?
- Why reinvent the wheel?
- If conducted in a competitive manner, would we achieve any higher savings?
- Does entity that conducted bid have same buying power as Denver?
- Are the products or services the same?
- Are the vendors involved vendors we would use?
- Was it straight pricing? How much negotiating did the other entity do?
- Is it with a corporation like Microsoft who will take issues with our terms and conditions

Bottom line: each bid should be looked at individually to determine:

- Evaluate ease of piggybacking vs. cost of doing our own bid
- May consider using to save time and effort
- May be used as a benchmark against either our current quoted pricing or the pricing we realize through competitive bidding
- May also be used as starting point for negotiation and if making large procurement, ask for additional concessions.
- Can be used for Sole Sources / Professional Preferences requests to avoid recording a bid exception
- Price Agreements & GSA contracts may not be competitively bid
- Even if not competitive may be used as benchmark or may still be used as a cost savings measure :
  - For example : GSA, 11-22 program, buying equipment where manufacturer line is standardized so will not accept approved equal and there is no distribution network, so no competitive market, but through requesting GSA discount from Mfg. am able to record cost savings from quote and not notate a bid exception on PO

As with any approach to procurement or recording cost savings / avoidance, the thought process must be discussed with your supervisor to flush out the alternatives.

### Negotiating For Best And Final Offers (BAFO):

- Ensure there is no language in the RFP that restricts a BAFO approach. Only use BAFO language in RFP's
- Sole source requests even with requisitions: Having that conversation with vendor "...I can't present to supervisor for approval with this pricing, cannot accept the no competitive market..." In an effort to achieve cost savings that otherwise would not have been achieved.

### Process / Product Improvement:

1. Process Improvement – Working with the Agencies to examine and improve the current process. Having a discussion with agency and ensure they have thought about the scope operationally before going forth to ensure savings can be sought.

Observe and Simplify using Work Simplification:

- **List the steps** of the process, with attention to detail
- **Estimate Cost Baseline** for current process.

- **Question the steps** of the work and find opportunities to improve - Why, What, Where, When, Who and How.
- **Eliminate** unnecessary steps
- **Combine** steps
- **Smooth out** the sequence of steps
- **Change** who does them if necessary
- **Improve** how they are done
  - Make sure that the people affected agree on the changes.
  - Do what has been figured out and agreed upon.
- **Calculate new cost** and any cost savings

**Example:** Janitorial RFP has tasked the vendors to develop an execution plan which examines work simplification by looking at work times and their impact on the number of personnel required.

2. Product Improvement – Working with the Agencies to examine the specified product and determine if alternates are acceptable.

- **List the features, functions and benefits** of the specified product
- **Research alternate products** with same features, functions and benefits.
- **Bid out** specified and alternate products
- **Estimate Cost Baseline** for current product.
- **Evaluate bids** of all products
- **Award** to successful bidder
- **Calculate new cost** and any cost savings
- **Follow-up** with agency after product has been put to use.

**Example:** RFP for Window Coverings for City & County Bldg. Architect and Facilities had specified turning wands for each window to adjust the blinds. Due to the length of the blinds several vendors suggested providing cords due to the extended life that could be provided. The architect initially declined to make a change, however working with Facilities eventually convinced them to accept the cords. In this case there was no immediate cost savings; however the life-cycle cost should be reduced.

## Budget:

Each Buyer should have a conversation with the Budget Analyst for the agency they are working with on a large procurement for, an annual or a service request. By doing so the buyer establishes a relationship, ensures the appropriate parties are at the table to make the necessary decisions as the procurement develops. Finally the Budget Analyst may be able to assist in determining:

- Finding the right number for a possible benchmark
- Perhaps identifying an Annual that is tracked as a line item, controlled asset, ie: dell computers
- Comparing Bids from year to year if able to identify line item budget
  - This is a good tool to track cost savings, Break down pricing to a unit cost

- Identify ways to configure spend or unit cost post bid, for new bid or to compare to new bid, i.e.: port-a-potties, even though items in bid are based on time of rental, could get an aggregate cost per port-a-potties for last MPO and compare to new MPO?
- Allows for possible conversation with agency that may realize process improvement which will result in refined scope and cost avoidances
- When we are aware of the budgeted amount either via requisition, schedule, grant, etc. then if we are able to save money which allows the City to do more than originally planned, this is a type of cost savings.
  - i.e.: Purchasing Equipment budgeted as X dollars on long bill, when bid out comes in for less, savings may be returned to General Fund or allows agency to procure additional needed options or equipment that may not have been able to purchase.

**List and Discount Cost Saving/Avoidance Analysis:**

When you have a Master Purchase Order with only One Manufacturer line awarded on it, there is an opportunity to do an analysis after year 1 and record the savings.

*Application*

Run a spend analysis of the entire contract spend for the 1 manufacturer line after year 1. The spend is based off a locked in percentage adjustment, typically a list minus scenario. Review the bids submitted during the competitive bid process and average the percentage adjustments bid from all other bidders. Apply the figures to the example below to realize the potential cost savings:

List and Discount Cost Saving Analysis							
Item # 1	Vendor	Vendor	Vendor	Vendor	Vendor	Max Discount	Average Discount
Cogswell Cogs OEM Parts	A	B	C	D	E	15%	10%
Proposed Discount	5%	10%	12%	<b>15%</b>	8%	15%	10%
<b>Vendor D was Awarded</b>							
	Dollars Spent	\$ Discount					
Spend After one Year with 15% Discount ->	\$ 100,000.00	\$ 17,647.06					
Spend if no discount existed->(100k/.85)	\$ 117,647.06	\$ -					
Spend if Average 10% Discount Was Applied	\$ 105,882.35	\$ 11,764.71					
<b>Cost Savings/ Avoidance after Year One-&gt;</b>	<b>\$</b>	<b>5,882.35</b>					

**Conclusion:**

Ultimately the buyer must be aware of these methodologies and determine if any apply pre or post bid/procurement. Then present to their supervisor with justification as to why it's cost savings that should be recorded.

**M/W/SBE GOODS AND SERVICES ORDINANCE POLICIES AND PROCEDURES**

For all solicitations, submit the following information to the Programs Group to determine if the commodity requested is in a category covered by the Ordinance:

Type	Information
Required	Solicitation Number
Required	Description of Items (this may, or may not be the same as the Solicitation Description)
Required	Solicitation Method (RFP/Hard Bid)
Required	Estimated Amount
Optional	Solicitation Description
Optional	Applicable NIGP Code
Optional	Examples Potential Suppliers
Optional	Attachments, e.g.: specification, solicitation document, etc.
Optional	Any other notes the buyer feels may be helpful

### Procurements Less Than \$50,000 (Bids Based On Price Or Requests For Proposal)

If multiple commodities are requested and one or more is covered, the Programs Group will determine whether the covered commodity or commodities should possibly be bid out separately.

- If the commodity is from a category covered by the Ordinance, the Programs Group will log into B2G to see whether three vendors are certified for the applicable NAICS Code(s). **These procurements are available to Small, Women Owned and Minority certified vendors, but Women Owned and Minority certified vendors must also be certified as Small Businesses by DSBO to participate.**
- If three or more vendors are certified under the applicable NAICS Code(s), the Buyer will issue an Informal Bid, *in writing*, directly to these vendors ONLY. The Buyer shall not post the Informal Bid on the Bid Net website. The bid or RFP instructions must state that the certified vendors must self-perform no less than 75% of the total amount of the resulting contract or purchase order. The Buyer must submit the 75% self-performance certification forms from all vendors to DSBO for review and approval prior to making an award.
  - The Buyer shall provide the Programs Group with a spreadsheet summary of the award for tracking purposes. NAICS Codes checked, three or more vendors found – Defined Pool Used – Bid Results
- If the Programs Group determines that three vendors are not certified under the applicable NAICS Code, the Buyer shall conduct a regular Informal bidding process.
  - Any certified vendors identified must still be included in the informal solicitation.
  - If three certified vendors are not available, the Buyer shall report to the Programs Group the date, agency, Purchase Order, dollar amount, awarded vendor and the fact that three or more certified vendors were not available for the solicitation. There are two possible outcomes to report:
    - less than three certified vendors found – normal bidding procedures used – majority vendor awarded



- less than three certified vendors found – normal bidding procedures used – certified SMWBE vendor awarded.
- EXCLUSIONS FROM DEFINED POOL REQUIREMENTS:
  - Purchases paid for with Federal or State grant funds where there are contract requirements, terms or conditions that are inconsistent with the terms of the Ordinance.
  - Purchases excluded by the Purchasing Division from bidding procedures as identified in Section 20-64 of the DRMC.
  - Purchases made using cooperative governmental agreements pursuant to Section 20-64.5 of the DRMC.
  - Purchases made through the City's Non-Purchase Order Voucher (NPOV) procedures as identified in City Fiscal Rule 8.1.

### Procurements Between \$50,000 And \$250,000 (Bids Based On Price Only)

1. The Programs Group shall determine if the commodity requested is in a category covered by the Ordinance.
  - If multiple commodities are requested and one or more is covered, the Programs Group shall determine whether the covered commodity or commodities or services exceed \$10,000 and should possibly be bid out separately, either as informal bids (see Section A) or as a separate formal bid using Preference Points.
2. If the commodity is from a category covered by the Ordinance, the Programs Group shall log into B2G to see whether there are vendors that are certified in the applicable NAICS Code(s). **All certified Small Businesses, including Women owned and Minority vendors who are also certified as Small Businesses within the applicable NAICS Codes, are to be included on the Invitation to Bid list and notified of the opportunity.**
3. The Buyer shall prepare and issue a formal, sealed bid, posting it on the Rocky Mountain e-Purchasing (Bid Net) website. The bid will be available to SBE, MBE, WBE and majority vendors.
4. An optional pre-bid conference may be scheduled (mandatory or non-mandatory)
5. Only DSBO certified vendors will receive the 10% Preference Points. SBE, MBE and WBE vendors that are not DSBO certified will be treated as majority vendors for the purpose of the pricing evaluation. Bidders currently certified in good standing as Small Business Enterprises (SBE) by the Division of Small Business Opportunity (DSBO) of the City's Office of Economic Development will be eligible for a 10% pricing preference for evaluation purposes only, provided that they are not acting as a broker or as a business conduit for a 3rd Party firm (as defined in DRMC Section 28-123), and provided that they demonstrate to the satisfaction of the City that they are self-performing at least 75% of the Commercially Useful Function (as defined in DRMC Section 28-123) involved with the goods or services requested.
6. Awarding the bid:
  - A public bid opening will be conducted.
  - If a certified Small, Women Owned or Minority vendor wins the bid based upon the use of Preference Points, they *must* self-perform a minimum of 75% of all services or

goods independent of any other firm. All certified vendors must fill out the DSBO bid form and you must submit the forms provided by all certified vendors to DSBO for review and approval prior to making a final award.

- The total price offered by the low cost certified SBE vendor, minus the 10% pricing preference, will be compared against the low cost non-certified firm. Should the total pricing of the low cost SBE vendor, minus the 10% pricing preference, be lower than the actual pricing offered by the low cost non-certified firm, the certified SBE will be awarded the bid **at their quoted total pricing**.

EXAMPLE:

Low Cost Majority Vendor	Low Cost Certified SBE Vendor
\$98,000	\$105,000
X 1	X .90 (10% PREFERENCE POINTS)_
\$98,000	\$ 94,500 (AWARDED VENDOR)

Purchase Order is cut to the Low Cost SBE Vendor at the \$105,000 Quoted Price

- If a DSBO certified vendor is the outright apparent low bidder, then Preference Points will not figure into the decision.
7. The Buyer shall provide the Programs Group with a spreadsheet summary of the award, clearly identifying DSBO Certified Vendors and the use of Preference Points for tracking purposes. Include information on the Purchase Order, Contract or MPO issued (date, awarded vendor, dollar amount). There are two possible things that must be reported:
    - Preference Points used, but award made to majority vendor. Report the dollar difference between the low certified SWMBE bid amount, with Preference Points added in, and the low bid majority vendor
    - Preference Points used, and award made to a certified SMWBE vendor. Report the actual total dollar amount quoted by the selected certified SWMBE vendor and the actual total dollar amount quoted by the lowest majority vendor.
  8. EXCLUSIONS FROM PREFERENCE POINT REQUIREMENTS:
    - Purchases paid for with Federal or State grant funds where there are contract requirements, terms or conditions that are inconsistent with the terms of the Ordinance.
    - Purchases excluded by the Purchasing Division from bidding procedures as identified in Section 20-64 of the DRMC.
    - Purchases made using cooperative governmental agreements pursuant to Section 20-64.5 of the DRMC.
    - Purchases made through the City's Non-Purchase Order Voucher (NPOV) procedures as identified in City Fiscal Rule 8.1.

### Procurements Between \$250,000 And \$1,000,000 (Bids And Rfps) And Purchases Of All Goods And Services Not Included In Defined Pool, Bid Preference And Goals Programs - Independent Partnerships

1. The Buyer shall include Executive Order 101 diversity and inclusiveness language in all bid/RFP documents, along with Independent Partnership - Disadvantage, Minority and

Women Owned Business Clause that encourages, but does not require, participation by and independent partnerships with SBEs, MBEs and WBEs.

2. The Buyer shall prepare and issue a formal, sealed bid/RFP, posting it on the Rocky Mountain e-Purchasing (Bid Net) website. **The bid/RFP will be available to SBE, MBE, WBE and majority vendors.**
3. If the commodity is from a category covered by the Ordinance, the Programs Group shall check B2G to see whether there are vendors that are certified for the applicable NAICS Code(s). **All certified Small, Women owned and Minority vendors are to be included on the Invitation to Bid list and notified of the opportunity.**
4. No goals or preference points will apply at this procurement level.
5. If the procurement is a bid, based on price only, a Public Bid Opening will be conducted.
6. Even though no goals or preference points apply, participation by certified Women and Minority owned businesses in the Purchase Order or Contract, either as a “prime contractor” or as a “sub-contractor”, must be reported to the Programs Group.

### Procurements Over \$1 Million (Bids and RFPs)

1. If the requested good or service is determined by the Programs Group to be from a category covered by the Ordinance, the buyer must contact the Goals Committee and request a hearing to determine the applicable Goal to be set. The Goals Committee makes a recommendation and the final Goal is set by the DSBO Director.
2. The Buyer shall prepare and issue a formal, sealed bid/RFP, posting it on the Rocky Mountain e-Purchasing (Bid Net) website. All vendors are eligible to respond. If the commodity is from a category covered by the Ordinance, the Programs Group shall check B2G to see whether there are vendors that are certified for the applicable NAICS Code(s). All certified Small, Women owned and Minority vendors for the applicable NAICS Code(s) are to be included on the Invitation to Bid list and notified of the opportunity.
3. The buyer must insert language regarding the applicable Goal in the bid/RFP and ensure that all required DSBO forms are included.
4. An optional pre-bid conference may be scheduled (mandatory or non-mandatory) to discuss the Goal that is set and how to respond. If a pre-bid is scheduled, a DSBO representative shall be invited to attend.
5. If the procurement is a bid, based on price only, a Public Bid Opening will be conducted. Vendors in attendance will be advised that any award is subject to final approval by DSBO. A copy of the bid submitted by the apparent low bidder will be provided to DSBO for review and certification.
6. If the procurement is for an On-Call contract, the Purchasing Director may determine to address the procurement Goal by means of a compliance plan for utilization of MBEs and WBEs on the resulting contract or purchase order, or for alternative demonstration of good

faith efforts by the bidder or proposer. **This compliance plan must be approved by the DSBO Director.**

7. If the procurement is a RFP, a copy of all proposals received will be provided to DSBO for review and certification before they are released to the evaluation committee. The proposal of any vendor that is disqualified by DSBO will not be provided to the committee for scoring.
8. Compliance with the established Goal will be monitored by DSBO.
9. **EXCLUSIONS FROM GOALS REQUIREMENTS:**
  - Purchases paid for with Federal or State grant funds where there are contract requirements, terms or conditions that are inconsistent with the terms of the Ordinance.
  - Purchases excluded by the Purchasing Division from bidding procedures as identified in Section 20-64 of the DRMC.
  - Purchases made using cooperative governmental agreements pursuant to Section 20-64.5 of the DRMC.
  - Purchases made through the City's Non-Purchase Order Voucher (NPOV) procedures as identified in City Fiscal Rule 8.1.
  - Waiver granted by DSBO Director.

## **PROCUREMENT POLICIES AND PROCEDURES FOR FEDERALLY FUNDED PROGRAMS**

June 2017

Reference 2 CFR 200.318-326

### **Procurement Policy Addendum**

**Created by Denver Purchasing in collaboration with Denver City Attorney Office**

1. **Purpose of procurement standards.** These standards establish procedures for the City and County of Denver, ("the City") for the procurement of supplies and other expendable property, equipment, and services utilizing federal funds. All agencies, departments and operations of the City expending federal grant monies shall adhere to these standards, as follows, as they may be amended or supplemented over time. These standards supplement Executive Order 8 and in the event of a conflict, such as threshold dollar bidding requirements these standards shall apply.
2. **Code of conduct.** No employee, officer, or agent shall participate in the selection, award, or administration of a contract or purchase order if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the entity selected for an award. The officers, employees, and agents of the City shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to sub agreements except for where the financial interest is not substantial or the gift is an unsolicited item of nominal value. Members of the City's council shall comply with all relevant fiduciary duties, including those governing conflicts of interest, when they vote upon matters related to procurement contracts in which they have a direct or indirect financial or personal interest. Officers, employees, directors, and agents of the City shall be subject to disciplinary actions for violations of these standards. This code of conduct

supplements the City's Official Code of Ethics.

**3. Competition.** All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The City shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the City, price, quality and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the City. Any and all bids or offers may be rejected when it is in the City's interest to do so. In all procurement, the City shall avoid practices that are restrictive of competition. These include but are not limited to:

- (a) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (b) Requiring unnecessary experience and excessive bonding;
- (c) Noncompetitive pricing practices between firms or between affiliated companies;
- (d) Noncompetitive awards to consultants that are on retainer contracts;
- (e) Organizational conflicts of interest;
- (f) Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement; and
- (g) Any arbitrary action in the procurement process.

**4. Methods of Procurement to be followed.**

(a) Procurement by Micro-purchases. Micro-purchase is the acquisition of supplies or services under \$3,500. To the extent practicable, the City must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the City considers the price to be reasonable.

(b) Procurement by Small Purchase Procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than \$150,000 (48 CFR Subpart 2.1). If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by Sealed Bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

- (i) A complete, adequate, and realistic specification or purchase description is available;
- (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and
- (iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

- (i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for state, local and tribal governments, the invitation for bids must be publicly advertised;
- (ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- (iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- (iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by Competitive Proposals. Competitive proposals are normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- (1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical.
- (2) Proposals must be solicited from an adequate number of qualified sources;
- (3) The City agency must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

- (4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
  - (5) The City must use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.
- (e) Procurement by Noncompetitive Proposals. Procurement by non-competitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:
- (1) The item is available only from a single source;
  - (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
  - (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the City; or
  - (4) After solicitation of a number of sources, competition is determined inadequate.

## **5. Procurement procedures.**

- (a) All procurement by the City shall comply, at a minimum, with the requirements of subsections (i), (ii), and (iii) below:
  - (i) the City avoids purchasing unnecessary items.
  - (ii) Where appropriate, an analysis is made of lease versus purchase alternatives to determine which would be the most economical and practical procurement.
  - (iii) Solicitations for goods and services provide for all of the following.
    - (A) A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.
    - (B) Requirements which must be fulfilled and all other factors to be used in evaluating proposal submitted in response to solicitations.
    - (C) A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.

- (D) When relevant, the specific features of "brand name or equal" descriptions that are to be included in responses submitted to solicitation.
  - (E) The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.
  - (F) Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.
- (b) All necessary affirmative steps shall be made by the City to utilize small businesses, minority-owned firms, women's business enterprises, and labor surplus area firms, whenever possible. The City shall take all of the following steps to further this goal.
- (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
  - (iii) Dividing total requirements, when economically feasible, into smaller tasks or any quantities to permit maximum participation by small and minority businesses, and women's business enterprises.
  - (iv) Establishing delivery schedules, where the requirements permits, which encourage participation by small and minority businesses, and women's business enterprises;
  - (v) Using the services and assistance, as appropriate, of such organizations as the Small Business Development Agency of the Department of Commerce; and
  - (vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (i) through (v) of this section.
- (c) The type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) shall be determined by the City but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. The "cost-plus-a-percentage-of- cost" or "percentage of construction cost" methods of contracting shall not be used.
- (d) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary



resources.

(e) Debarment and Suspension - No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

(f) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources.

(g) Debarment and Suspension - No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees. Contractors with multiple year contracts will be checked against the GSA list at each renewal time.

(h) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the City is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

(i) The City is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(j) The City is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(k) The City must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the City must not preclude potential bidders from qualifying during the solicitation period.

**6. Procurement of Facilities or Land Special Requirements.** There are no proposals expected for this activity. If such an activity is proposed in the future this section will be updated prior to any such procurement.

**7. Cost and price analysis.** Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action in excess

of the Simplified Acquisition Threshold (48 CFR Subpart 2.1) as Adjusted and currently at \$150,000. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

8. **Procurement records** - Procurement records and files for purchases in excess of the Micro purchase threshold as fixed at 48 CFR Subpart 2.1 (currently \$3,500) shall include the following at a minimum:
  - (a) basis for contractor selection, (b) justification for lack of competition when competitive bids or offers are not obtained, and (c) basis for award cost or price.
9. **Contract administration.** A system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all purchases. The City shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.
10. **Contract provisions.** The City shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. The following provisions shall also be applied to subcontracts.
  - (a) Contracts in excess of the Simplified Acquisition Threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.
  - (b) All contracts in excess of the Simplified Acquisition Threshold shall contain suitable provisions for termination by the City, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.
  - (c) For contracts dealing with construction or facility improvements the City shall comply with all requirements imposed by its funding sources (and the government regulations applicable to those funding sources) with regard to construction bid guarantees, performance bonds, and payment bonds.
  - (d) All negotiated contracts (except those for less than the Simplified Acquisition Threshold) awarded by the City shall include a provision to the effect that the City shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.
  - (e) All contracts, including small purchases, awarded by the City and their contractors where the source of the funds, directly or indirectly, is the federal government, shall contain the following procurement provisions as applicable.
    - (i). Equal Employment Opportunity - All contracts, when funded in whole or part by monies derived from the Federal government (either directly or indirectly),

shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(ii). Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c) - All contracts in excess of \$2000 for construction or repair, when funded in whole or part by monies derived from the Federal government (either directly or indirectly) shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or sub recipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.

(iii). Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7) - **When required by Federal program legislation**, all construction contracts awarded by the recipients and sub recipients of more than \$2000 shall include a provision for compliance with the Davis-Bacon Act (40

U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.

(iv). Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) - All contracts in excess of \$2000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers, when funded in whole or part by monies derived from the Federal government (either directly or indirectly), shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5).

(v). Rights to Inventions Made Under a Contract or Agreement - Contracts or agreements for the performance of experimental, developmental, or research work, when funded in whole or part by monies derived from the Federal government (either directly or indirectly), shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(vi). Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended - Contracts and subgrants of amounts in excess of

**\$100,000, when funded in whole or part by monies derived from the Federal government** (either directly or indirectly), shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(vii). Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contacts for an amount above **\$100,000, when funded in whole or part by monies derived from the Federal government** (either directly or indirectly), shall include a certification by the contracting parties that they have not and will not use Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. and to further require disclosure of any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

(viii). Third party contracting requirements (FTA Circular 4220.1F) - This circular sets forth the requirements a grantee (CITY) must adhere to in the solicitation, award and administration of its third-party contracts. Provisions of this circular will be added to all operating contracts utilizing formula funds for operating assistance.

## PURCHASING POLICY MANUAL REVISION TABLE

Policy Title	Section	Revision Summary	Date	Revision Number	Approved By:
Solicitation Time	E	Added information concerning delivery of mail. Opening should be scheduled in afternoons	12/22/2009	01222200901	JPM
Override Policy for Match Exceptions	L	Added new policy & Procedure	5/27/2010	0527201001	JPM
Procure To Pay (P2P) Policies	D	Added Section all other sections after updated as well	10/14/2010	1014201001	JPM
Override Policy for Match Exceptions	L	Deleted policy & Procedure	10/14/2010	1014201002	JPM
Definitions	A	Added definition for Item File	10/14/2010	1014201003	JPM
Definition	A	Modified definition of P-Card	10/14/2010	1014201004	JPM
Exceptions to the Bidding Procedure	E	Bidding Exceptions	10/14/2010	1014201005	JPM
Purchase Order Delivery Follow Up	G	Deleted	10/14/2010	1014201006	JPM
Environmentally Preferred Purchasing (EPP)	F	EPP Comment Policy added	8/31/2011	0831201101	JPM
Environmentally Preferred Purchasing (EPP)	F	Reference to XO-123 added	09/27/2011	0927201101	JPM
Bidding Disclosure Form	F	Change in DRMC 20-69	05/07/2013	0507201301	JPM
Electronic Records	B	Added new policy	6/28/2013	0628201301	JPM
Electronic Records	B	Added wording of hard copy and electronic	10/24/2013	1024201301	JPM

Policy Title	Section	Revision Summary	Date	Revision Number	Approved By:
Item File Policy	D	Rewritten – and take out procedure	10/24/2013	1024201302	JPM
Exceptions To The Bidding Process	E - 2	Added “is required” to Entrepreneurial Endeavors	10/24/2013	1024201303	JPM
Informal Proposal Procedures / Solicitation Time / Vendor List / Proposal-RFP Addenda / Receipt, Opening and Recording of Proposals	F	Added “Rocky Mountain e-Purchasing System”	10/24/2013	1024201304	JPM
File Appearance	F	Added electronic submissions and evaluation information	10/24/2013	1024201305	JPM
Pre-Proposal Conference	F	Take out Administrative and add Buyer responsibilities	10/24/2013	1024201306	JPM
Tabulation And Award Of Proposals/RFPS	F	Update reference note and (4) rewritten “Apparent Successful Bidder”	10/24/2013	1024201307	JPM
Annual/Term Proposal Renewals	F	Take out DPA reference	10/24/2013	1024201308	JPM
Debarment (Federal Funded) Excluded Parties List Program (EPLS):	I	Update website address	10/24/2013	1024201309	JPM
Agency Relationship With Vendors	J	Deleted	10/24/2013	1024201310	JPM
Removed references to DPA	A & E	Reworded or removed	11/12/2013	1112201301	JPM

Policy Title	Section	Revision Summary	Date	Revision Number	Approved By:
Definitions	A	Added Non-PO Voucher definition	11/12/2013	1112201302	JPM
Spend Analysis Requirement	E	Added Policy	12/02/2013	1202201301	JPM
Definitions	A	Added Unauthorized and Valid Procurement Mechanism	12/03/2013	1203201301	JPM
Unauthorized Purchases	E	Added Policy	12/03/2013	1203201302	JPM
Electronic Records Storage Policy for Bids and RFPS	B	Added Policy	2/7/2014	0207201401	JPM
Signature Authority	C	Update per DRMC	3/24/2014	0324201401	JPM
Unauthorized Purchases	E	Update Dollar Thresholds per DRMC	03/24/2014	0324201402	JPM
Informal Proposal Procedure	F	Update Dollar Thresholds per DRMC	03/24/2014	0324201403	JPM
Low Tie Proposals	F	Update Dollar Thresholds per DRMC	03/24/2014	0324201404	JPM
Bidder's Disclosure	F	Removed-No longer required	3/26/2014	0326201401	JPM
Cost Savings/Cost Reduction Program	C	Add in Program Information	3/27/2014	0327201401	JPM
Agency Relationship With Vendors	J	Added back in	07/29/2014	0729201401	JPU
Opening and Recording: (Excluding RFP's)	F	Printout of results at discretion of buyer, added in filed or stored electronically and added designee in examination of proposals	8/12/2014	0812201401	JPU

Policy Title	Section	Revision Summary	Date	Revision Number	Approved By:
Cover Page	N/A	Updated Director	8/12/2014	0812201402	JPU
Debarment (Federal Funded) Excluded Parties List Program (EPLS):	I	Update name to (SAM) System for Award Management	08/13/2014	0813201401	JPU
MWSBE Purchasing Program	F	Add Ordinance Policy	9/5/2014	0905201401	JPU
CORA	B	Update for fees and contact information Vendors Buyer Supervisors Media Requests John, Mayor's Office Guy Mason-ALL	9/23/2014	0923201401	JPU
Diversity & Inclusivity	A & F	Add definitions and new policy	12/8/2014	1208201401	JPU
Signature Authority	C	Add MPO's to Table	12/8/2014	1208201402	JPU
Tablet Policy	B	Add Policy	2/11/2015	0211201501	JPU
Procedure For Handling Construction Related Purchase Orders And Annual Proposals With SBE Goals	L	Need to review related to program	9/20/2017	0920201701	JPU
Unauthorized Purchases	E	Add consequences	12/8/2014	0920201702	JPU
Cooperative Bid Amendments	E & F	Add into MPO amendments to include COOP	12/8/2014	0920201703	JPU
Cooperative Bids without MPO's	F	20.64.5	12/8/2014	0920201704	JPU



Policy Title	Section	Revision Summary	Date	Revision Number	Approved By:
Increase Allowable Spend	C	Add City Council provision	12/8/2014	0920201705	JPU
MPO Amendments over \$500K City Council & Signature Authority	B	Add in PO / Contracts / MPO's	2/25/2016	0920201706	JPU
Cure Policy	F	Add Policy To be reviewed	3/2/2016	0920201707	JPU
Overtime Policy	Policy	Add Policy To be reviewed	3/24/2016	0920201708	JPU
Unauthorized Purchases	Policy	Add Policy To be reviewed	3/24/2016	0920201709	JPU
Inactivate MPO Policy	Policy	Add Policy To be reviewed	3/24/2016	0920201710	JPU
Close MPO	Policy	Add Policy To be reviewed	3/24/2016	0920201711	JPU
Cooperative Purchases	Policy	Add Policy To be reviewed	3/24/2016	0920201712	JPU
Alternate Work Schedule	Policy	Approved by Executive Director added to document	9/11/2017	0920201713	JPU
Work from Home	Policy	Add Policy To be reviewed	9/11/2017	0920201714	JPU
Collab Lab (Huddle Room)	Policy	Add Policy To be reviewed	9/11/2017	0920201715	JPU
Procurement Policies and Procedures for Federally Funded Programs	Policy	Add Policy To be reviewed	9/15/2017	0920201716	JPU