MEMORANDUM No. 8B

TO: All Agencies Under the Mayor

FROM: Kerry Tipper, City Attorney

DATE: May 19, 2023

SUBJECT: Competitive Selection Policy

This Memorandum No. 8B shall be attached to and become a part of Executive Order 8, dated February 3, 2020, subject “Contracts and Other Written Instruments of and for the City and County of Denver.” Executive Order Memorandum 8B dated January 3, 2012 is hereby canceled and superseded by this Memorandum 8B.

1. Denver owes a duty to its citizens to exercise strong financial stewardship. It is the policy of the City and County of Denver to maintain a fair, open, and competitive market for the goods and services it purchases. This is not only important in order to maintain the quality of key government services and to minimize costs, but also sets a high ethical standard and promotes greater transparency.

2. Denver’s Charter and Code require many contracts to be competitively bid or selected; such as, construction contracts and purchases of supplies, equipment, personal property and connected services. Agencies must continue to follow competitive selection requirements specified in the Charter or Code in selecting contractors or vendors.

3. All other contracts also should be competitively bid or selected, absent special circumstances. Special circumstances may include, among other: emergency situations; supplies or services indispensable to the City that are obtainable only from a single source; situations where standardization of equipment or continuity of service is required; acquisition of interests in real property through purchase or lease; supplies or services required by reason of preferences based on professional advice or judgment; situations where competition does not exist, such as membership in professional organizations, attendance at meetings or conventions; supplies or services provide by other governments; or supplies or services which cost $10,000 or less. For purposes of this section, “professional” shall be defined as a person(s) who is uniquely knowledgeable and technically qualified in the supply, equipment, or service 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 thereto.

4. Selection procedure for those contracts not subject to competitive selection requirements stated in the Charter or the Revised Municipal Code.
a. Contracts of $100,000 or more. Formal advertisement by official publication, as specified by the Manager of General Services, is preferred and should generally precede the issuance of any invitation to bid or request for proposal for contracts not covered by the Charter or Code estimated to amount to one hundred thousand dollars ($100,000) or more. If formal advertisement is not used, bids or proposals shall be requested in writing from at least three (3) responsible bidders or proposers dealing in the supplies or services required. Agencies may not subdivide their contracts to avoid these requirements.

b. Contracts less than $100,000. Any invitation to bid or request for proposal for a contract not covered by the Code or Charter which his estimated to amount to less than one hundred thousand dollars ($100,000) should be requested in writing from at least three (3) responsible bidders or proposers dealing in the supplies or services required, or may be requested by other informal procedure upon notice calculated to inform potential bidders or proposers in a manner that will achieve maximum competition and maximum economy to the city without advertising.

c. Agencies shall document the method of solicitation and require written responses from all bidders or proposers.

5. Agencies should limit the duration of contracts to three to five years at which time a new solicitation should be initiated absent special circumstances. Special circumstances may include, among others, contracts that require a contractor to make significant capital investments to meet the City’s needs, like some concession agreements; supplies or services indispensable to the City that are obtainable only from a single source; situations where standardization of equipment or continuity of service is required; situations where competition does not exist; supplies or services provided by other governments; or situations where economic factors make it unfavorable for the city to re-bid a contract.

6. It will be the applicable manager’s responsibility to authorize and justify any deviation from this policy. Each request for a contract shall specify whether a competitive selection process was used, shall state the method of selection (advertisement, written solicitation of 3 or more contractors, or other procedure); and if necessary, shall state the justification for not using a competitive selection process. Each request for a contract or amendment of a contract in excess of three years shall state the justification for the longer term.