

EXECUTIVE ORDER NO. 8

TO: All Agencies Under the Mayor

FROM: Michael B. Hancock, Mayor

DATE: February 3, 2020

SUBJECT: Contracts and Other Written Instruments of and for the City and County of Denver

PURPOSE: This Executive Order establishes the policy of the City and County of Denver, hereafter referred to as “the City” as to procedures for the regular preparation and execution of contracts and other written instruments or documents which require the assent of the City and which, when executed, will represent or create a legally enforceable obligation or duty of the City, financial or otherwise. Executive Order No. 8, dated June 26, 2006, Executive Order No. 8, dated February 19, 2002, Executive Order No. 8 dated December 28, 1983, Executive Order 9, dated December 1, 1975, Executive Order 53, dated January 14, 1992, and Executive Order 57, Policies for Affirmative Action Activities, August 1, 1978 and all memorandum attachments thereto are hereby canceled and superseded by this Executive Order No. 8.

- 1.0 All agencies shall comply with the procedures outlined in Memorandum No. 8A, dated May 31, 2011, and as outlined in subsequent policy/procedure memoranda which shall further define the provisions and requirements of this executive order and which may, from time to time, be issued by the Department of Law after being approved by the City Attorney. **Contracts are considered one of the highest administrative priorities within the City. While exercising prudent judgment, all Department and Agency Heads are to expedite the processing of contracts. Each Department or Agency must ensure contract compliance throughout the life of the contract.**
- 2.0 Applicable Authority: The applicable authority relevant to the provisions and requirements of this Executive Order No. 8 is Section 2.2.1 of the Charter of the City.
- 3.0 The authority to advise as to what contracts, written instruments or documents require execution in accordance with this Executive Order vests in the Department of Law pursuant to its responsibility under Section 6.1.3 of the Charter to serve as counsel and legal advisor of the Mayor, the City Council, the Auditor and heads of all departments, boards, commissions and officers of the City.
- 4.0 The authority to represent the City and communicate with persons with whom the City may eventually be obligated under contract or other written instrument is reserved only to Department Managers, Agency Heads or the Director of the Division of Real Estate or their designees, except to the extent assistance from other Departments or Agencies is requested by them. In no event shall anyone representing the city purport to commit or obligate the city until all legal and regulatory requirements and the requirements of this Executive Order are complied with, and the contract is properly executed. Although the City may legally approve a contract containing a commencement date that precedes the date of execution and thereby ratify work done prior to execution, such a practice puts contractors at risk of not being paid for their work. Exceptions to the requirement of this Executive Order may be granted by the Mayor in special circumstances or as noted in Section 6.0, below.

- 5.0 For purposes of illustration only and not as a matter of limitation, those contracts, including amendments, written instruments or documents requiring execution in accordance with this Executive Order shall generally include the types of documents listed below:
 - 5.1 Contracts requiring payment or other performance by the City
 - 5.2 Amendments (any change made to a contract except those changes which are allowed by the terms of the original contract such as change orders in construction contracts or mutual extensions in real estate contracts.)
 - 5.3 Concession agreements
 - 5.4 Construction contracts - Management and control of the designing, planning, construction, and reconstruction of all general public improvements, including such remodeling thereof as requires designing or structural changes for all departments, agencies, boards, commissions, and authorities of the City.
 - 5.5 Cooperative Agreements
 - 5.6 Easements
 - 5.7 Grant Agreements
 - 5.8 Intergovernmental agreements
 - 5.9 Leases
 - 5.10 On-Call Contracts and Task/Work Orders
 - 5.11 Personal Services Contracts
 - 5.12 Professional Services Contracts
 - 5.13 Purchase or sale of property
 - 5.14 Revenue Sharing Contracts - where the provider of services will receive a percentage of generated revenues.

- 6.0 For purposes of illustration only and not as a matter of limitation, contracts, written instruments or documents not requiring execution in accordance with this Executive Order shall include:
 - 6.1 Goods and Services procured pursuant to authority residing in the Department of General Services pursuant to Charter Section 2.9.4 and except as provided for in 2.9.4(A).
 - 6.2 Rental agreements for the booking of specific events into city facilities (venues) for periods of thirty days or less per Charter Section 3.2.6(D).
 - 6.3 Agreements relating to bonds and other financings.

- 7.0 All contracts of the City must be signed by the Mayor (or the acting Mayor) and attested by the City Clerk (or Deputy), approved as to form by a City Attorney, countersigned by the Manager of Finance (or Acting Finance Signatory), and countersigned by the Auditor (or acting Auditor) (collectively, the "Charter Signatories"). Before presentation for signature to the Charter Signatories, each contract shall be approved by the appropriate manager or director. The use of an electronic approval/signature process for the City's execution of contracts is preferred.

- 8.0 The City Attorney shall prepare contracts or other written instruments and amendments, only upon the formal request of, and with the terms and conditions specified by, a Department Manager or Agency Head or the Director of the Division of Real Estate, or their designee, but only after the endorsement of such request by the Chief Financial Officer as to the sufficiency of funds, and receipt of a written indication that a preliminary

determination of insurance requirements has been made by the initiating Department or Agency or other appropriate risk evaluator.


9.0 The City Attorney's office will provide standardized contract language, or approve Department/Agency-generated standard contract language, for use in the preparation of drafts of contracts, Invitation for Bids, Request for Proposals, and Request for Qualifications. Any modification of this contract language must be approved by the City Attorney.

10.0 The requesting Department/Agency shall provide to the City Attorney and Risk Management written evidence that the specified insurance requirements have been satisfied.

[Signatures follow on next page.]


Executive Order No. 8 is:

Approved for Legality:



Kristin Bronson
Attorney for the City and County
of Denver

Approved:



Michael B. Hancock
MAYOR




Kim Day
Executive Director of Aviation



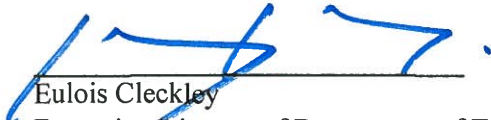
Robert M. McDonald
Executive Director of Public Health and the Environment



Brandon Gailey
Interim Executive Director of General Services



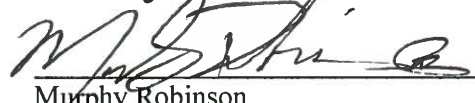
Allegra "Happy" R. Haynes
Executive Director of Parks & Recreation



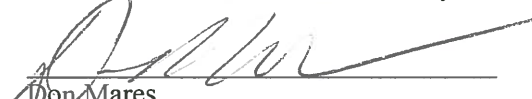
Eulois Cleckley
Executive Director of Department of Transportation
and Infrastructure




Brendan J. Hanton
Chief Financial Officer



Murphy Robinson
Interim Executive Director of Safety



Don Mares
Executive Director of Human Services



Laura Aldrete
Executive Director of Community Planning and
Development

MEMORANDUM NO. 8A

TO: All Agencies Under the Mayor

FROM: Mayor Michael Hancock

DATE: February 3, 2020

SUBJECT: Contracts and Other Written Instruments of and for the City and County of Denver

This Memorandum shall be attached to and become a part of Executive Order No. 8 dated February 3, 2020, subject "Contracts and Other Written Instruments of and for the City" and shall supersede the version of the memorandum dated March 17, 2011.

The attached memorandum 8A, entitled "Contract Procedures," is written in manual form and will explain the procedures for initiating, procuring and executing contracts for the City.

CITY AND COUNTY OF DENVER

Executive Order 8

Memorandum A

Contract Procedures

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CONTRACT PROCEDURES

I. INTRODUCTION

A. GENERAL

This memorandum gives the user a guide about the process of contracting for such things as services and construction work and executing the necessary contracts and paperwork. Appendices are included for informational and educational purposes only and they may be updated periodically. The reader is advised to check the agency websites for the most recent version of the Appendix documents.

This memorandum provides definitions pertinent to the contracting process (Section II), identifies those agencies that have an integral part in the processing of City contracts (Section III), describes common contracting processes (Section IV), and different processes for specific types of contracts and other written instruments (Section V). Hints for expediting contracts are also provided (Section VI) and the expectations for contract compliance are summarized (Section VII).

Contracts legally obligate the City; therefore, they require coordination with several persons or Agencies before the contract can be executed. The process begins when an Executive Director, Agency Head or his/her designee determines that a contract is necessary to do a job or provide a service that the City requires. Executive Directors, Agency Heads, and their designees are also referred to in this memorandum as "Initiating Authorities." It is important to note that the Initiating Authority assures that the contract being developed conforms to the following:

- Executive Order No. 8 and all memoranda
- Policies established by the Mayor

To ensure that all requirements of this Executive Order are met, the City uses a systematic process. The following information will be useful for contract preparations and outlines the contracting process.

Questions should be addressed to the City Attorney's office.

B. PURCHASE ORDERS

The following categories of procurements are conducted by the Purchasing Division and are controlled by Fiscal Rule 8:

- Supplies, equipment and personal property;
- Services for the repair or maintenance of such supplies, equipment and personal property;
- Designating official publications;
- Office services common to several departments that are formally centralized by the Mayor, such as messenger, delivery, mailing, etc.;
- Services that cost \$10,000 or less;
- Software licenses and maintenance; and
- Declared Emergencies (See Denver Revised Municipal Code (D.R.M.C.) §20-64(b), *et seq.*).

NOTE: If the City Attorney determines that a contract is required, then the provisions of this Executive Order apply.

II. DEFINITIONS

For the purposes of this memorandum, the following definitions apply:

Addendum Addenda, plural : Revision(s) to a procurement document, i.e., Request for Proposal (RFP), Request for Qualifications (RFQ), or formal bid.

Agreement: A written Contract. "Agreement" is used interchangeably with "contract" in this memorandum.

Amendment: A written instrument changing some of the terms and conditions of a contract.

Change Order: A written instrument changing or altering some of the terms and conditions of a construction contract. A change order is NOT a "purchasing change order."

City: City and County of Denver.

Contract: A binding agreement between two or more persons or parties, which is legally enforceable. Examples include construction contracts, agreements, amendments, leases, grants, easements, intergovernmental agreements, cooperative agreements, and licenses. "Contract" is used interchangeably with "agreement" in this memorandum.

Contract Administrator CA , Project Manager PM) or Contract Manager CM : Person at the Department or Agency who reports to the Initiating Authority and guides the contract and related documentation from inception to execution.

Contract Documents: The Contract together with all attached and incorporated exhibits.

Contract Approval and Preparation Request: Electronic request to initiate the contract process.

Contractor: Person, partnership, corporation, limited liability company, joint venture, or other entity that has contracted with the City. Other terms for Contractor as they would apply to these procedures: consultant, contracting party, second party, or vendor.

Consultant: Contractor for professional services contracts.

Counterpart: One of two or more corresponding copies of a contract containing original signatures.

DEN: Denver International Airport

Disadvantaged Business Enterprise DBE : A for-profit small business concern that is at least 51% owned by one or more individuals who are socially and economically disadvantaged, whose management and daily business operations are controlled by such, and is certified by the Director of the Division of Small Business Opportunity or the Colorado Department of Transportation. DBE eligibility criteria are set forth in Department of Transportation (DOT) Federal regulations.

Electronic Contracting Automation System: An automated, web-based workflow contracting solution utilized by the City and supported by a reporting solution in Enterprise Reporting.

Emerging Business Enterprise EBE : A for-profit small business that meets the ownership, management and control, size, etc. eligibility criteria set forth in D.R.M.C. § 28-206 and is certified by the Director of the Division of Small Business Opportunity.

Execution/Execute: The “signing of” or “to sign” a contract. The term includes electronic signatures by the City that are affixed in accordance with this Memorandum and the protocols of **Appendix H, Contracting Automation Guide.**

Initiating Authority: Executive Director of a City Department, the head of an Agency, or his/her designee requesting a contract or other written instrument.

Minority/Women Business Enterprise M/WBE : A for-profit small business concern that is at least 51% owned by one or more individuals who are socially and economically disadvantaged, whose management and daily business operations are controlled by such, and is certified by the Director of the Division of Small Business Opportunity.

Procure(ment : To obtain or acquire by particular method, i.e., Invitation for Bids, Request for Qualifications (RFQ), Statements of Interest (SOI), Requests for Proposal (RFP), or Purchase Order’s.

Product: The end result of the contract (including services).

Project: May be the whole or a part of the Product, as indicated in the procurement documents.

Purchase Order: An approved document to a vendor formalizing all the terms and conditions of a proposed transaction, such as a description of the requested items, price, delivery schedule, terms of payment, and transportation.

Record Contract: The City’s official record of contracts in paper and electronic repositories maintained by the Clerk and Recorder.

Scope of Work: A description of the desired Product or services, which may include detailed specifications.

Second Party: See Contractor.

Small Business Enterprise SBE : A for-profit small business concern that meets the ownership, management and control, size, etc. eligibility criteria set forth in D.R.M.C. § 28-206 and is certified by the Director of the Division of Small Business Opportunity.

Vendor: See Contractor.

Written Instrument: A legal and binding document; a formal document (see also contract and amendment).

III. AGENCIES INVOLVED IN THE CONTRACT PROCESS

The following descriptions are limited to the extent of the Agency's involvement in the contracting process.

- A. AUDITOR:** Countersigns the Mayor's signature on contracts, conducts performance and financial audits, and is responsible for enforcement of prevailing wage and contractors' lawful employment status requirements.
- B. BUDGET & MANAGEMENT OFFICE:** For grant and revenue contracts, verifies the chart field and determines whether an ordinance or resolution is required to establish an account.
- C. CITY ATTORNEY:** The Municipal Operations or Airport Legal Services Sections of the City Attorney's Office write contracts and provide legal advice concerning matters during the contract process and advice on contract interpretation.
- D. CITY COUNCIL:** Legislative body that passes ordinances and resolutions to authorize execution of some contracts as required by the City Charter and Denver's Revised Municipal Code.
- E. CLERK RECORDER (Includes City Clerk's Office):** Attests to the Mayor's signature and keeps the official City copy of contracts.
- F. COMMISSION ON THE DISABLED:** City agency that serves as a resource to help City agencies comply with the laws and City policies regarding access to facilities for persons with disabilities. Approves lease contracts (when the City is the tenant).
- G. DIVISION OF SMALL BUSINESS OPPORTUNITY DSBO :** The office established to develop and enforce programs for enhancing minority (MBE), women (WBE), small business (SBE) and emerging business (EBE) enterprise utilization in city construction, professional design and construction services, purchasing of certain goods and services, and DEN concession contracting, under the City's Construction Empowerment Initiative ordinance and Purchasing of Covered Goods and Services ordinance. DSBO also develops and enforces programs to comply with federal Disadvantaged Business Enterprise (DBE) requirement.
- H. EXECUTIVE DIRECTOR OF FINANCE:** Countersigns and registers the Mayor's signature on contracts, confirms appropriation and fund availability to pay the contractor or service provider and processes financial transactions such as payments to contractors.
- I. FACILITIES PLANNING AND MANAGEMENT:** City Agency that approves certain contracts related to repair and remodeling of City owned buildings and oversees operation of many City controlled buildings.
- J. MAYOR:** Contract signing authority who binds the City to the terms of the contract.
- K. OFFICE OF HUMAN RESOURCES:** Personnel agency of the City that must approve pay rates and approve employment contracts.
- L. RISK MANAGEMENT Insurance :** Agency that evaluates City risk and determines the type(s) and limit(s) of insurance and other risk management controls necessary to protect City interests.

IV. COMMON PROCESSES:

Many processes are common to different types of City contracts. The contracting elements described in Table 1 and below may or may not apply to all contracts. Section V discusses particular requirements for specific types of contracts.

See Table 1 for an overview of the entire contracting process.

Table 1. Contract Process Overview				
	Professional Services	Construction	Concession	
			DEN	Parks
INITIATION PHASE				
• Budget determined	•	•	•	•
• Scope of Work developed	•	•		
• Specifications developed	•	•		
• Insurance requirements determined	•	•	•	•
• M/WBE, SBE, EBE or DBE goals determined by DSBO	See note 1	•		
• Executive Order 101 compliance requirements determined	•	•		
QUALIFICATIONS/PROPOSAL PHASE				
• Procurement schedule established	•	•		
• Pre-qualification determined if applicable	•	•		
• RFP documents prepared	•	•	•	•
• City Attorney reviews	•	•	•	•
• Selection committee members approved	See note 2	•	•	•
• Advertise see Section IV A 1)	•	•	•	•
• Pre-Proposal Conference conducted	See note 2	•	•	•
• Addenda issued if necessary	See note 2	•	•	•
• Proposals received by deadline	•	•	•	•
BIDDING PHASE				
• Pre-qualification determined if applicable		•		
• Prevailing Wage rate schedules obtained see Section IV A 2)	See note 2	•		
• Procurement schedule established		•		
• Bid documents prepared		•		
• Advertise see Section IV A 1)		•		
• Pre-Bid Conference conducted		•		
• Addenda issued if necessary		•		
• Bid Opening conducted		•		
PREPARATION FOR AWARD Construction Hard Bids				

• Review of bids		•		
• Bid tabulation compiled		•		
• Engineer recommendation made		•		
• Review of Executive Order 101 form		•		
• DSBO recommendation made		•		
• Lowest responsive, responsible bidder determined		•		
• Contract request submitted		•		
• Notice to Apparent Low Bidder NTALB		•		
• Final contract prepared		•		
PREPARATION FOR AWARD				
Prof. Svcs/Concession, Alt. Delivery Construction				
• Review of proposals	•	•	•	•
• Engineer recommendation made	See note 2	•		
• Review of Executive Order 101 form	•	•		
• DSBO recommendation made	See note 1	•	•	
• Best qualified proposer determined	•	•	•	•
• Proposer notified of selection and intent to negotiate by issuance of Notice to Apparent Best Proposer	•	•	•	•
• Negotiations	•	•	•	•
• Contract request submitted	•	•	•	•
• Final contract prepared by the Attorney	•	•	•	•
CONTRACT EXECUTION				
• Contract execution see Section IV G)	•	•	•	•

NOTE 1: FOR CONSTRUCTION RELATED PROFESSIONAL SERVICES CONTRACTS AND PROCUREMENT OF GOODS AND COVERED SERVICES CONTRACTS ONLY

NOTE 2: TO EXTENT APPLICABLE

A. SELECTION OF CONTRACTOR

All construction contracts must be competitively bid or competitively selected through public advertisement. Except for those cases where sole source contracts are appropriate, it is the City's policy to advertise for professional services contracts by issuing a Request for Qualifications (RFQ), Request for Proposal (RFP), or other variation of these procurement methods. Some common aspects of this process are described below.

1. ADVERTISING

a) General

All construction contracts must be advertised for three days, excluding Sundays and Holidays, in the City's legal publication, giving all suppliers, consultants, vendors and contractors equal opportunity to compete for City projects. However, the Initiating Authority may elect to advertise in additional publications or extend the term of advertising. Legal advertisements are published by the Initiating Authority and should contain the following information:

- Contract Name
- Contract Number (if applicable/available)
- Project Description
- Cost Estimate
- Location where documents are available
- Contract Administration Officer Name and Phone Number (optional)
- Bid Opening date/Proposal Due Date
- Bid Opening location/Proposal submittal location
- Pre-bid/Proposal conference (date and location)
- DSBO goal(s) and solicitation (if applicable)
- Pre-qualification requirements (if applicable)
- Advertising dates and publications

Advertising should contain only the words necessary. Combine advertisements to save money whenever possible.

During the advertisement period through the Bid Opening/Proposal Due Date, suppliers, consultants, vendors, and contractors have the opportunity to request procurement documents for which a fee may be assessed.

b) Selection Panel

When using a qualification-based procurement method by issuing a Request for Qualifications (RFQ) or Request for Proposal (RFP), a selection panel should be selected following City procedures and guidance. Each agency should develop their own policy consistent with those attached hereto. For guidance see **Appendices I, Selection Panel Guidance; J, Selection Panel Employee Acknowledgment and Conflict of Interest Form; K, Selection Panel Confidentiality and Conflict of Interest Form.**

c) Legal Publication

The Executive Director of General Services designates official publication(s) to be used for the official advertising of the City. These publications may use print, electronic or other media. All legal advertisements must run for a specific period—usually three days, excluding Sundays and holidays—as provided by applicable law.

d) Advertising on the Internet

Initiating Authorities are required to post the same notices as in subsection a) above on the City's internet web site (Denvergov.org) in accordance with the current City policy. If designated by the Executive Director of General Services, the City's website may be the City's official publication.

e) Errors, Corrections, Changes, Re-advertising

When an error in an advertisement has occurred, the applicable publications will be notified by the Initiating Authority of the error. A "Corrected" or "Revised" notice will be published for three business days at the expense of the publication(s), if it is their error, or at the expense of the Initiating Authority, if it is their error.

Any material changes, including changes to any of the minimum required information outlined above in A.1, to the original advertisement shall require re-advertisement. Only the corrected or revised information is required to be advertised. Otherwise, it shall be at the discretion of the Initiating Authority to include other information as deemed necessary.

2. PREVAILING WAGE, MIMIMUM WAGE AND LIVING WAGE

Construction contracts and some other types of contracts including those for maintenance of City facilities, must comply with the City's ordinance requiring payment of prevailing wages, D.R.M.C. §§ 20-76 to 20-79. The Prevailing Wage Section of the Auditor's Office determines the appropriate wage schedule for each contract subject to the prevailing wage ordinance and also monitors the contractor's compliance during the term of the contract.

Additionally, some contracts, for certain, specified categories of services are subject to the City's minimum wage ordinance, D.R.M.C. Division 3.75 of Article IV of Chapter 20, which is designed to improve wage equity and cost of living affordability in the City & County of Denver. Any covered contract with the City must include a contractual requirement that the contracting party and anyone else acting pursuant to a covered contract, will comply with the provisions of D.R.M.C. §§20-82 through 20-84, including, but not limited to, paying all covered workers no less than the city minimum wage for all covered services rendered in connection with the Contract.

Some contracts are subject to the City's living wage ordinance, D.R.M.C. §§ 20-80 to 20-84. If you have questions about whether these ordinances apply to a contract, please contact the City Attorney's Office.

3. POLITICAL CONTRIBUTION DISCLOSURE STATEMENT

D.R.M.C. § 20-69 requires certain contractors to disclose political contributions and other information such as the names of principals in the corporation. This Disclosure must be filled out and filed with the City Clerk and Recorder. As of the date of this issuance, D.R.M.C § 20-69 is in the process of being revised, please consult with CAO with questions.

4. EXECUTIVE ORDER 101

Executive Order 101 requires agencies to collect forms from contractors regarding their diversity and inclusiveness policies, and in some instances may require this as a factor considered in awarding a contract. See: **Appendix B, Diversity and Inclusiveness in City Solicitations Information Request Form**. This form is updated periodically and is available electronically. Contact DSBO for the current form and instructions.

5. NO DISCRIMINATION All contracts with private contractors shall contain the following clause, or as otherwise provided in Articles II and IV of Chapter 28 D.R.M.C.:

"NO DISCRIMINATION IN EMPLOYMENT. In connection with the performance of work under this contract, the Contractor may not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability. The Contractor shall insert the foregoing provision in all subcontracts."

B. CONTRACT PREPARATION AND FINALIZATION

The process of contracting for products or services begins when a requirement is identified that cannot be satisfied with existing resources. It is important for the Initiating Authority to contact the agency's Contract Administration Officer as soon as the requirement is identified. The Contract Administration Officer shall initiate contract requests.

For direction and guidance about the electronic aspects of the process, see: **Appendix H, Contracting Automation Guide**, as it may be revised from time to time.

Before it is assigned to an Assistant City Attorney for drafting, the contract request requires approval from several agencies. An explanation of the role of each is provided in Part III and the sections noted below:

- Initiating Authority – Section IV.C. at p. 9;
- Budget & Management Office – Section IV.H.1(b)(1) at p.15; Section V.F. at p. 19;
- Risk Management Office – Section IV.D. at p. 10;
- Division of Small Business Opportunity – Section IV.E. at p. 11;
- Office of Human Resources – Section V.J. at p. 21.

The role of the City Attorney is described in Section IV.F. at p. 12. Additionally, the signature process is summarized in Section IV.G. at p. 13. Some contracts also require City Council review and approval, which is discussed in Section IV.H. at p. 14.

C. INITIATING AUTHORITY

1. FIRST STEPS

Once the Initiating Authority determines that there is a need for a contract and availability of budget (as needed), he or she initiates a contract request through the Electronic Contracting Automation System (see **Appendix H, Contracting Automation Guide**). A scope or statement of work, all contract exhibits, a Certificate of Good Standing from the Colorado Secretary of State, and other necessary documentation should be uploaded to the electronic system.

The Initiating Authority or designated contract manager is likely to be most familiar with the scope of work, services, or products to be provided via the contract. It is that person's responsibility to provide all information and documentation required by Risk Management, or by the Risk Management office at DEN for airport contracts, to assess the risk and to set the appropriate insurance requirements. Such documentation may include, but is not limited to: complete project descriptions and sample contracts, and scopes or statements of work. (Documentation must be provided to Risk Management prior to advertisement of an RFP or RFQ.) If the scope of work or methods by which the contracted work changes significantly after the original communication with Risk Management, the Initiating Authority or designee must notify Risk Management of those changes.

The Initiating Authority must also provide to the assigned City Attorney all information required to draft the contract.

2. EVIDENCE OF INSURANCE

Evidence of insurance is attached as an Exhibit to the contract (but not amendments to the contract). It is the Initiating Authority's responsibility to assure that an acceptable Evidence of Insurance is provided and renewed for all executed contracts and their amendments.

D. RISK MANAGEMENT OFFICE

1. GENERAL

Risk Management sets and approves insurance requirements for all contracts entered into by the City. The City Attorney's Office determines types of acceptable evidence of insurance for the contracts.

2. RISK ASSESSMENT

Based upon information provided by the Initiating Authority (see Section IV.C. above) and its evaluation of the risk under the contract, Risk Management establishes appropriate insurance requirements.

If the scope of work or methods by which the contracted work changes significantly after the original communication with Risk Management, Risk Management may modify the insurance requirements.

3. EVIDENCE OF INSURANCE

Acceptable Evidence of Insurance is:

- An industry generated certificate of insurance issued by the contractor's insurance agent or broker, such as an "ACORD" certificate meeting all requirements of the contract; see sample, attached as **Appendix C, Acord Certificate of Liability Insurance**; or
- Other form of evidence approved by the City Attorney's Office.

4. STANDARDIZED LANGUAGE

The City Attorney's Office has standardized insurance language that must be used in all contracts and procurement documents. The most current version of the standardized language must be used. No change to the form shall be made without the express approval of the City Attorney's Office.

5. QUESTIONS, PROBLEMS, ADVICE, AUTHORITY

Questions or problems pertaining to insurance requirements shall be directed to Risk Management, who retains authority to approve any changes to insurance requirements. Questions or problems pertaining to evidence of insurance shall be directed to the Office of the City Attorney.

E. DIVISION OF SMALL BUSINESS OPPORTUNITY

1. GENERAL – This section only applies to construction contracts, professional design and construction services contracts, airport concession contracts and “covered goods and services” contracts as defined in D.R.M.C. § 28-123.

2. GOALS SETTING

The Project Manager must contact DSBO analysts during the initiation phase to determine procedures for the specific type of contract. See **Appendix D, Project Information Form**. In general, the process is:

- a) All construction contracts and professional design construction services contracts for any public facility or area owned by the City must be reviewed for the setting of M/WBE, SBE, and DBE goals by DSBO.
- b) All procurements for covered goods or services as defined in DRMC § 28-123 must be reviewed for the setting of M/WBE, SBE or DBE goals in DSBO.
- c) An M/WBE, SBE or DBE goal is determined on a project-by-project (contract-specific) basis. The DSBO director shall determine the procedure for setting the goal, including whether the goal is presented to a goals committee.
- d) Airport concession contracts must be reviewed by DSBO for setting an ACDBE goal under federal law.
- e) The Director of DSBO makes the final decision on goals-based project data and information, recommendations from the user agency or, if convened, a goals committee.
- f) Contracts for which bids or proposals are sought under the SBE defined selection pool contracting program are excluded from the M/WBE program.

3. BID/PROPOSAL PHASE

- a) Project Managers must include an invitation to DSBO analysts to attend RFQ meetings where a goal has been set for a contract.
- b) DSBO analysts attend all pre-bid and pre-proposal meetings, make presentations regarding M/WBE, OR SBE, requirements. All applicable requirements and necessary DSBO forms for bidding or proposing must be contained within the bid or proposal documents. DSBO language inserts are available through the Compliance Unit Supervisor.
- c) DSBO analysts attend the bid openings and provide additional information to bidders regarding submittal of required forms. On professional design, alternative procurement methods, and covered goods and services qualifications or proposals, DSBO receives a copy of the consultants’ or contractors’ proposals to review for DSBO requirements.

4. REVIEW AND RECOMMENDATION

- a) The Project Manager must provide DSBO with a copy of the bid form pages of at least the three low bidders immediately following bid openings or a copy of each proposal after submission.
- b) DSBO reviews information contained within the documents and required submittals (good faith efforts/letters of intent) to determine if the assigned M/WBE, SBE, EBE or DBE goals have been met or if a responsive good faith effort was submitted. The DSBO Director or Manager provides written notification to the appropriate Department Head of the results of DSBO's determination. For construction hard bids, Department Heads sign the notification letter as approved if they are in agreement with DSBO's determination or disapprove if they are not.

5. CONTRACT MODIFICATIONS

If the contract scope changes materially after goals are set, it needs to be reviewed again by DSBO to determine if the goals are still appropriate.

6. COMPLIANCE MONITORING

The Project Manager and the DSBO analysts monitor the contract through its existence to determine if M/WBE, SBE, DBE, or ACDBE participation is being met as committed to by the bidder/proposer and for payment information.

F. CITY ATTORNEY

1. INITIATION

Once the contract request has received all necessary pre-approvals, it is forwarded to the appropriate section of the City Attorney's Office. An Assistant City Attorney will be assigned to draft the contract or to review and revise any form of contract provided by the Contractor or supplied by the Department/Agency, based upon background and other pertinent information submitted by the Initiating Authority.

After the contract or instrument has been drafted, the Initiating Authority shall review the draft for accuracy, completeness and to ensure it meets the needs intended. Corrections and changes shall be transmitted to the appropriate section of the City Attorney's Office until a final contract is agreed upon.

2. STANDARDIZED FORM LANGUAGE

In all instances where Initiating Authorities have contracts or procurement documents (Invitations for Bid, Requests for Qualification, and Requests for Proposal) where the use of a standardized form is justified and practical, the Initiating Authority shall obtain the City Attorney's approval of such form before its first use. Initiating Authorities must use the most current electronic template, or printed version of the template. No change in the form, wording or provisions shall be made without the express prior approval of the City Attorney's Office. No contract generated using such a form shall be provided to a vendor or contractor without the prior approval of the City Attorney's Office. This provision does not exempt any contract from any requirement of Executive Order No. 8 or its implementing memoranda.

3. QUESTIONS, PROBLEMS, ADVICE, AUTHORITY

Whenever questions or problems arise and a clear solution is not readily available, the appropriate section of the City Attorney's Office shall be consulted. However, the City Attorney shall have authority in matters of legal significance only, and those that are of administrative significance shall be determined by the Initiating Authority.

G. CONTRACT SIGNING PROCESS

1. ELECTRONIC SIGNATURES

The City has implemented a system to process and store contracts electronically, from initial request stages through execution. The key to a valid electronic signature is that the electronic signature must be logically associated with the contract and can be attributed to the person signing the contract by proper security of the electronic signature process.

In the electronic contract management system, the Initiating Authority must *approve* each contract; however, that approval will be electronic and the Initiating Authority's signature will not appear on a contract. The system is designed so the contract cannot move forward for the Mayor's signature without the Initiating Authority's prior approval.

It is important to the integrity of our City contracts that our officials and their staff follow the signature procedures and security measures provided by the electronic system by not loaning PIN numbers (in the case of the Charter signatories) or improperly delegating signature or approval responsibilities. Agency heads and executive directors will need to personally approve their contract requests and contracts unless they delegate that task in writing to others on their staff. The agency head or executive director remains responsible for any contract authorized under the delegation.

Please see **Appendix H** for additional detail.

2. INITIAL SIGNATURES

When the City Attorney's Office returns the contract to the Initiating Authority, the agency should obtain the contractor's signature and approval by the Executive Director and any other approving authority. An Assistant City Attorney will then approve the contract as to form. At this point, contracts that require City Council approval shall follow the Council Process outlined in Section IV.H. below.

Note: The signature of the Contractor (referred to sometimes as second or other party or vendor) is generally required before the approval by the Initiating Authority. However, if the City is to receive money (usually involving State or Federal funding) and the other party insists that all the signatures of the City be obtained first, the execution by the other party may be delayed until all City signatures have been obtained by the Initiating Authority. Additional exceptions, when absolutely necessary, are at the discretion of the City Attorney.

3. SIGNATURES REQUIRED BY CHARTER

Once signed by the contractor, approved by the Initiating Authority and any other required approving authority, approved as to form by the City Attorney, and approved by City Council if required (see Section IV.H. below), each City Contract must be signed, countersigned, and attested as follows:

- a) Signed by the Mayor or Acting Mayor;
- b) Attested by the Clerk and Recorder or Deputy;
- c) Countersigned by the Manager of Finance or Acting Finance Signatory; and,
- d) Countersigned by the Auditor or delegee.

4. DISTRIBUTION OF THE CONTRACT

After the contract has been signed by all as noted above, the Contract Administrator will provide a copy to each of the outside parties.

H. CITY COUNCIL

1. GENERAL

Certain contracts and other written instruments may not be signed by the Mayor until they have been approved by the City Council. A bill for an ordinance or a resolution (whichever is applicable) authorizing the City's execution of contracts meeting certain criteria (see below) 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. Additionally, the Mayor may request that other contracts or written instruments be presented to City Council for approval. Except for government grant contracts (see Section V.F. at p. 19), the necessary bill for an ordinance or resolution shall be drafted by the City Attorney's Office.

The following types of contracts must be approved by City Council:

a) Expenditure Contracts:

- (1) Contracts that may require the City to expend \$500,000 or more or sell personal property worth \$500,000 or more, and amendments which cause the total contract to exceed that amount;
- (2) Change Orders which cause a construction contract to equal or exceed \$500,000; and,
- (3) Exception for Denver International Airport: Contracts for design or construction at the Airport do not require City Council approval unless they exceed \$5,000,000.
- (4) Reminder: Contracts should not be split in a manner to avoid approval by City Council. Please review any contract that is \$480,000 or more with your Assistant City Attorney to determine whether it should be approved by City Council. Please also alert your Assistant City Attorney if an initial contract is less than \$500,000, but is expected to be amended at a later date to be over \$500,000 in order to evaluate whether the initial contract should be approved by City Council.

NOTE: Although not included in the contracting process, **Purchase Orders of \$500,000 or more** must also receive City Council approval.

b) Revenue Contracts (approved by resolution):

- (1) Contracts by which the City will receive \$500,000 or more, and amendments that cause the total contract to exceed that amount;
- (2) All contracts where the provider of services will receive a percentage of the revenue generated (e.g., Concession agreements); and,
- (3) Federal, State and private grants require an authorizing resolution 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.)
- (4) Exceptions:

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

- Federal grant agreements not requiring any matching funds from the City's General Fund;
- 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; and,
- 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.

c) City-Owned Real Property:

Sale, lease, conveyance, or other use or disposition of any interest in City-owned real property (in which exclusive use of the City property may continue in excess of 30 days). Leases of city-owned property may be approved by resolution. Contracts to sell or convey city real property are approved by ordinance.

d) Intergovernmental Agreements (approved by ordinance):

- (1) Intergovernmental agreements that provide for tax revenue sharing; and,
- (2) Intergovernmental agreements that require further legislative action by City Council or that otherwise implicate the legislative authority of the Council, or that require City Council approval pursuant to any other law.

e) Amendments:

(1) Amendments (but not Change Orders) to any contract previously approved by City Council. Amendments are approved either by resolution or ordinance, depending on which was applicable to the original contract.

(2) Exception:

Amendments to grant contracts that do not change the purpose of the grant do not require City Council approval.

f) Summary of Approval by Resolution or Ordinance:

The following chart summarizes which matters are approved by ordinance or resolution.

Type of Contract	Resolution or Ordinance
Leases of city-owned property	Resolution
Revenue or expenditure contracts of \$500,000 or more (DEN construction or design-related contracts over \$5,000,000)	Resolution
Personal Property Contracts of \$500,000 or more to be sold by or transferred to the City	Resolution
Contracts where provider receives a percentage of the revenue	Resolution
Grants over \$500,000, or that require city cash match which has not been appropriated by Council, or if requested by Council president	Combined budget/approval ordinance if need to establish special revenue fund; resolution otherwise
Contracts to sell or convey city real property	Ordinance
Intergovernmental agreements (i) if tax revenue sharing; (ii) implicates legislative process; (iii) requires council approval for any other reason	Ordinance

2. PROCESS

When a contract or other written instrument must be approved by City Council, the Initiating Authority must prepare a Council request package that conforms to City Council procedures, generally consisting of a request for resolution or ordinance, a draft bill or resolution, and an executive summary. Submittals are made through the Mayor's Office.

The Initiating Authority must obtain the signatures of the Contractor and approval of the agency manager or director, together with any other approving authority, before the City Attorney's Office can file the bill for the ordinance or the resolution unless special circumstances justify a waiver by the City Attorney's Office.

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 or a resolution (whichever is applicable) for City Council consideration on the following Thursday. Resolutions proceed to City Council for consideration on one reading. Bills proceed to first and second reading with City Council and become ordinances upon publication after the Mayor and Council have given their approval.

3. CITY COUNCIL APPROVES CONTRACT

Once City Council approves the bill or resolution, it is presented to the Mayor for signature. Approved resolutions become effective immediately. Ordinances are not effective until they are published, approximately five days after the second reading of the ordinance at City Council.

4. 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.

V. SPECIFIC PROCESSES FOR DIFFERENT TYPES OF CONTRACTS and WRITTEN INSTRUMENTS

The following list of contracts is for purposes of illustration only. Particular contract types are defined below, followed by a discussion of notable differences from the normal contracting process. It should be noted that while the same basic steps should apply for all departments and agencies, each department or agency may have their own versions or minor changes to these procedures. If, after reading this, you are unsure what type of contract you need, consult the City Attorney's Office.

Unless otherwise noted, every contract shall follow the Common Processes as noted in Section IV. of this Memorandum.

A. AMENDMENTS

An amendment is a separate contract that revises an existing contract. The Initiating Authority requests an amendment to be written by the City Attorney's Office and provides supporting documentation as needed. The remainder of the process follows the procedures outlined in Section 0An amendment is required whenever provisions of the contract need to be changed. Justification shall be provided for amendments that extend contracts beyond three years. This justification should include reasons why there are special circumstances, consistent with Executive Order Memorandum 8B, and why the extension is necessary rather than competitively procuring a new contract.

Verbal instructions or written correspondence will not be considered a valid amendment to a contract.

B. CONCESSION AGREEMENTS

Concession Agreements generally involve a provider of goods or services operating on City-owned or controlled property, such as a parking lot operator, retail, or food vendor at the convention center or the airport. They usually involve a percentage of revenue type of compensation and/or use of City property in excess of thirty days, thus requiring City Council approval. A formal RFP process is advisable (see Section IV.A. at p. 6) and may be required by your agency. If you are not sure whether a particular vending situation should be authorized by a concession agreement, contact the City Attorney's office.

C. CONSTRUCTION CONTRACTS

Construction of public improvements such as roads and buildings is conducted pursuant to the Charter authority of either the Manager of the Department of Transportation and Infrastructure, or for DEN projects, the Manager of Aviation. Sometimes the Mayor assigns to another City agency the responsibility for a specific construction project that comes under the Charter authority of the Manager of the Department of Transportation and Infrastructure; that project remains subject to all of the Charter and ordinance provisions that govern the Department of Transportation and Infrastructures construction contracts.

1. GENERAL CONTRACT CONDITIONS

Administration of construction contracts shall be in accordance with the current edition of the GENERAL CONTRACT CONDITIONS for the City which are a part of the contract documents. *These govern **construction** contracts only.*

2. PRE-QUALIFICATION

Pre-qualification of contractors for bidding on construction contracts is established by the rules for *Prequalification of Construction Contractors of the Departments of Aviation and the Department of Transportation and Infrastructure.*

The purpose of pre-qualification is to ensure that entities that bid on contracts have the experience, skill, ability, financial resources and integrity needed to perform the type and size of work for which they are seeking to be pre-qualified. Bidder pre-qualification is required for projects whose estimated value is \$1,000,000 or more. Project Managers shall consult with their agency's Pre-qualification Board Representative to attain the proper pre-qualification requirements.

Generally speaking, each bidder who is not presently pre-qualified by the City in the stated category and/or financial level must submit its pre-qualification application to the Department of Transportation and Infrastructure, which application must be received by the Department generally ten (10) days prior to the bid opening date for the particular project. Consult the rules for pre-qualification for further information.

Bids from contractors who are not pre-qualified for a particular project will be rejected.

3. PREVAILING WAGES

Construction Contractors must comply with all requirements and conditions of the City's Payment of Prevailing Wages Ordinance, D.R.M.C. §§ 20-76 through 20-79. The Career

Service Authority determines the Prevailing Wages for construction contracts and distributes them, and subsequent modifications, to Contract Managers to include with construction bid documents. The Prevailing Wage Section of the Auditor's Office shall determine the appropriate Prevailing Wage rate schedules for each specific contract and shall also monitor the contractor's compliance with D.R.M.C. §§ 20-76 through 20-79 throughout the performance of the contract.

D. COOPERATIVE AGREEMENTS

Contracts with public and private entities for the development and/or operations of park and recreational facilities (museums, zoological or other gardens, collections of natural history and observatories) are considered cooperative agreements. Such contracts require approval by City Council, as determined by the City Attorney's Office.

E. EASEMENTS

An easement being granted by the City must be approved by City Council pursuant to § 3.2.6 of the City Charter, except for certain easements on Airport property. Only the Mayor, Clerk and City Attorney need to sign an easement where the City is the grantor unless the City has obligations under the terms of the easement that make it akin to a contract. In such a case, the easement is processed as a contract with a full set of city signatures.

An easement being granted to the City does not need City Council approval unless the City is paying \$500,000 or more for the easement. Where the City is a grantee under the easement, no City signatures are required unless the City has obligations under the terms of the easement that make it akin to a contract. In such a case, the easement is processed as a contract with a full set of city signatures.

F. GRANTS

A grant contract is a written contract that involves the receipt of funding from the Federal or State government, or private organization, for specific projects or uses. By definition, grants do not include contracts in which the City is paid for services the City provides to the federal or state government. The Initiating Authority determines a need and prior to preparing a grant application, notifies the Budget and Management Office (BMO) of its intent to apply for grant funds through the BMO's grant management system, or in the case of DEN, submits the "Notice for Application" for grant funding to the Airport Finance Office for airport grants. If the grant application involves the use, development or purchase of new technology, then the Initiating Authority must also notify the Technology Services before submitting the grant application. Upon BMO/AFO approval, the Initiating Authority prepares a grant application for submission to the grantor. The Initiating Authority is responsible for identifying cash match requirements at the time of application and ensuring that the financial commitment is accounted for when the grant award is received. Once an Initiating Authority expects to receive funds from a grant, the Initiating Authority must notify BMO of its intent to accept the grant funds through the grant management system. Upon receiving the grant award, the Initiating Authority initiates a request for preparation or review of an acceptance contract by the City Attorney's Office.

City Council approval is required only for:

- Grants of \$500,000 or more
 - except City Council approval is not required for federal grants for Airport purposes unless matching funds from the General Fund are required;

- Grants that 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,
- Grants that the City Council President has required the Mayor to submit to City Council.

Amendments to grant contracts do not require Council approval unless the amendment changes the purpose of the grant or some other law requires that City Council approve the amendment.

Although the grant contract may not require City Council approval, Council may still have to establish a special revenue fund in which to deposit the grant and may have to appropriate the funds so that they can be spent. Further Council action will not be required if a special revenue fund has already been established by ordinance, and if the grant funds have already been appropriated through the budget ordinance.

D.R.M.C. § 20-52 (c) also provides a procedure by which City Council may request any grant be approved by Council. The Budget and Management Office, or another agency, will be required to prepare a monthly written report to City Council listing all applications for grants submitted by the City. Within thirty days, the Council president may, upon written request of any member of Council, require the Mayor to submit for Council approval any grant added to the list that month.

If City Council approval is required, grants may be approved by a combined approval and budget ordinance if a special revenue fund is needed to be established for the grant (budget ordinance). If the grant agreement requires council approval but does not require a special revenue fund to be established, then the grant can be approved by resolution. Once it is determined that City Council approval is required, the Initiating Authority prepares and submits a request for approval to present either a proposed ordinance or resolution (as applicable) to the Mayor's Office to start the City Council process to accept the grant. (See Section IV.H. at p. 14.) The Initiating Authority oversees the administration of the grant.

G. INTERGOVERNMENTAL AGREEMENTS

An Inter-Governmental Agreement ("IGA") is a contract between the City and another governmental agency to provide any function, service, or facility lawfully authorized to each.

IGAs must be approved by City Council acting by ordinance, prior to their execution, if the IGA:

- Provides for tax revenue sharing between the City and any other governmental entity;
- Contains a commitment that the Mayor or any other official seek legislative action by City Council;
- Otherwise implicates the legislative authority of the Council; or
- Requires City Council approval pursuant to any other law.

H. LEASES

City Council approval is required of all leases of City-owned real property to another person or entity except for certain Airport leases described in Section IV.H.1(b)(4) at p. 15. Such approval can be accomplished by resolution. For these purposes, the term "lease" includes all agreements, permits, contracts, licenses, easements or other instruments whereby the City grants the exclusive use of all or a portion of real property owned by the City for an indefinite period of time or for a specific period in excess of thirty days.

Lease of real property owned by the City which was obtained by tax deed or treasurer's tax deed also requires compliance with the procedures set out in D.R.M.C. § 53-6.

Where the City is a lessee, City Council approval is not required unless rent for the term of the lease exceeds \$500,000.

I. ON-CALL CONTRACTS AND TASK/WORK ORDERS

An on-call contract is an agreement to provide services on an as-needed basis during the contract term. Work is typically commenced by written task order or work order. The work (or task) order sets forth the scope of the work or services (labor and approved materials) to be provided and a price determined by rates or unit costs agreed to in the on-call contract. Contracts should generally extend no longer than three years. Justification shall be provided for contracts that extend beyond three years. This justification should include reasons why there are special circumstances, consistent with Executive Order Memorandum 8B, and why the extension is necessary rather than competitively procuring a new contract.

J. PERSONAL SERVICES CONTRACTS (TEMPORARY EMPLOYMENT CONTRACTS)

A Personal Services Contract is a contract between the City and an individual to provide temporary, professional or technical services as a contract employee of the City, for up to twelve (12) months.

The initiating agency will work through Workday to set up a Personal Services Contract. The agency will create a new position using Workday's "Create Job Requisition – New Position" function, accessible to managers. Workday will route the completed request to the agency approver, the OHR compensation partner, and the BMO partner. After approvals by all partners, the position will be created and available to fill.

At the same time the Workday process begins, the agency shall complete the **Personal Service Contract Classification Approval Form for Temporary Professional/Technical Services Contract** and **Verification Affidavit** (See **Appendix E** and **Appendix F**) and provide that to the OHR compensation partner. The agency should initiate the contract process so that the Personal Services Contract document is drafted. The agency should upload **Appendix E and F** into the Electronic Contract Workflow. Once the contract has been approved by the CAO, Appendix E will be submitted to a Recruiting Coordinator to process the new hire in Workday. Thereafter, the person will be sent to onboarding.

The employee should not begin work until the contract has been fully signed. If an employee begins work prior to the full execution of the contract, the term of the contract must begin on the date the employee began working for the City.

If an agency wishes to extend the contract beyond this twelve (12) month period, a memo explaining the basis for the requested extension should be addressed to the Mayor asking for approval. The approval should be submitted with the contract amendment request. A new **Personnel Services Contract Classification Approval Form for Temporary Professional/Technical Services Contracts** (See **Appendix E**) is also required for review of duties and compensation.

Contract employees are not eligible to participate in the City fringe benefit programs nor are they eligible to receive sick, vacation or holiday leave. However, compensation in lieu of benefits may be provided at 17% of basic salary. Documentation of citizenship status or the right to work in the United States must be provided. The contract must provide for the withholding of all normal payroll taxes by the City. Temporary employees are covered by the City's Workers' Compensation Insurance program for employment related claims that occur during the term of the Contract. Payroll taxes shall be administered through the City's normal payroll process.

A person receiving retirement benefits from the Denver Employees Retirement Plan cannot work more than 1,000 hours per year under a personal services contract with the City.

K. PROFESSIONAL SERVICES CONTRACTS

A Professional Services Contract is a contract between the City and a consultant or contractor to provide a wide variety of possible services, such as design, construction administration, project management, the conduct of studies, or other work efforts required for a specific project. The Initiating Authority must provide a scope of work with the contract request. Contracts should generally extend no longer than three years. Justification shall be provided for contracts that extend beyond three years. This justification should include reasons why there are special circumstances, consistent with Executive Order Memorandum 8B, and why the extension is necessary rather than competitively procuring a new contract.

If an individual person, sole proprietorship, sole member limited liability company or closely held corporation is being engaged by a professional services contract, the Initiating Authority must also confirm independent contractor status. See **Appendix G, Independent Contractor Status Checklist**. Contact Finance for the most current guidance on evaluating whether a party is deemed an independent contractor.

If a formal RFQ or RFP process is chosen, the Initiating Authority or General Services provides a draft Request for Qualifications and/or Request for Proposals for review and approval and for preparation of a sample contract by the Office of the City Attorney. In the case of construction contracts, the contract is executed after contractor selection. In all other cases, the final contract is prepared and executed after vendor/contractor/consultant selection.

L. PURCHASE OR SALE OF PROPERTY

1. SALE OF REAL PROPERTY

All contracts for the sale of real property owned by the City must be approved by City Council by ordinance. Sale of real property owned by the City which was obtained by tax deed or treasurer's tax deed also requires compliance with the procedures set out in D.R.M.C. § 53-6.

2. PURCHASE OF REAL PROPERTY

Purchase of real property by the City requires City Council approval by resolution if the value of the property exceeds \$500,000.

3. PERSONAL PROPERTY

Purchase or sale of personal property by the City requires City Council approval by resolution if the value of the property exceeds \$500,000.

4. CAPITAL EQUIPMENT

Purchase of capital equipment (useful life of more than five years or more and a unit cost of \$500,000 or more) by the City requires City Council approval by resolution.

M. REVENUE SHARING CONTRACTS

These are contracts where the providers will receive a percentage of generated revenues. This will usually be a concession agreement as described above in Section V.B. at p. 18. The Contractor generally receives the revenue initially and then remits a portion to the City. Any contract that concerns a revenue-generating function, in which the contractor will be compensated in whole or in part based upon the amount of revenues generated, requires City Council approval by resolution.

N. SOLE SOURCE CONTRACTS

A Sole Source Contract is a contract between the City and a consultant, contractor, or vendor for specialty items or services without a competitive selection process. A justification for the selection of one specific provider shall be included with the contract request. In addition, certain consultants or contractors must submit to the City a disclosure certificate as required in D.R.M.C. § 20-69. See Memorandum B for further information on sole source contracts.

VI. HINTS FOR EXPEDITING CONTRACTS

Setting out a timeline for the contract process would be impractical due to the wide variations that can occur. Following are some hints to help make the process go more efficiently. It is suggested that you determine when you need to have the contract operational, and work back from that date to know when to begin the process. Allow time for obtaining the contractor's signature. Proper pre-planning will expedite contract execution.

A. AGENCY/DEPARTMENT TIME FACTORS

Be aware of the deadlines for submissions to any Agency that must review the contract. Some of the routine time delays in organizations can be avoided simply by knowing schedules of Committee meetings and when sections or personnel needing to review the contract are available. In the contract process these events require scheduling:

- DSBO goal setting;
- Advertising; and,
- City Council ordinance or resolution approval.

B. CONDUCTING BUSINESS ELECTRONICALLY

Use electronic transmission whenever possible, or in the alternative hand-carry documents to expedite the process.

Electronic communications and transfer of documents should be used wherever possible and applicable. Generally approved practices of conducting business electronically would include, but not be limited to, the following:

- Use of notes, referral, and upload features of electronic systems available to City personnel;
- Emails between co-workers (City employees) for communication;
- Emails between City employees and the contracting public for communication;
- Making contract information available on City internet sites; and,
- Advertising on City internet sites.

C. ATTORNEY WORK TIME

Discuss the contract with your attorney and solicit his/her opinion as to the amount of time it will take to complete the contract.

D. AGENCY POLICY RE: CONTRACT APPROVALS

'Contract Approvals' refers to the practice of having the agency head 'Recommend and Approve' a contract to the Mayor for signature. Each Agency should establish a defined policy that identifies who will be required to approve a contract prior to and in addition to contract approval by the head of the agency or their delegate. This policy will help the Agency Contract Administrator to select the individuals to review a contract prior to approval by the agency head. **Remember that every person who must review and approve a contract ADDS time to the contract process.** Do not add unnecessary agency approval steps to your process.

The head of the agency or a delegate designated by the agency head in writing must approve the final version of the contract document. This must occur before it is routed to the City Attorney's Office for the signature process.

VII. CONTRACT COMPLIANCE

The process does not end when the contract is executed and the notice to proceed occurs.

A. RESPONSIBILITIES OF THE INITIATING AUTHORITY

1. Establish and implement policies and procedures for monitoring contracts, including the following:
 - a) Identify specific person(s), or responsible party(ies), to be accountable for the department or agency's contract monitoring responsibilities with technical assistance to be provided by designees;
 - b) Steps for addressing non-compliant vendors;
 - c) Monitor contract expiration dates through the electronic contracting system; and,
 - d) Ensure that the contractor is paid in a timely manner.
2. Monitor performance under the contract throughout the life of the contract, including the following:

- a) Ensure that the terms of the contract are met;
 - b) Ensure that the bonding and insurance requirements continue to be met throughout the life of the contract;
 - c) Assure all contract close-out activities are complete; and,
 - d) Document contract monitoring and deliverables;
3. Report contract performance if required.
 4. If you have difficulties with your vendor or need to terminate the contract early, contact the City Attorney's Office.

B. RESPONSIBILITIES OF THE CITY ATTORNEY

1. Provide assistance interpreting the contract.
2. Provide assistance enforcing the contract.
3. If necessary, provide assistance terminating the contract.