

1 **BY AUTHORITY**

2 ORDINANCE NO. _____
3 SERIES OF 2024

COUNCIL BILL NO. CB24-1807
COMMITTEE OF REFERENCE:
Finance & Governance

5 **A BILL**

6 **For an ordinance amending Division 2 of Article IV of Chapter of the Revised**
7 **Municipal Code of the City and County of Denver concerning purchases.**

8 **NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF**
9 **DENVER:**

10 **Section 1.** That section 20-61, D.R.M.C., shall be amended by deleting the language
11 stricken and adding the language underlined, to read as follows:

12 **Sec. 20-61. - Definitions.**

13 As used in this division 2, the following words and phrases shall have the following meanings
14 unless otherwise clearly indicated by the context:

15 (a) Award: The presentation by the purchasing division of a purchase order or contract to
16 a bidder or proposer.

17 (b) Best value: Determined by evaluating price and other valid predetermined evaluation
18 criteria pursuant to a request for proposal, in order to identify a particular proposal as the most
19 beneficial to the city. The overall combination of quality, price, and various elements of required
20 services or performance ~~characteristic~~ measures that in total are optimal relative to the city's needs.

21 (c) Bidder's response proposal: Any solicitation of pricing for supplies, where an award is
22 made based upon the lowest, responsive bid received from a qualified, responsible bidder.

23 (d) Manager: The manager of general services under section 2.9.2 of the City Charter or
24 anyone designated by the manager of general services to act in his or her behalf.

25 ~~(e)(d)~~ Qualified bidder or proposer: Any person, firm or corporation determined to be qualified
26 after submittal of evidence satisfactory to the manager ~~director or purchasing~~ that they have a
27 practical knowledge of the particular good or service required and the necessary financial resources
28 to perform and to complete the requirements in the bidder's response proposal ~~or request for~~
29 proposal response.

30 ~~(f)(e)~~ Request for proposal: Any solicitation of pricing for supplies or services where an
31 award is made in consideration of best value and not necessarily lowest price from a responsive,

1 responsible, qualified proposer. A request for proposal may also be referred to as a competitive
2 sealed proposal.

3 ~~(g)(f)~~ *Responsible bidder or proposer*: A qualified bidder or proposer who is not in arrears to
4 the city, upon debt or contract. A bidder or proposer that is a defaulter, as surety ~~surely~~ or otherwise,
5 upon any obligation to the city, or that has failed to attain or demonstrate compliance with any law,
6 ordinance, city regulation, or contract term or condition in any city contract, shall be considered not
7 responsible and not qualified for ~~an award of any bid or proposal~~.

8 ~~(h)(g)~~ *Responsive bidder or proposer*: A bidder or proposer whose bid or proposal is in
9 conformance with the requirements of the invitation for bid or request for proposal including, but not
10 limited to, all information, signatures, evidence of knowledge or experience, attachments, bonds,
11 insurances, licenses, disclosures which may be required at the time of the bid opening or receipt of
12 proposals or following the bid opening or receipt of proposals.

13 ~~(i)(h)~~ *Standardization*: The designation of a particular product or equipment specification or
14 a particular component of a product or equipment specification as "no substitute" or "no approved,
15 ~~acceptable equal~~." Valid justification for standardization must be presented by the ~~manager of the~~
16 department or agency requesting the designation to the satisfaction of the manager director ~~or~~
17 ~~purchasing~~ utilizing at least two (2) of the following criteria:

- 18 (1) The specification will substantially stabilize or decrease parts inventory;
- 19 (2) The specification will substantially stabilize or decrease training requirements
20 for product use, equipment operation, equipment repair and/or preventive maintenance programs;
- 21 (3) The specification will substantially contribute toward the health and safety of the
22 user or operator of the product or equipment. The best interests of the city must be served due to
23 the quality, reliability, dependability or performance characteristics of the product or equipment
24 specified. A designation as above shall provide adequate justification for establishing, for bidding
25 and proposal purposes, an effective initial term of up to one (1) year ~~three (3) years~~, with the
26 possibility of extensions not to exceed a total of three (3) years ~~five (5) years~~. The manager director
27 ~~or purchasing~~ shall determine the validity and approval of the standardization requested by the
28 department or agency and may request additional information, data or materials prior to making that
29 determination.

30 Standardization instances do not exempt the city from sourcing according to Section 20-63.

31 ~~(j)(i)~~ *Supplies*: All personal property, materials, equipment and services in connection
32 therewith, used by the city or any of its departments, agencies, boards, commissions or authorities

1 except purchases of supplies, materials, and equipment required to be made in conformity with the
2 provisions contained in the Charter concerning the department of transportation and infrastructure,
3 the department of aviation, the auditor, the city council, clerk and recorder, the library commission
4 and the board of water commissioners. Further, the word "supplies" shall include contractual services
5 which are subject to competition but not such contractual services ~~that which~~ are in their nature
6 unique and not subject to competition, ~~such as professional services. The director of purchasing may~~
7 ~~define additional terms relevant to procurement through policy and procedure memoranda or similar~~
8 ~~means.~~

9 The manager may define additional terms relevant to procurement through policy and
10 procedure memoranda or similar means.

11 **Section 2.** That section 20-62, D.R.M.C., shall be amended by deleting the language
12 stricken and adding the language underlined, to read as follows:

13 **Sec. 20-62. - Contracts.**

14 Contracts through the manager of ~~general services~~ shall be let to the lowest qualified,
15 responsive and responsible bidder, except in the case of request for proposals which may be
16 awarded to the most qualified, responsive, responsible proposer whose proposal represents the best
17 value to the city. Bids or proposals for supplies for which standards and specifications are
18 established pursuant to this division shall be examined in accordance with such standards and
19 specifications and, in the case of request for proposals, in accordance with any valid evaluation
20 factors included therein. All bids or proposals may be rejected. Each bid or proposal, with the name
21 of the bidder or proposer, shall be entered of record, and each record, with the successful bid or
22 proposal, if any, indicated, shall be preserved for a period of seven (7) ~~five (5)~~ years and open to
23 public inspection. In letting of contracts the department shall impose such conditions in upon bidding
24 ~~with~~ regard to bonds and securities and such guarantees of good faith and responsibility on the part
25 of the vendors or contractors ~~bidders~~ or for any other material matter or thing in connection therewith
26 as shall be determined by the manager of ~~general services~~ be in the best interests of the city and
27 county. Bond for the proper performance of each contract may be required or waived in the discretion
28 of the manager of general services, unless specifically required by Charter. If a bond is required, the
29 form and legal sufficiency shall be subject to the approval of the city attorney.

30 **Section 3.** That section 20-63, D.R.M.C., shall be amended by deleting the language
31 stricken and adding the language underlined, to read as follows:

32

1 **Sec. 20-63. - Bidding procedures.**

2 (a) *Formal procedure.* Formal advertisement by official publication shall precede the
3 issuance of any invitation for bid ~~bidders proposal~~ or request for proposal estimated to amount to
4 one hundred fifty thousand dollars (\$150,000.00) or more. Such advertisement shall specify the
5 supplies or services to be purchased or refer to the standards and specifications established
6 pursuant to this division and shall state the amount of the bond, if any, required. If formal
7 advertisement is not practicable, bids or proposals shall be requested from at least three (3)
8 responsible bidders or proposers dealing in the supplies, equipment or personal property required.
9 All bids or proposals in response to advertisements or requests by the city shall be submitted, in
10 sealed form, delivered to the office of the manager ~~of general services~~ or to any location via the
11 established methodology and/or platform as may be from time to time determined by the manager
12 ~~of general services~~ as the "bid opening location" or the "proposal acceptance location" and shall be
13 publicly opened at the time specified in the advertisement of notice ~~or request of the city~~. The auditor
14 or his or her representative may be present and inspect all bids. ~~All bidders may be present and,~~
15 ~~after~~ After examination and tabulation by general services, the results shall be subject to inspection
16 ~~by competing bidders~~. In the case of requests for proposals, the public may request a list of the
17 ~~proposers may be present for the receipt of proposals by the city~~, but may not inspect proposals until
18 an award has been made.

19 (b) *Informal procedure:* Any bidder's proposal or request for proposal for supplies and/or
20 services which is estimated to amount to less than one hundred fifty thousand dollars (\$150,000.00)
21 may be by informal procedure upon notice calculated to inform potential bidders in a manner that
22 will achieve maximum competition among bidders and maximum economy to the city. However, no
23 bidder's proposal or request for proposal or purchase may be subdivided to avoid the requirements
24 of subsection (a) or any other provision of this division. Informal procedures do not require
25 advertising, receipt of bids or proposals in a sealed form or a public bid or proposal opening or
26 acceptance.

27 **Section 4.** That section 20-64, D.R.M.C., shall be amended by deleting the language
28 stricken and adding the language underlined, to read as follows:

29 **Sec. 20-64. - Purchases not subject to bidding procedures.**

30 (a) *Nonemergency situations.* The manager ~~of general services~~ may forego the bidding
31 procedures in sections 20-62 and 20-63 when purchasing the following:

1 (1) Supplies or services indispensable to the city which are obtainable, for practical
2 purposes, from only one (1) single source (a sole source purchase);

3 (2) Supplies which are perishable by reason of imminent spoilage or decay and
4 which would spoil or decay if the procedures in sections 20-62 and 20-63 were followed;

5 (3) Supplies, equipment or services required by reason of preferences based on
6 professional advice. For purposes of this ordinance a "professional" shall be defined as a person(s)
7 who is uniquely knowledgeable and technically qualified in the supply, equipment or service to be
8 provided due to an on-going day-to-day familiarity with the supply, equipment or service to be
9 provided. and because of professional qualifications such as a degree or professional certification
10 related thereto;

11 (4) Supplies required by reason of practicality, to-wit, supplies required in respect
12 to uniformity of equipment presently in operation as it relates to the day-to-day operation of the
13 equipment and replacement and repair parts for said equipment is only available from one
14 supplier/contractor. All purchases under this section shall be made in the most economical manner
15 possible (standardization purchases);

16 (5) Supplies or services which amount to twenty-five ~~ten~~ thousand dollars
17 (\$2540,000.00) or less;

18 ~~(6) The manager of general services or his designee may establish policy and~~
19 ~~procedure related to purchases not subject to bidding procedures, that may include, but may not be~~
20 ~~limited to, compliance with section 20-63(b), "informal procedure."~~

21 All purchases made under this section shall be made in the most economical manner
22 possible.

23 (b) Emergency situations.

24 (1) ~~The manager of general services may~~ forego the bidding procedures in sections
25 20-62 and 20-63 when a purchase is necessary to address an emergency. For purposes of this
26 section, an emergency is defined as a situation which, if it continues to exist, would endanger the
27 health or safety of the public or employees and requires a remedy sooner than the supplies,
28 materials, equipment, personal property or services would be delivered if the normal purchasing
29 procedures were followed; or, a situation which would place an excessive financial burden on the
30 city unless addressed in a shorter time than the bidding procedures require.

31 (2) An emergency purchase shall be made only in the following manner: the prior
32 approval of the manager must be obtained. If the manager cannot be reached, repairs and/or

1 necessary supplies may be ordered, but must be reported promptly to the manager at the beginning
2 of the next business day.

3 a. ~~Emergency purchases made Monday through Friday, from 8:00 a.m. to~~
4 ~~5:00 p.m.: No such purchase shall be made without first contacting the manager of general services~~
5 ~~or a representative in the purchasing division and receiving prior approval.~~

6 b. ~~Emergency purchases made at other times: No such purchase shall be~~
7 ~~made without first attempting to obtain the prior approval of the manager of general services or a~~
8 ~~representative in the purchasing division. If the manager of general services or a representative of~~
9 ~~the purchasing division cannot be reached, repairs or necessary supplies may be ordered, but must~~
10 ~~be reported promptly to the manager of general services or a representative of the purchasing~~
11 ~~division at the beginning of the next business day.~~

12 (3) Emergency purchases shall consist only of the minimum quantity or service
13 necessary to address the emergency situation.

14 **Section 5.** That section 20-65, D.R.M.C., shall be amended by deleting the language
15 stricken and adding the language underlined, to read as follows:

16 **Sec. 20-64.5. - Cooperative purchasing.**

17 If the manager of ~~general services~~ determines that such purchases are in the best interests
18 of the city, they ~~he or she~~ may authorize purchases under any general bid or purchase contracts
19 of the United States Government, State of Colorado, or other governmental jurisdictions reflective of
20 the same price structures, scopes of work and deliverables of that purchase contract ~~at the prices,~~
21 ~~terms, and conditions therein contained, anything to the contrary in this division notwithstanding.~~ The
22 manager of ~~general services~~. The manager of ~~general services~~ may authorize purchases of goods
23 and services pursuant to any intergovernmental agreement which, in the opinion of the manager of
24 ~~general services~~, is in the best interest of the city. Further, the manager of ~~general services~~ or his or
25 her designee may authorize participation in the sponsorship or administration of any cooperative
26 procurement endeavor undertaken by any governmental jurisdiction, any cooperative procurement
27 endeavor undertaken on behalf of any governmental jurisdiction or any cooperative procurement
28 endeavor which utilizes general public bidding guidelines and may authorize purchases related
29 thereto.

30 **Section 6.** That section 20-65, D.R.M.C., entitled Financial Interest and relating to personal
31 beneficial interest, is hereby repealed.

32

1 **Sec. 20-65. - Reserved. ~~Financial Interest.~~**

2 Neither the manager of general services nor any employee of the manager of general services
3 shall have any personal beneficial interest either directly or indirectly in any purchase made by the
4 city, nor in any firm, corporation or association furnishing or bidding on any such purchase.

5 **Section 7.** That section 20-66, D.R.M.C., shall be amended by deleting the language
6 stricken and adding the language underlined, to read as follows:

7 **Sec. 20-66. - Requisitions and Purchase Orders.**

8 Supplies and services shall be purchased by or furnished to a city department, agency, board,
9 commission, or authority by the manager of ~~general services~~ upon submitted requisition to the
10 manager~~director~~, or pursuant to procedures prescribed by them~~him~~. Requisitions shall be approved
11 by the head or an authorized representative of the head of the department, agency, board,
12 commission, or authority by their signature thereon; or by electronic transmission of the requisition
13 to the manager ~~of general services~~. The approval shall affirm that there are ~~is~~ sufficient
14 unencumbered funds ~~balance~~ existing in the appropriation of the department, agency, board,
15 commission or authority ~~requesting the purchase to pay for the purchase. The electronic~~
16 ~~transmission of the requisition shall constitute an approval if the electronic approval is affirmed as~~
17 ~~appropriate and secure by the manager of general services.~~ The manager of ~~general services~~ shall
18 prescribe the form, ~~contents, number and~~ processes to source distribution of requisitions to purchase
19 orders. The manager of ~~general services~~ shall examine each requisition for accuracy and may make
20 revisions as needed reflective of the Purchasing Division policy and best practices. ~~revise it as to~~
21 ~~quality, or estimated cost; but revision as to quality shall be in accordance with the standards and~~
22 ~~specifications, if any, established pursuant to this division. A requisition may not be required for~~
23 ~~purchases made pursuant to a bidder's proposal or request for proposal issued by the department~~
24 ~~for supplies, equipment, or personal property which are required and may be utilized by one or more~~
25 ~~department, agency, board, commission or authority with a term exceeding ninety (90) days. No~~
26 ~~department, agency, board, commission or authority may utilize such a contract unless there is~~
27 sufficient unencumbered balance existing in its appropriation to pay for the purchase.

28 **Section 8.** That section 20-67, D.R.M.C., shall be amended by deleting the language
29 stricken and adding the language underlined, to read as follows:

30
31
32

1 **Sec. 20-67. - Standards.**

2 (a) The provisions of this section are intended to enable the manager of ~~general services~~
3 to conduct purchasing in the most efficient manner possible. In connection with any particular
4 contract for or in connection with the use of supplies or services commonly required by the city, the
5 manager of ~~general services~~ may compile a set of standards and specifications which will reasonably
6 meet the needs of the city in respect to economy, strength, safety, sanitation, environment and
7 health. All standards and specifications shall be ~~in conformance with accepted engineering practice~~
8 ~~and shall be specifically set forth in the invitation for bid/bidder's proposal or request for proposal.~~

9 (b) For particular supplies, the manager ~~director or purchasing~~ shall, when possible,
10 establish criteria of quality, durability, purity and strength which may be demonstrated by simple
11 physical and chemical tests within the limits of reasonable variations. ~~In every possible instance, the~~
12 ~~standards and specifications shall be such as to admit of genuine competition.~~

13 **Section 9.** That section 20-68, D.R.M.C., shall be amended by deleting the language
14 stricken and adding the language underlined, to read as follows:

15 **Sec. 20-68. - On-call emergency services and supply contracts.**

16 The manager ~~director of purchasing~~ may award contracts for supplies or services to be utilized
17 in emergencies. Such contracts shall not exceed one million ~~five hundred thousand~~ dollars
18 (\$1,000,000.00 ~~\$500,000.00~~) nor three (3) years ~~one (1) year~~ with the possibility of two (2), one (1)
19 year extensions. The manager ~~director of purchasing~~ shall award such contracts by ~~formal~~ invitation
20 for bid or request for proposal, as required in section 20-63(a). In no case shall any employee or
21 officer authorize a contractor so engaged to perform any services or furnish any goods in excess of
22 twenty-five thousand dollars (\$25,000.00) for an incident, unless the manager ~~director or purchasing~~
23 declares in writing that the incident is an emergency. The manager ~~director of purchasing~~ shall not
24 declare an incident to be an emergency unless:

25 (1) The situation must be remedied before the city can carry on its normal business;
26 and

27 (2) a. In the case of services, city employees are not qualified or available
28 within a reasonable time to do the work;

29 b. In the case of supplies, the procedures for obtaining supplies described
30 in section 20-63 would cause undue delays; or

31 c. The health and safety of the public would be at risk if the situation is not
32 remedied immediately.

1 COMMITTEE APPROVAL DATE: December 17, 2024 by Consent
2 MAYOR-COUNCIL DATE: N/A
3 PASSED BY THE COUNCIL: January 6, 2025
4 *Diana Romero Campbell* _____ - PRESIDENT
Diana Romero Campbell (Jan 7, 2025 10:54 MST)
5 APPROVED: _____ - MAYOR _____
6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER
9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____;
10 PREPARED BY: Brian L. Martin, Assistant City Attorney DATE: December 19, 2024
11 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of
12 the City Attorney. We find no irregularity as to form and have no legal objection to the proposed
13 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to
14 § 3.2.6 of the Charter.
15
16 Kerry Tipper, Denver City Attorney
17
18 BY: *Jonathan Griffin*, Assistant City Attorney DATE: Dec 19, 2024