

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

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

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

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

16 (1) The specification will substantially stabilize or decrease parts inventory;

17 (2) The specification will substantially stabilize or decrease training requirements
18 for product use, equipment operation, equipment repair and/or preventive maintenance programs;

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

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

29 ~~(j)(i)~~ *Supplies*: All personal property, materials, equipment and services in connection
30 therewith, used by the city or any of its departments, agencies, boards, commissions or authorities
31 except purchases of supplies, materials, and equipment required to be made in conformity with the
32 provisions contained in the Charter concerning the department of transportation and infrastructure,
33 the department of aviation, the auditor, the city council, clerk and recorder, the library commission
34 and the board of water commissioners. Further, the word "supplies" shall include contractual services

1 which are subject to competition but not such contractual services ~~that which~~ are in their nature
2 unique and not subject to competition, ~~such as professional services. The director of purchasing may~~
3 ~~define additional terms relevant to procurement through policy and procedure memoranda or similar~~
4 ~~means.~~

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

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

9 **Sec. 20-62. - Contracts.**

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

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

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

29 (a) *Formal procedure.* Formal advertisement by official publication shall precede the
30 issuance of any invitation for bid ~~bidders proposal~~ or request for proposal estimated to amount to
31 one hundred fifty thousand dollars (\$150,000.00) or more. Such advertisement shall specify the
32 supplies or services to be purchased or refer to the standards and specifications established
33 pursuant to this division and shall state the amount of the bond, if any, required. If formal
34 advertisement is not practicable, bids or proposals shall be requested from at least three (3)

1 responsible bidders or proposers dealing in the supplies, equipment or personal property required.
2 All bids or proposals in response to advertisements or requests by the city shall be submitted, in
3 sealed form, delivered to the office of the manager of ~~general services~~ or to any location via the
4 established methodology and/or platform as may be from time to time determined by the manager
5 ~~of general services~~ as the "bid opening location" or the "proposal acceptance location" and shall be
6 publicly opened at the time specified in the advertisement of notice ~~or request of the city~~. The auditor
7 or his or her representative may be present and inspect all bids. ~~All bidders may be present and,~~
8 ~~after~~ After examination and tabulation by general services, the results shall be subject to inspection
9 ~~by competing bidders~~. In the case of requests for proposals, the public may request a list of the
10 ~~proposers may be present for the receipt of proposals by the city~~, but may not inspect proposals until
11 an award has been made.

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

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

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

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

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

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

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

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

6 (5) Supplies or services which amount to twenty-five ~~ten~~ thousand dollars
7 (\$2510,000.00) or less;

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

11 All purchases made under this section shall be made in the most economical manner
12 possible.

13 (b) Emergency situations.

14 (1) ~~The manager of general services~~ may forego the bidding procedures in sections
15 20-62 and 20-63 when a purchase is necessary to address an emergency. For purposes of this
16 section, an emergency is defined as a situation which, if it continues to exist, would endanger the
17 health or safety of the public or employees and requires a remedy sooner than the supplies,
18 materials, equipment, personal property or services would be delivered if the normal purchasing
19 procedures were followed; or, a situation which would place an excessive financial burden on the
20 city unless addressed in a shorter time than the bidding procedures require.

21 (2) An emergency purchase shall be made only in the following manner: the prior
22 approval of the manager must be obtained. If the manager cannot be reached, repairs and/or
23 necessary supplies may be ordered, but must be reported promptly to the manager at the beginning
24 of the next business day.

25 a. ~~Emergency purchases made Monday through Friday, from 8:00 a.m. to~~
26 ~~5:00 p.m.: No such purchase shall be made without first contacting the manager of general services~~
27 ~~or a representative in the purchasing division and receiving prior approval.~~

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

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

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

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

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

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

21 **Sec. 20-65. - Reserved. Financial Interest.**

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

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

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

28 Supplies and services shall be purchased by or furnished to a city department, agency, board,
29 commission, or authority by the manager of ~~general services~~ upon submitted requisition to the
30 manager ~~director~~, or pursuant to procedures prescribed by ~~them~~ him. Requisitions shall be approved
31 by the head or an authorized representative of the head of the department, agency, board,
32 commission, or authority by their signature thereon; or by electronic transmission of the requisition
33 to the manager of ~~general services~~. The approval shall affirm that there are ~~is~~ sufficient
34 unencumbered funds ~~balance~~ existing in the appropriation of the department, agency, board,

1 commission or authority ~~requesting the purchase to pay for the purchase. The electronic~~
2 ~~transmission of the requisition shall constitute an approval if the electronic approval is affirmed as~~
3 ~~appropriate and secure by the manager of general services. The manager of general services shall~~
4 ~~prescribe the form, contents, number and~~ processes to source distribution of requisitions to purchase
5 orders. The manager of ~~general services~~ shall examine each requisition for accuracy and may make
6 revisions as needed reflective of the Purchasing Division policy and best practices. ~~revise it as to~~
7 ~~quality, or estimated cost; but revision as to quality shall be in accordance with the standards and~~
8 ~~specifications, if any, established pursuant to this division. A requisition may not be required for~~
9 ~~purchases made pursuant to a bidder's proposal or request for proposal issued by the department~~
10 ~~for supplies, equipment, or personal property which are required and may be utilized by one or more~~
11 ~~department, agency, board, commission or authority with a term exceeding ninety (90) days. No~~
12 ~~department, agency, board, commission or authority may utilize such a contract unless there is~~
13 ~~sufficient unencumbered balance existing in its appropriation to pay for the purchase.~~

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

16 **Sec. 20-67. - Standards.**

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

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

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

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

31 The manager ~~director of purchasing~~ may award contracts for supplies or services to be utilized
32 in emergencies. Such contracts shall not exceed one million five hundred thousand ~~dollars~~
33 ~~(\$1,000,000.00)~~ 500,000.00 nor three (3) years ~~one (1) year~~ with the possibility of two (2), one (1)
34 year extensions. The manager ~~director of purchasing~~ shall award such contracts by ~~formal~~ invitation

1 for bid or request for proposal, as required in section 20-63(a). In no case shall any employee or
2 officer authorize a contractor so engaged to perform any services or furnish any goods in excess of
3 twenty-five thousand dollars (\$25,000.00) for an incident, unless the manager director or purchasing
4 declares in writing that the incident is an emergency. The manager director of purchasing shall not
5 declare an incident to be an emergency unless:

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

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

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

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

14
15 COMMITTEE APPROVAL DATE: December 10, 2024 by Consent

16 MAYOR-COUNCIL DATE: December 17, 2024

17 PASSED BY THE COUNCIL: _____

18 _____ - PRESIDENT

19 APPROVED: _____ - MAYOR _____

20 ATTEST: _____ - CLERK AND RECORDER,
21 EX-OFFICIO CLERK OF THE
22 CITY AND COUNTY OF DENVER

23 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____;

24 PREPARED BY: Brian L. Martin, Assistant City Attorney DATE: December 19, 2024

25 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of
26 the City Attorney. We find no irregularity as to form and have no legal objection to the proposed
27 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to
28 § 3.2.6 of the Charter.

29
30 Kerry Tipper, Denver City Attorney

31
32 BY: _____, Assistant City Attorney DATE: _____