

# CITY OF COMMERCE CITY PROCUREMENT POLICY

## Article I – GENERAL POLICY

### A. Introduction

Section 7.4(m) of the City of Commerce City Charter states that the City Manager is responsible for the contracting and purchasing of all supplies, materials, equipment and services required by any department, and designates the City Manager as the city’s purchasing agent. Pursuant to Section 7.4(m), City Council adopts this procurement policy.

Through the City Manager’s authority, the City has established a Procurement Division within the Department of Finance, which shall be responsible for procurement duties as further set forth in this policy to institute and maintain:

1. An effective and economical program for the acquisition of goods and services while operating in full view of the public.
2. The purchase of needed equipment, materials, supplies, and services at favorable prices in keeping with suitability, appropriate quality, and reliable vendor performance.
3. The promotion of public trust and excellent stewardship of public funds.

### B. Exceptions

The following types of purchases are exempt from the competitive solicitation requirements of this policy:

1. Real Property Transactions – Acquisition of real property interests, including purchases, sales, leases, easements, or rights-of-way involving land or buildings. The selling or donating of city-owned real property in fee requires compliance with this policy, unless the City Manager grants a waiver.
2. Utilities - Services provided by a sole regulated provider, including electricity, natural gas, water, sewer, refuse collection, telephone, and internet.
3. Insurance and Risk Management - Premiums, claims payments, and settlement agreements.
4. Banking – Banking and investment services, including financial products and activities offered by banks and financial institutions to manage money, secure assets, and facilitate transactions.
5. Legal and Professional Legal Services – Subject to the Charter of the City of Commerce City and under the purview of the City Attorney’s office, outside legal counsel, expert witnesses, arbitration/mediation, legal process and reporting services, and other specialized legal services.
6. Memberships, Dues, Subscriptions, and Publications - Professional association fees, journal subscriptions, and reference materials.
7. Training and Conferences - Registration fees, tuition, and directly related materials.
8. Required Advertising and Media Services - Placement of legal notices, public hearings, recruitment postings, and other legally required advertising in print, broadcast, or digital formats.
9. Governmental and Intergovernmental Agreements - Agreements with federal, state, county, or other municipal entities, including cooperative purchasing agreements.
10. Items for Resale - Items procured by the City for resale to the general public, including, but not limited to, merchandise sold by the Buffalo Run Golf Course, technical manuals and

codes adopted by reference, statute books, and food items such as prepackaged snacks and prepared meals, are exempt from this policy.

11. Pass Through Funding - The procurement of goods or services to be funded solely by user fees paid directly for those goods or services are exempt from this policy.
12. Debt Payments - Scheduled principal and interest payments on debt (bonds, loans, certificates of participation, or other debt financing instruments) issued by the City.

**C. Purpose and Goals**

The purpose of this policy is to establish standards for the City’s procurement process that reflect City values and council goals as stewards of public trust. This includes:

1. Providing equal access to all vendors participating through competitive acquisition of goods and services.
2. Conducting the procurement process in a manner that promotes and fosters public confidence.
3. Protecting the interests of taxpayers without regard to any undue influence or political pressures.

This policy encourages effective competition to the maximum extent practicable and ensures expenditures are carried out in a prudent, ethical, and efficient manner.

**D. No Vendor Rights Established**

This policy is strictly reserved for the use of the City. This policy does not create any rights or benefits upon any prospective vendor, and nothing contained herein shall give or allow any claim or right of action by any prospective vendor. No solicitation or procurement process shall commit the City to select any vendor, award any contract, or pay any costs. The decisions of the City are final and without recourse to any vendor. All rights of the City, including without limitation to negotiate with any vendor, modify any solicitation, cancel any solicitation, or waive any informalities or irregularities in any proposal, bid, or quote or in the solicitation or selection process, are reserved.

**E. Application**

Except as expressly stated herein, this policy applies to all expenditures of public funds for the procurement of goods and services, regardless of funding source. No procurement shall be made on behalf of the City except in accordance with this policy, the Commerce City Revised Municipal Code (“Code”), Charter of the City of Commerce City (“Charter”), and any applicable state and federal laws.

Failure to comply with the requirements of this policy may result in disciplinary action, up to and including termination of employment.

**F. Procurement Manual**

The City Manager shall adopt a Procurement Manual to outline operating procedures governing the procurement of all goods, services, and construction to be procured by the City consistently with this policy.

**G. Procurement Officer**

The City Manager shall designate a Procurement Officer within the Department of Finance, who shall be responsible for the following:

1. Oversee and manage the procurement of goods, services, and construction at the direction of the City Manager.
2. Conduct best value solicitations when determined to be in the best interest of the City regardless of type of goods or services purchased.
3. Review purchase requisitions and issue and sign purchase orders pursuant to City Code.
4. Prepare, issue, revise, maintain, and monitor the use of specifications for materials, services, and construction required by the City.
5. Publish a Procurement Manual and Procurement Card Manual that outline operating procedures for use citywide.
6. Delegate procurement authority while ensuring compliance with City code and policy by reviewing and monitoring procurements conducted by any employee with delegated authority.

**H. Signature Authority**

Signature authority for contracts shall be as set forth in CCRMC 2-4201.

**I. Special Funding Sources**

It is the responsibility of the requesting department to inform the Procurement Division of any special conditions that may apply to a purchase due to special funding sources such as Federal or grant funds.

All procurements and contracts supported by Federal funding must comply with the Federal Single Audit Act and OMB A-133, 2 CFR Part 200, funding-specific laws, and funding agency-specific regulations and guidance. They should also comply with and include all required Federal practices and language, notwithstanding any inconsistent provisions of this policy.

**J. Items for Personal Use**

Personal use of supplies, materials, equipment, or services purchased by the City is prohibited. Items of a personal nature must not be purchased with City funds. Prohibited purchases include individual office décor, personal hygiene products, food and beverage purchases made outside of the parameters of this policy, and all other items not directly related to a City business need. Authorized purchases of branded Commerce City apparel are not considered personal items.

**K. Food and Beverage Purchases**

All food and beverage purchases must comply with the procedures outlined in the Procurement Manual and Procurement Card Manual.

**L. Information Technology Purchase Requirements**

1. The Information Technology (IT) Department must approve all purchases of computer hardware, software, telephone equipment, and related IT services.
2. Requisitions for technology-related purchases including, but not limited to, software, hardware, subscriptions, or cloud-based platforms of any size will be routed to IT for approval prior to review by the Procurement Division.
3. All Requests for Proposals (RFP) with technology components must include a minimum of one IT team member as a voting member of the evaluation team.

**M. Product Demonstrations**

Departments may schedule product demonstrations as part of their market research for goods, equipment, software, and services. However, no verbal or written commitments to purchase may be made until all applicable procurement procedures have been properly followed. To ensure compliance and support informed decision-making, departments are encouraged to consult with the Procurement Division prior to scheduling demonstrations and to include a procurement staff member in the process whenever possible.

**N. Retention Schedule**

All solicitations and responses, and resulting contract documents, shall be retained in accordance with the City’s retention schedule and must be available for the City’s annual audit. All contracts, regardless of size, should be retained with the City Clerk, except for change orders retained by the contracting department until the conclusion of the contract and then filed with the City Clerk.

**O. Disadvantaged Businesses**

The City shall comply with any federal requirements regarding the solicitation and use of disadvantaged businesses.

**Article II - PROCUREMENT THRESHOLDS & SOLICITATION REQUIREMENTS**

**A. Aggregate Expenditure**

The appropriate procurement method must be determined by the anticipated aggregate expenditure amount. The aggregate expenditure amount includes all years of a contract resulting from a procurement process for like goods or services for each City Department. The term aggregate does not include amounts attributable to contracts held by the same vendor for goods or services not included in the current procurement. It is a violation of this policy to intentionally make separate, sequential, or component (or Department Division) purchases to avoid the procurement or signature requirements of this policy.

**B. Procurement Thresholds**

Anticipated Aggregate Expenditure	Procurement Method
Less than \$15,000	Discretionary Purchase
\$15,000 and Under \$75,000	Informal Solicitation
\$75,000 or More	Formal Solicitation

1. Discretionary Purchases

Small purchases of supplies, equipment, and low risk services where the aggregate purchase amounts of less than \$15,000 are considered discretionary and can be obtained with one quote.

2. Informal Solicitations

Purchases of \$15,000 and under \$75,000 can be made through informal solicitation of quotes or proposals. For purchases in this range, three quotes or proposals should be obtained.

- a. All vendors contacted to respond to an informal solicitation must be provided with a scope of work identifying minimum requirements.
- b. Online advertising is not required.
- c. Receipt of quotes/informal proposals in a sealed format is not required.
- d. A public opening of quotes/informal proposals is not required.
- e. If all other factors are equal, award should be made to the vendor providing the lowest price in response to an informal request for quote.
- f. Documentation of the rationale for award of informal proposals must be maintained.
- g. Contracts or purchase orders issued as the result of an information solicitation cannot be amended to exceed the formal solicitation threshold without a waiver from the City Manager.

Under limited circumstances, the Procurement Officer may authorize fewer than three quotes or proposals in the informal range if sufficient documentation exists of the attempt to obtain responses from vendors or if determined to be in the best interest of the City.

### 3. Formal Solicitations

The Procurement Division shall conduct a procurement through formal solicitation for the procurement of goods or services for any department for amounts of \$75,000 or more. The Procurement Officer shall develop solicitation documents in a fair and impartial manner. A formal solicitation can be achieved through, but not limited to, the following procurement methods:

- a. Invitation for Bid (IFB)
- b. Request for Proposals (RFP)
- c. Invitation to Negotiate (ITN)
- d. Request for Qualifications (RFQ)

The Procurement Officer shall follow procedures outlined in the Procurement Manual to maintain the integrity of the formal solicitation process.

### **C. Professional Services**

Professional services are defined as services rendered by members of a recognized profession such as architecture, engineering, surveying, or other services requiring specialized licensing or certification. Such services may be procured through a qualifications-based solicitation. Professional Services may be procured and contracted as noted above in Article II.B.

### **D. Cooperative Procurement Contracts**

The City may use eligible cooperative contracts through cooperative organizations or other public agencies to meet the solicitation requirements of this policy.

- 1. Cooperative contracts are eligible for City use if they are the result of a competitive solicitation process, include language allowing use by other government agencies, and if the goods or services the City is interested in purchasing are expressly included in the contract.
- 2. If purchasing services through an eligible cooperative contract, it may be necessary to process a contract or participating addendum through the City Attorney's Office.
- 3. The Procurement Officer will maintain a list of authorized cooperative contracts that can be used by the City.

**E. Tied Bids or Proposals**

In the event that two (2) or more responsive bids or proposals identical in price or final evaluation score meet all the requirements of the IFB or RFP, the determination of the successful bidder or proposer shall be made by coin toss conducted by the City Manager or designee.

**F. Failed Competition Attempt**

If a competitive procurement process, either formal or informal, does not result in quote, bid, or proposal submissions, the Procurement Officer must conduct a review of the solicitation process to determine if a second attempt is necessary before negotiating directly with a vendor. The City Manager must approve a waiver prior to negotiating and contracting with a vendor if no quotes, proposals or bids were received from any solicitation.

**G. Frequency of Solicitation**

Procurements conducted either by solicitation of quotes or through the formal solicitation process should be re-solicited at least once every five (5) years. In most cases, the initial term of a service contract shall be one year with an option to renew for up to four additional one-year terms.

**H. Requisitions and Purchase Orders**

1. Requisitions:

A requisition is an electronic document created by a department through the City's financial system requesting the commencement of a purchasing transaction at the department level. Requisitions are required for all purchases of goods and services unless the purchase is made with a procurement card in accordance with policy and the Procurement Card Manual.

2. Purchase Orders:

A purchase order is a document issued to a supplier to encumber funds and authorize the purchase of goods in any amount and services up to \$10,000. Unless purchased with a procurement card in accordance with policy and the Procurement Card Manual, purchase orders must be secured in advance of placing an order or obligating the City in any way.

**I. Unauthorized Purchases**

Purchases are considered unauthorized if made outside of the parameters of policy, the procedures outlined in the Procurement Manual, and the Procurement Card Manual. Examples of unauthorized purchases include:

1. Ordering, receiving, or accepting goods or services without an approved contract and/or purchase order.
2. Directing a vendor to proceed with work without a fully executed contract for services.

**J. End-of-year Deadlines**

Procurement deadlines will be published annually by the Procurement Officer to ensure adequate time to secure quotes, bids, or proposals, prior to the end of the fiscal year.

## Article III – EMERGENCY PROCUREMENTS, WAIVERS, AND EXCEPTIONS

### A. Emergency Procurements

1. The City may forego the bidding procedures set forth above when a purchase is necessary to address an emergency. For purposes of this section, an emergency is defined as a situation where the City has declared an emergency under Colorado law, or where a situation which, if it continues to exist, would endanger the health or safety of the public or employees and requires a remedy sooner than the supplies, materials, equipment, personal property or services would be delivered if normal procurement procedures were followed, as determined by the City Manager. In the event of an emergency, one of the following procedures must be followed:
  - a. Emergency during regular business hours – Purchases must be approved in writing by the City Manager. If the need to make an emergency purchase exceeds \$250,000, the City Manager must provide written approval to move forward and submit the purchase order or contract to City Council for ratification at the earliest possible council meeting.
  - b. After hours emergency – If the need to make an emergency purchase arises after regular business hours, the department director, or designee, must take the necessary action to obtain the needed goods or services as soon as possible then contact the City Manager for written approval.
2. Emergency purchases are limited to the minimum goods and services necessary to meet the immediate and serious need of the emergency. All subsequent purchases are subject to the requirements of the procurement policy.
3. Upon declaration of an emergency by the City, the Procurement Officer shall prepare procedures to meet the appropriate compliance requirements for approval by the City Manager. These procedures are followed between the issuance of an emergency declaration and approval of the procedures by the City Manager.
4. Notwithstanding the immediate nature of an emergency, all procurements conducted as emergencies must be made as competitively as possible. If an emergency exists, a written determination for the selection of a particular vendor must be included with the backup documentation of the emergency. Emergency purchases should not exceed the scope of, or duration of, the emergency.
5. All emergency procurements must include written documentation of the emergency and City Manager authorization as described in the Procurement Manual.

### B. Procurement Waiver

The competitive requirements of the procurement policy may be waived by the City Manager under limited circumstances for the reasons listed below. The City Manager must approve all Procurement Waivers. City Manager shall report all approved waivers to City Council quarterly.

1. Sole Source Items - Items available from only one source may be purchased without competition with sufficient market research and documented proof that additional sources

do not exist. Items that may be considered sole source purchases include patented or copyrighted material, secret processes, natural monopolies, utility services, captive replacement parts or components for equipment, and films, manuscripts or rare books. Such items may be purchased from a sole source without competitive procurement only after obtaining proof that no other source exists and with approval from the City Manager via a signed procurement waiver.

2. Standardization - A purchase may be authorized without competition if it aligns with a standard previously set by the City. Standardization shall be defined as equipment presently in use as it relates to day-to-day operation and replacement or repair of the equipment.
3. Other justifiable reasons to waive the competitive requirements of the procurement policy may be considered for approval with the appropriate backup documentation and justification.

**C. Documentation Requirements**

All purchases made through an emergency, waiver, or exemption must include written justification identifying the applicable policy section the purchase will be made under and must be accompanied by the required documentation included in the Procurement Manual. Departments must maintain support documentation (e.g., invoices, contracts, approvals) for audit purposes in accordance with applicable records retention policies.