

**ADMINISTRATIVE RULES GOVERNING CITY OF ARVADA
PURCHASING AND CONTRACTS**

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**ADMINISTRATIVE RULES GOVERNING CITY OF ARVADA
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ARTICLE I.

IN GENERAL

(Purchasing Ordinance reference: Secs. 82-1 through 82-7)

Sec. 1-1. Title.

This document shall be known and may be cited as the "Administrative Rules Governing City of Arvada Purchasing and Contracts," and for convenience may be referred to as "Purchasing Rules."

Sec. 1-2. Purposes and application.

(a) These Purchasing Rules shall be construed and applied to promote the purposes and policies set forth in the City of Arvada Purchasing and Contracts Ordinance ("Purchasing Ordinance"), and are to further supplement and explain the Purchasing Ordinance. In the event of any conflict between these Purchasing Rules and the Purchasing Ordinance, the Purchasing Ordinance shall control.

(b) These Purchasing Rules further address the responsibilities of city staff involved with purchasing and contracting, as well as the obligations of bidders seeking to contract with the City of Arvada.

(c) Bidders and city staff involved with purchasing and contracting are expected to abide by both these Purchasing Rules and the Purchasing Ordinance, and failure to comply with either may result in disciplinary action to city staff and suspension or debarment of the bidder.

Sec. 1-3. Duties of appointing authority.

(a) In accordance with these Purchasing Rules, and subject to the supervision of the city manager, the appointing authority shall:

- (1) Comply with these Purchasing Rules and the Purchasing Ordinance;
- (2) Exercise any delegation by the city manager to approve contracts. The authority to modify and terminate contracts remains with the city manager and city council;

- (3) Determine the most appropriate method of procurement given the needs and best interest of the city as determined by the appointing authority, and the nature of the goods or services being solicited;
- (4) Encourage the participation of local Arvada businesses in the procurement of goods and services, to the extent possible;
- (5) Procure all goods and services necessary to the respective department or using agency;
- (6) Administer and oversee contracts and maintain contract files, including submission of any contract documents to the city clerk as may be prescribed by the city clerk;
- (7) Pursuant to the terms and limitations in the Purchasing Ordinance, temporarily delegate authority in writing for certain purchasing duties, when such delegation is deemed necessary for the efficient and effective procurement of goods and services; and
- (8) Perform any other duties specified herein.

Secs. 1-4--1-10. Reserved.

ARTICLE II.

SOLICITATION THRESHOLDS AND METHODS

(Purchasing Ordinance reference: Secs. 82-31 through 82-34)

Sec. 1-11. Solicitation thresholds.

- (a) No competitive solicitation is required for purchases of goods or services in a total amount of \$5,000.00 or less.
- (b) Purchases of goods or services in a total amount of \$5,000.01 or more require a competitive solicitation process.
- (c) Purchases of goods or services in a total amount of \$5,000.01 through \$15,000.00 may use informal competitive bidding.
- (d) - Purchases of goods or services in a total amount of \$15,000.01 or more shall use a formal, competitive solicitation.

Sec. 1-12. Exceptions.

(a) Emergency procurements as set forth in the Purchasing Ordinance are exempt from these dollar thresholds. The process and procedure for emergency procurements is set forth in Sections 1-17 and 1-18.

(b) Authorized sole source purchases as set forth in the Purchasing Ordinance are exempt from the requirement for a competitive solicitation. The process and procedure for sole source procurements is set forth below in Sections 1-15 and 1-16.

(c) Purchases of goods and services from valid public entity contracts or agreements, including those awarded by the federal government, that provide for access by local governments are exempt from the solicitation requirements of Article II of these Purchasing Rules. Contracts required for such purchases, however, shall comply with Article III of these Purchasing Rules.

Sec. 1-13. Non-competitive methods defined.

(a) Where permitted by the Purchasing Ordinance or these Purchasing Rules, contracts may be awarded by non-competitive methods. Acceptable non-competitive methods include: small dollar purchases; sole source procurements; and emergency procurements.

Sec. 1-14. Small dollar purchases.

(a) A small dollar purchase involves a purchase of goods or services of \$5,000.00 or less.

(b) Small dollar purchases do not require formal or informal bidding procedures. However, one valid quote shall be obtained from a responsible and responsive bidder.

(c) No purchase permitted by these Purchasing Rules shall be knowingly divided to circumvent dollar limits or bid requirements otherwise required under the Purchasing Ordinance or these Purchasing Rules.

Sec. 1-15. When sole source procurement is appropriate.

(a) A sole source purchase is not competitively bid;

(b) A sole source purchase is used when only one person or entity has a good or service that will meet the city's needs;

- (c) There needs to be a compelling need for the good or service; and
- (d) The purchase through a sole source is in the city's best interest as determined by the appointing authority.

Sec. 1-16. Sole source approval and justification requirements.

- (a) Purchases that meet the sole source requirements that are \$15,000.00 and less may be approved by an appointing authority;
- (b) Purchases that meet the sole source requirements that are \$15,000.01 or more shall be approved by the city manager;
- (c) Written justification shall be prepared by city staff using the designated city sole source template and shall include at least the following:
 - (1) The need for the proposed purchase;
 - (2) A detailed explanation of what efforts were used to determine that a purchase would only be available from one source;
 - (3) Reasons why other competing goods, services or providers cannot be considered; and
 - (4) Other factors deemed relevant.
- (d) The written justification and authorization for a sole source purchase shall be maintained as a public record in the respective purchase file.

Sec. 1-17. When emergency procurement is appropriate.

- (a) A situation of unusual or compelling urgency that creates a threat to public health, welfare, safety, or other good cause exists;
- (b) The emergency generates an immediate and critical need for goods or services, and those needs cannot be met through normal procurement methods;
- (c) Without the goods or services the threat to public health, welfare, or safety cannot be abated or eliminated; and
- (d) Emergency procurements are not intended to serve as a "fix it" for poor planning or to correct situations that need immediate action due to poor management.

Sec. 1-18. The requirements for emergency procurement.

(a) In the case of the existence of a threat to public health, welfare, safety, or that other good cause exists, the appointing authority shall be responsible to procure the necessary goods and services to address the emergency, and shall not be bound by normal solicitation provisions in the Purchasing Ordinance or these Administrative Rules. When procurement costs associated with the emergency are in a total amount of \$5,000.01 or more, and within two (2) business days of the event, the appointing authority shall be responsible to submit to the city manager for approval the documentation of the emergency using the designated city justification template; and

(b) The written documentation and approval shall be kept as a public record.

Sec. 1-19. Competitive methods defined.

(a) Unless otherwise permitted by the Purchasing Ordinance or these Purchasing Rules, purchase orders or contracts shall be awarded by competitive methods. Acceptable competitive methods for purchase orders or contracts include: Informal Bid; and the following Formal solicitations: Request for Bid ("RFB"); Request for Proposal ("RFP"); and Request for Qualification ("RFQ").

(b) Competition shall be deemed to exist when a competitive method is used to attempt to solicit an appropriate response from no less than three (3) likely bidders.

(c) In the circumstance when no more than two (2) likely bidders exist, the appointing authority shall document the solicitation file with an explanation that details the nature of those circumstances and how the determination came about.

Sec. 1-20. When to use the informal bid process.

(a) The cost of the goods or services sought is over \$5,000.00 but not more than \$15,000; and

(b) When due to the nature, availability or cost of the goods or the scope of the work of the services, formal bidding is not practical or advantageous to the city.

Sec. 1-21. The requirements of the informal bid process.

(a) An appointing authority shall make the determination that formal bidding for the particular good or service is not practical or advantageous to the city.

(b) If the good or service falls into the category of construction or professional services, or products installed by third parties, or would require the execution of a license

or purchase agreement, then bidders shall be provided with the city's approved purchasing "Legal Requirements" and "Insurance Requirements," and those requirements shall be incorporated into any subsequent award.

(c) A request for an informal bid does not need to receive public notice or be published.

(d) Bid responses may be requested by a stated deadline in a method determined by the city, which may include phone, facsimile, email or on-line bid request, or other such informal methods deemed to be practical or relevant for the good or service being bid.

(e) The bid responses shall be received from the bidders in accordance with the stipulations specified by the appointing authority. Responses shall contain verifiable information that includes, but is not limited to, the name of the bidder and the bidder's authorized agent, as well as their contact phone number or electronic address. "Late bids" are not acceptable.

(f) Informal bid responses are to remain confidential until the city exercises its right to award or makes the decision not to award.

(g) One of the designated employees in the city department seeking to award the contract shall, depending on the nature of the purchase, either create a purchase order, or have the city attorney's office create or review appropriate contract documents.

(h) It is the responsibility of the city department seeking to award the contract to obtain final approval from the appropriate appointing authority.

Sec. 1-22. When to use a Formal Request for Bid (RFB).

(a) A Formal RFB may be used if the cost of the goods or services is over \$5,000.00, but must be used if \$15,000.01 or greater; and

(b) The purchaser knows with specificity what goods or services the city is considering to purchase.

Sec. 1-23. The requirements of a Request for Bid.

(a) The city employee responsible for the RFB shall:

(1) Develop minimum specifications that meet the needs of the city as determined by the appointing authority, and provide for open and fair competition (*i.e.*, not proprietary to a particular product, service or bidder);

(2) Use the most current, designated city RFB template, and complete it with all possible relevant information and detail;

(3) Provide adequate public notice of the RFB in advance of the bid opening so that bidders may prepare and submit bids in a timely manner. The public notice shall state the place, date, and time of bid opening. Such notice is sufficient if posted on the City of Arvada's website; and

(4) Manage the RFB process through the knowledge of, and adherence to, the Purchasing Ordinance, these Purchasing Rules and the current RFB template.

(b) Any RFB shall include specifications, as well as the city's approved purchasing "Legal Requirements" and "Insurance Requirements" applicable to the procurement. All solicitation templates are subject to revision.

(c) Sealed formal bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. In the event of strikes, wars, acts of nature, or other good cause as determined by the appointing authority, bid openings may be extended for a reasonable time, not to exceed thirty (30) calendar days.

(d) Bids shall be accepted without alteration or correction, except as authorized in these Purchasing Rules.

(e) Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards based on such bid mistakes, may be authorized when deemed appropriate by the appointing authority. Mistakes discovered before bid opening may be modified or withdrawn by written addendum or electronic notice received in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that an unintentional factual mistake was made, including the nature of the mistake and the bid price actually intended. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted by the appointing authority to withdraw its bid if the mistake is clearly evident on the face of the bid document or if the bidder submits evidence to the appointing authority which clearly and convincingly demonstrates that a mistake was made.

(f) All decisions to permit the correction or withdrawal of bids based on bid mistakes will be supported by a written determination made by the appointing authority.

(g) The results of the review of the bid responses by the city are to remain confidential until the city exercises its right to award the bid or not to award.

(h) Bids shall be awarded to the lowest-priced responsible and most responsive

bidder whose bid meets the requirements and criteria set forth in the RFB. In the event the responsible and most responsive bid exceeds budgeted funds, the appointing authority is authorized to negotiate an adjustment of the bid price with the lowest responsive and most responsible bidder, to bring the bid within the amount of available funds. Any term of a bid, which is so noted as a variation or exception in response to a solicitation, is subject, at the discretion of the appointing authority, to negotiations. The city may further reserve the right, if so stated in the solicitation for bid, to negotiate specific terms of any bid when to do so is deemed to be in the best interest of the city.

(i) When, as determined by the appointing authority it is in the best interest of the city to do so, responses from bidders may be limited to bidders who have been pre-qualified by the city. For prequalification the appointing authority may consider the availability of the service or good, the evaluation criteria to be used for selection, the known abilities of a prospective bidder to meet the city requirements, statements of qualifications submitted by the bidders, past experience and history of the bidder in working with the city, resources and ability of the bidder's firm or business or any other relevant information which is indicative of a bidder's responsiveness and responsibility under the prospective terms of a bid or proposal.

(j) The appointing authority may, in the appointing authority's sole discretion, waive any minor bid irregularity which does not affect the competitiveness or alter any material term of the bid.

(k) One of the designated employees in the city department seeking to award the RFB shall, depending on the nature of the purchase, either create a purchase order, or have the city attorney's office create or review appropriate contract documents.

(l) It is the responsibility of the city department seeking to award the RFB to obtain final approval from the appropriate authority for the dollar threshold (e.g., appointing authority, city manager or city council).

Sec. 1-24. When to use a Formal Request for Information (RFI).

(a) A Formal RFI may be used if the projected cost of the goods or services is over \$5,000.00, but must be used if \$15,000.01 or greater;

(b) Information is needed about the nature and availability of certain goods or services that the city is, or maybe, considering for purchase; and

(c) The city needs to develop specific and competitive requirements that reasonably correspond to the goods or services in the marketplace.

Sec. 1-25. The requirements of a Request for Information.

- (a) The city employee responsible for the RFI shall:
 - (1) Where practicable, establish a review team and project plan;
 - (2) Develop a statement of the nature and parameters of the information being sought;
 - (3) Research and identify potential providers who can be solicited for information;
 - (4) Determine a method by which the review team will assess the information and compile findings;
 - (5) Use the most current, designated city RFI template, and complete it with all possible relevant information and detail;
 - (6) Manage the RFI process through the knowledge of, and adherence to, the Purchasing Ordinance, these Purchasing Rules and the current RFI template;
 - (7) Provide adequate public notice of the RFI in advance of the closing deadline, so that respondents may prepare and submit information in a timely manner; and
 - (8) Determine whether the information and the assessment results will be directed toward a purchase project, or not, and proceed accordingly with the most appropriate solicitation method.

(b) Any RFI shall include conditions that may be applicable to a possible future procurement. The city's approved purchasing "Legal Requirements" and "Insurance Requirements" need not be included in an RFI. All solicitation templates are subject to revision.

(c) RFI responses are to remain confidential until the city determines that the RFI process is complete.

Sec. 1-26. When to use a Formal Request for Proposal (RFP).

(a) A Formal RFP may be used if the cost of the goods or services is over \$5,000.00, but must be used if \$15,000.01 or greater;

(b) The nature of the requirement of the goods, or the scope of work of the services, is not known to the degree that it can be stated with specificity;

(c) The city seeks to obtain a unique offer developed from each potential provider's particular background, experience, credentials and assessment of a solution that, in the appointing authority's determination, would meet or exceed the city's needs; and

(d) The city desires to evaluate competitive offers from potential providers on the basis of relevant evaluative criteria, and more than just price (low bid).

Sec. 1-27. The requirements of a Request for Proposal.

(a) The city employee responsible for the RFP shall:

(1) Where practicable, establish an evaluation team and project plan;

(2) Develop a proposed scope of work that outlines the city's vision, but does not unnecessarily constrict the potential of providers to craft offers that might better meet or exceed the city's vision or expectations;

(3) Develop criteria that assist evaluation of the RFP, and assesses the likelihood of the good or service's success;

(4) Use the designated city RFP template, and complete it with all possible relevant information and detail;

(5) Manage the RFP process through the knowledge of, and adherence to, the Purchasing Ordinance, these Purchasing Rules and the current RFP template;

(6) Provide adequate public notice of the RFP in advance of the closing deadline so that bidders may prepare and submit offers in a timely manner; and

(7) Establish and apply an effective negotiation strategy with the top rated firm to achieve a final proposal offer that best serves the city's needs and interests.

(b) Any RFP shall include the city's approved purchasing "Legal Requirements" and "Insurance Requirements" applicable to the procurement. All solicitation templates are subject to revision.

(c) RFP responses are to remain confidential until the city exercises its right to award a contract or makes the decision not to award.

(d) One of the designated employees in the city department seeking to award the RFP shall, depending on the nature of the purchase, either create a purchase order, or have the city attorney's office create or review appropriate contract documents.

(e) It is the responsibility of the city department seeking to award the RFP to obtain final approval from the appropriate authority for the dollar threshold (*e.g.*, appointing authority, city manager or city council).

Sec. 1-28. When to use a Request for Qualifications (RFQ).

(a) A Formal RFQ may be used if the cost of the goods or services is over \$5,000.00, but must be used if \$15,000.01 or greater;

(b) Professional services are needed; and

(c) Providers need to be selected on the basis of experience, background, expertise, ability, and the like, and not on cost factors that correspond to the goods and services that they may be able to provide, or the city seeks to establish, through an RFQ process, some number of firms whose credentials will have been evaluated and deemed to be of such a quality that they are exclusively "pre-qualified" for participation in competitive solicitations for future projects.

Sec. 1-29. The requirements of a Request for Qualifications.

(a) The city employee responsible for the RFQ shall:

(1) Where practicable, establish an evaluation team and project plan;

(2) Outline an overview of the types and nature of the services that are needed, and describe the categories and the nature of the submittal content to which statements of qualifications shall be directed;

(3) Develop criteria that assist evaluation of the RFQ, including an effective method to assess each provider's qualifications to provide the requested services;

(4) Use the most current, designated city RFQ template, and complete it with all relevant details and information;

(5) Manage the RFQ process through the knowledge of, and adherence to, the Purchasing Ordinance, these Purchasing Rules and the current RFQ template;

(6) Provide adequate public notice of the RFQ in advance of the closing deadline so that bidders may prepare and submit qualifications in a timely manner; and

(7) Establish and apply an effective negotiation strategy with the top rated firm to achieve a final offer that best serves the city's needs and interests.

(b) Any RFQ shall include the city's approved purchasing "Legal Requirements" and "Insurance Requirements" applicable to the procurement. All solicitation templates are subject to revision.

(c) RFQ responses are to remain confidential until the city determines that the RFQ process is complete.

(d) One of the designated employees in the city department seeking to award the RFQ shall, depending on the nature of the purchase, either create a purchase order, or have the city attorney's office create or review appropriate contract documents.

(e) It is the responsibility of the city department seeking to award the RFQ to obtain final approval from the appropriate authority for the dollar threshold (*e.g.*, appointing authority, city manager or city council).

Sec. 1-30. Multi-step solicitation.

(a) When circumstances warrant, the city may, in its best interest as determined by the appointing authority, combine formal solicitation methods into a multi-step process to achieve the most effective outcome and contract award.

(b) Examples of such a process include, but are not limited to:

(1) 2-step bid - consisting of an RFI and then an RFB

(2) 2-step bid - consisting of an RFQ and then an RFB

(3) 2-step proposal - consisting of an RFI and then an RFP

(4) 2 step proposal - consisting or an RFQ and then and RFP

(5) Design-build; design-build-operate-maintain; design-build-finance-operate-maintain – consisting of an RFQ and then an RFP.

Secs. 1-31--1-70. Reserved.

ARTICLE III. CONTRACT ADMINISTRATION
(Purchasing Ordinance reference: Secs. 82-71 through 82-74)

Sec. 1-71. Contract approval.

(a) The appointing authority shall follow the requirements set forth in the Purchasing Ordinance for the approval, termination, or modification of contracts for the purchase of goods or services.

(b) Solicitations, as defined in the Purchasing Ordinance, may require standard contract clauses approved by the city attorney or designee.

(c) If standard contract clauses of the city are varied, they shall be approved by the city attorney or designee.

Sec. 1-72. Contract management.

(a) The appointing authority shall be responsible to ensure that all necessary contract documents are maintained and made available to the city clerk for record keeping.

(b) The appointing authority shall ensure that the contractor is performing in accordance with the contract documents.

(c) The appointing authority shall be responsible for ensuring that all bonds, notices, certificates of insurance and other documents required by any contract are timely obtained, current, and maintained for record keeping purposes.

(d) The appointing authority is obliged to determine, when required for a city project, that a contractor's accounting system on city projects is adequate to allocate costs in accordance with generally accepted accounting principles.

Sec. 1-73. Right to inspect plant.

(a) The city may inspect the plant, place of business, or work site of any contractor or subcontractor that is pertinent to the performance of any contract awarded or to be awarded by the city.

Secs. 1-74--1-90. Reserved.

ARTICLE IV.

DEBARMENT OR SUSPENSION (RESERVED)

(Purchasing Ordinance reference: Secs. 82-101 through 82-104)

Secs. 1-91--1-100. Reserved.

ARTICLE V.

APPEALS AND REMEDIES (RESERVED)

(Purchasing Ordinance reference: Secs. 82-121 through 82-124)

Secs. 1-101--1-110. Reserved.

ARTICLE VI.

ETHICS IN PUBLIC CONTRACTING (RESERVED)

(Purchasing Ordinance reference: Secs. 82-141 through 82-146)

Sec. 1-111. Employee conduct.

(a) Notwithstanding any provisions in the Purchasing Ordinance relating to conflict of interest, gratuities and kickbacks, contemporaneous employment, and use of confidential information, every employee is also subject to all city policies and rules, including but not limited to, personnel rules governing employee conduct.

Secs. 1-112--1-120. Reserved.

