

### 329.01 Definitions.

As used in this chapter:

- (a) At Risk Fee. The portion of the construction fee attributable to the risk the construction manager at risk assumes by agreeing to be responsible for the performance of work on a public improvement project.
- (b) Best Bidder. The bidder who, considering all relevant factors set forth in this chapter, will be, on the whole, best for the public.
- (c) Best Value. A selection process in which proposals contain both pricing and performance components, and award is based upon a combination of pricing and performance considerations to determine the offer deemed most advantageous and of the greatest value to the City.
- (d) Bidder. An individual or business entity which has expressed an interest in obtaining a city contract by responding to an invitation for bids.
- (e) Business Entity. Any trade, occupation, or profession carried out for profit by any of the following organizations existing under the laws of the State of Ohio, the United States, or any other state: a corporation, trust, association, general or limited partnership, sole proprietorship, joint stock company, joint venture, limited liability company, or any other private legal entity. Business entity does not include any not-for-profit entity as defined in this section, provided such entity is not in direct competition with a for-profit entity capable of delivering the same services.
- (f) City Agency. Any department of the government of the city of Columbus.
- (g) Contract. Any agreement for the procurement of materials, supplies, equipment, construction, service or professional service made between a city agency and a contractor.
- (h) Construction.
  - (1) Construction, as it relates to a public improvement, includes the following:
    - (a) The construction of new buildings and structures, including site preparation.
    - (b) Additions, alterations, conversions, expansions, reconstruction, renovations, rehabilitations, and major replacements of a building or structure, including, but not limited to, the complete replacement of a roof.
    - (c) Major mechanical and electrical system installations and upgrades, including, but not limited to, plumbing, heating and central air conditioning, boilers, ventilation systems, fire suppression systems, pump systems electrical work, elevators, escalators, and other similar building services that are built into the facility.
    - (d) New, fixed outside structures or facilities, including, but not limited to, sidewalks and trails, highways and streets, bridges, parking lots, utility connections, outdoor lighting, water supply lines, sewers, water and signal towers, electric light and power distribution and transmission lines, playgrounds and equipment, parks with features, retaining walls, and similar facilities that are built into or fixed to the land, including site preparation.
    - (e) Additions, alterations, expansions, reconstruction, renovations, rehabilitations, and major replacements of a fixed, outside structure.
    - (f) Major earthwork for land improvements for parks and recreation fields.
    - (g) Blasting, demolition, dredging, drilling, excavating and/or shoring.
  - (2) Construction, as it relates to a public improvement, does not include the following:
    - (a) Annual, routine, or minor maintenance and repairs to existing buildings and structures, including, but not limited to, painting, patching, and carpet cleaning.
    - (b) Annual, routine, or minor maintenance and repairs to building systems, including, but not limited to, plumbing, heating and central air conditioning, boilers, ventilation systems, fire

suppression systems, pump systems electrical work, elevators, escalators, carpet replacement and other similar building services that are built into the facility.

- (c) Annual, routine, or minor maintenance and repairs to fixed, outside structures or facilities, including, but not limited to, cleaning, sealing, landscaping, and tree removal.
  - (d) Cost and installation of special purpose equipment designed to prepare the structure for a specific use, including, but not limited to, furniture and equipment for an office.
- (3) For purposes of prequalification, as required by this Chapter, construction does not include demolition or deconstruction of any structure owned by the city's land bank or any structure located in an area zoned for residential use as defined in Title 33 of City Code.
- (i) Construction Contract. Any agreement for the procurement of services, including labor and materials, for the construction of public improvements, including but not limited to streets, highways, bridges, sewers, water lines, power lines and plant facilities.
  - (j) Construction Fee. A combination of home office overhead and profit for services provided by a Construction Manager at Risk during the construction phase of a construction project, as defined in the terms of a construction management contract.
  - (k) Construction Manager at Risk ("CMAR"). A business entity with substantial discretion and authority to plan, coordinate, manage, direct, and construct all phases of a construction project in accordance with Contract terms and who provides the City a guaranteed maximum price for the construction of public improvements. The term "manage," used in this context, includes approving bidders and awarding subcontracts for furnishing materials regarding, or performing, construction, demolition, alteration, repair, or reconstruction. The term "construct" may include performing, or subcontracting for performing, construction, demolition, alteration, repair, or reconstruction.
  - (l) Construction Management Contract. A contract between the City and a Construction Manager at Risk obligating the Construction Manager at Risk to provide construction management services.
  - (m) Construction Management Services. A range of services that a Construction Manager at Risk may provide.
  - (n) Contractor. Any individual or business entity which has a contract with a city agency.
  - (o) Director. The chief officer of any city agency.
  - (p) Electronic Agent. A computer program or an electronic or other automated means used independently to initiate action or respond to electronic records or performances in whole or in part, without review or action by an individual, as set forth in Ohio Revised Code Section 1306.01(F) or a successor to that section.
  - (q) Electronic Signatures. The receipt of any authorized signature by any photographic, photostatic, or mechanical, computer-generated or digital means.
  - (r) Employee. Has the same meaning as Section 361.07.
  - (s) Employer. Has the same meaning as Section 361.06.
  - (t) Environmentally Preferable Product or Service. Materials, supplies, equipment, construction and/or services which have a lesser or reduced negative impact on human health and the environment when compared to competing materials, supplies, equipment, construction and services that serve the same purpose.
  - (u) Executive Officer. As determined by the director of finance and management or designee, any of the following natural persons, based upon the organization of the business entity and provided that the individual's work is related to the business entity's industrial classification code as reported to the federal government: chair of the board, chief executive officer or other chief officer, president, general counsel, or vice president or equivalent in charge of a business unit or division of a corporation; sole proprietor; owner; managing partner, senior partner, administrative partner, member, manager or officer of a general or limited partnership, or limited liability company; trustee; or the equivalent of the aforementioned.

- (v) First-tier subcontract. A subcontract awarded directly by the Contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the Contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a Contractor's general and administrative expenses or indirect costs.
- (w) Full-Time Employees. For persons directly performing construction service work in Ohio, full-time employees means the product of the total number of hours worked by all construction service work employees of the entity in the previous fiscal year divided by one thousand two hundred eighty (1,280). For all other persons performing work in Ohio, full-time employees means the product of the total number of hours worked by all other employees of the entity in the previous fiscal year divided by two thousand eighty (2,080).
- (x) Health Insurance. An adequate and affordable health insurance benefit provided by an employer to an employee. The employer must provide the benefit as part of an overall compensation plan and the benefit cannot be limited to a specific project. A health insurance benefit is "adequate and affordable" if it meets both the minimum value and affordability requirements established in rules promulgated pursuant to Public Law 111-148, The Patient Protection and Affordable Care Act or a successor to that law. The benefit must otherwise meet the requirements of a "bona fide" fringe benefit, as defined in 29 CFR 4.171 or a successor to that section. An employer may provide a health insurance benefit through the Small Business Health Options Program, pursuant to Public Law 111-148, so long as it otherwise meets the criteria of this definition. For the purposes of construction prequalification, the foregoing shall apply only to those persons performing construction service work, as defined by rule of the director of finance and management or designee.
- (y) Indefinite Quantity Contract. A contract that provides for an indefinite quantity of goods or services for a fixed time and fixed price, with deliveries or services to be scheduled at designated locations upon order.
- (z) Licensed Construction Trade. A person or business entity who has a current and valid license issued or recognized by the city, the Ohio construction industry licensing board, pursuant to Ohio Revised Code Section 4740.01 or a successor to that section, or the Ohio state fire marshal, pursuant to Ohio Revised Code Section 3737.65 or a successor to that section, to perform work as a contractor or subcontractor in the following trades: heating, ventilating, and air conditioning, refrigeration, electrical, plumbing, hydronics, or fire protection or firefighting equipment installed within a public improvement, or any other skilled trade approved by the director of finance and management or designee.
- (aa) Life Cycle Costs. The cost of operating and maintaining an item or equipment over the duration of its useful life.
- (bb) Local Bidder. A bidder or offeror who meets the definition of a local business, as determined by the director of finance and management or his/her designee.
- (cc) Local Business. A business entity that has current and fixed local occupancy and is a taxpayer in good standing, as determined by the finance and management director or designee.
  - (1) Current and Fixed Local Occupancy. A business entity that submits proof to the city demonstrating that it owns or leases office space within the corporate limits of the city of Columbus and that such office space meets all of the following criteria:
    - (a) Is occupied and used by at least one (1) executive officer of the business entity; and
    - (b) Has been owned or leased by the business entity for no less than twenty-four (24) consecutive months immediately preceding the date such proof is submitted; or if a business entity has relocated within the city of Columbus during the preceding twenty-four (24) months, it has owned or leased otherwise eligible office space for twenty-four (24) consecutive months immediately preceding the date such proof is submitted; and
    - (c) Is none of the following: Post Office boxes or similar mailing addresses; moveable work sites, such as construction trailers or offices at a construction job site; locations zoned for residential use, unless such location is the sole office space owned and/or leased by the

business entity; or locations occasionally rented or used by the business entity for temporary business functions, such as office meetings or teleconferences.

- (2) Taxpayer in Good Standing. A business entity that submits proof to the city demonstrating that it has filed returns for both net profits and payroll taxes with the city of Columbus for no less than two (2) consecutive fiscal years preceding the date such proof is submitted. The business entity must further submit proof to the city demonstrating one (1) of the following:
  - (a) That the business entity is current and compliant in the payment of any city of Columbus taxes on payroll and net profits at the time such proof is submitted; or
  - (b) If the business entity is not current and compliant in the payment of any city of Columbus taxes on payroll and net profits, that the business entity has entered into an agreement to pay any delinquency and is abiding by the terms of the agreement at the time such proof is submitted.
- (dd) Local Workforce. A workforce whereby at least fifteen (15) percent of the business entity's full-time equivalent employees in Ohio reside in the city of Columbus, as determined by the finance and management director or designee.
- (ee) Manifestly Impractical. Readily perceived or obvious to not be useful or advantageous.
- (ff) Not-for-Profit Contract. An agreement for the delivery of services to the public, which are not currently performed or provided by an existing city agency, for maintaining or improving the health and welfare of the citizens of the city, which is made between a city agency and another governmental agency or a not-for-profit organization as recognized by the Internal Revenue Service, the Department of Housing and Urban Development, or any other applicable federal or state agency, which is not in direct competition with a private for-profit organization capable of delivering the same services.
- (gg) Offeror. An individual or business entity which has expressed an interest in obtaining a city contract by responding to a request for statements of qualifications or request for proposals.
- (hh) Open book pricing method. A method in which a construction manager at risk provides the city agency, at the city agency's request, all books, records, documents, and other data in its possession pertaining to the bidding, pricing, or performance of a construction management contract awarded to the construction manager at risk.
- (ii) Preconstruction fee. A combination of home office overhead and profit for services provided by a Construction Manager at Risk during the preconstruction phase of a construction project, as defined in the terms of a construction management contract.
- (jj) Prequalified Not Responsible. An entity who has not met the requisite criteria and/or not received a score necessary to be deemed responsible or provisionally responsible by prequalification and, as result, is not approved to bid or subcontract on construction service contracts with the city.
- (kk) Prequalified Provisionally Responsible. An entity who has met the requisite criteria and received a score necessary to be deemed provisionally responsible by prequalification, and, as result, is approved on a temporary basis, not to exceed twenty-four (24) consecutive months from the date of approval, to bid or subcontract on construction service contracts with the city.
- (ll) Prequalified Responsible. An entity who has met the requisite criteria and received a score necessary to be deemed responsible by prequalification and, as result, is approved to bid or subcontract on construction service contracts with the city.
- (mm) Procurement. The buying, purchasing, renting, leasing or acquisition by any other manner of any materials, supplies, equipment, construction, service or professional service.
- (nn) Professional Service. A service which usually requires advanced training and/or a significant degree of expertise to perform, and which often requires official certification or authorization by the state as a condition precedent to the rendering of such service. By way of example, professional services include the personal services rendered by architects, attorneys-at-law, certified public accountants, financial consultants, city and regional planners, management consultants and professional engineers.

- (oo) Public Improvement. All buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, water works, and all other structures or works constructed by the city of Columbus or by any person or business entity who, pursuant to a contract with the city of Columbus, constructs any structure or works for the city of Columbus. For the purposes of this definition, "city of Columbus" means any officer, board, or commission of the city of Columbus authorized to enter into contract for the construction of a public improvement or to construct the same by the direct employment of labor, or any entity supported in whole or in part by funds from the city of Columbus and shall apply to such entities' expenditures made in whole or in part from such public funds.
- (pp) Quality Training. With respect to persons performing licensed construction trade work in Ohio, employees who have done at least one (1) of the following:
  - (1) Graduated from or are participating in a bona fide apprenticeship program that is approved by the Ohio State Apprenticeship Council, as defined in the Ohio Administrative Code Section 4101:9-4-02(C) or a successor to that section, or the United States Department of Labor, as defined in 29 CFR 29.2(f) or a successor to that section, if such apprenticeship programs are available; or
  - (2) Have at least five (5) years of documented experience in the specific trade.
- (qq) Responsible Bidder. A bidder who has the capability and capacity in all respects to fully perform the contract requirements and whose experience, integrity and reliability will assure good faith performance.
- (rr) Responsible Wage. The wage paid to a bidder's employees for ~~custodial, landscaping, guard and security services, cleaning and recycling~~ services rendered to any city agency, which shall be equal to or better than the wage actually paid to the lowest paid city full-time employee per the city's effective contracts with its bargaining units.
- (ss) Responsibility Prequalification. The annual process by which an entity is approved or disapproved to bid or subcontract on construction service contracts with the city, based on a uniform evaluation of objective criteria related to the responsibility of the entity.
- (tt) Responsibility Prequalification Application. A form prescribed by the director of finance and management whereby an entity may seek responsibility prequalification.
- (uu) Responsive Bidder. A bidder who has submitted a bid which conforms in all material respects to the requirements set forth in an invitation for bids.
- (vv) Retirement or Pension Plan. A retirement or pension benefit provided by an employer to an employee as part of an overall compensation plan and not as a benefit limited to a specific project. The plan must meet the requirements of a "bona fide" fringe benefit, as defined in 29 CFR 4.171 or a successor to that section. For the purposes of construction prequalification, the foregoing shall apply only to those persons performing construction service work, as defined by rule of the director of finance and management or designee.
- (ww) Subcontractor. Any business entity who undertakes to perform any portion of work on a city project under a contract with an entity other than a city agency.
- (xx) Universal Term Contract (UTC). An agreement authorized by ordinance of city council and established by the director of finance and management or designee, for the option to purchase or sell an estimated amount of goods or services at a specified rate or price schedule for a specified time period.
- (yy) Unsatisfactory Judgment. A final decision, order, or verdict in a judicial, quasi-judicial or administrative proceeding, after all available appeals have either been exhausted or waived, in which a determination of civil liability, criminal conviction, or administrative penalty was imposed upon the individual or entity for violating any applicable federal, state, or local laws, rules, or regulations.

### **329.18 Competitive sealed bidding.**

- (a) The establishment of universal term contracts and/or the procurement of all materials, supplies and equipment shall be conducted under this section as follows:

- (1) The director of finance and management or designee shall prepare an invitation for bids (hereinafter "IFB") containing the specifications, any requirements established under Section 3903.10, and all contractual terms and conditions applicable to the procurement.
- (2) The director of finance and management or designee shall give notice that bids will be received by advertisement in the Columbus City Bulletin at least one (1) week prior to the deadline for submission of bids, and must be posted through an electronic agent approved by the finance and management director at least twenty-one (21) calendar days prior to the deadline for submission of bids. If exigent circumstances warrant, the finance and management director may direct a shorter time period for the advertisement. The director of finance and management or designee may also advertise in newspapers, professional and trade journals, and any other appropriate publications. The notice shall state the place, date and time of bid opening.
- (3) Each bid shall contain the full name of every person or company interested in the same, and such other relevant information as the director of finance and management or designee deems appropriate.
- (4) Bids may be submitted in either traditional hardcopy format or through an electronic agent as determined by the city agency and stated in the specifications. Any electronic agent used to receive bids must be approved prior to use by the finance and management director or designee, in consultation with the technology director or designee.
- (5) The city shall open bids publicly in the presence of one or more witnesses, one of whom must be another city employee, at the time and place, designated in the invitation for bids. The city shall record the name of each bidder, the amount of each bid and such other relevant information as the finance and management director or designee deems appropriate. The record and each bid shall be open to public inspection. If bids are opened through an electronic agent approved by the finance and management director or designee, the city shall immediately publicly provide through the same electronic agent the required information. If bids are opened through an electronic agent approved by the finance and management director or designee, the requirement of a public opening in the presence of outside witnesses is not applicable.
- (6) After consulting with the city agency, the director of finance and management or designee shall award the contract to the lowest, responsive, responsible, and best bidder. Life cycle costs may be considered in determining the lowest bid if they are objectively measurable and specified in the IFB.
- (7) The director of finance and management or designee shall provide city council with a written explanation of the circumstances whenever a contract is awarded to any bidder other than the lowest, or to any bidder not recommended by the city agency.
- (8) In determining the responsibility of a bidder, consideration shall be given to bidder's record of unsatisfactory judgments, as defined in Section 329.01, with any applicable federal, state or local laws or regulations; affirmative action or diversity and inclusion programs which the city is required by law to enforce in connection with funds to be spent under the procurement contract; whether the bidder is a local bidder; and the bidder's compliance with any minority business enterprise, women business enterprise or equal business opportunity programs or good faith efforts to comply with such programs adopted by the city.
- (9) All successful bidders entering into a contract with the city, and their listed subcontractors, shall have a current and valid contract compliance certification number, pursuant to provisions set forth in Title 39.
- (10) The finance and management director or designee shall prescribe the manner and form of submittals for the purpose of evaluating the considerations herein. Prior to prescribing said manner and form of submittals, the finance and management director shall consult with the directors of city agencies responsible for performing any contract-related function referred to in this section. The contracting city agency must include the prescribed submittal forms in the bid specifications.
- (11) The city agency shall maintain in the contract file a record of the bid evaluation for the purposes of determining the lowest, responsive, responsible, and best bidder awarded the contract.
- (12) No contract greater than \$50,000.00 awarded under this section shall be effective until approved by ordinance of city council.

- (b) The procurement of all service contracts except construction, ~~custodial, landscaping, guard and security services, cleaning and recycling services, and professional services~~ shall be conducted under this section as follows:
- (1) The city agency shall prepare an invitation for bids (hereinafter "IFB") containing the specifications, any requirements established under Section 3903.10, and all contractual terms and conditions applicable to the procurement. The city agency may prepare a bid for a definite quantity service contract or an indefinite quantity service contract.
  - (2) The city agency shall give notice that bids will be received by advertisement in the Columbus City Bulletin at least one (1) week prior to the deadline for submission of bids, and must be posted through an electronic agent approved by the finance and management director at least twenty-one (21) calendar days prior to the deadline for submission of bids. If exigent circumstances warrant, the finance and management director may direct a shorter time period for the advertisement. The city agency may also advertise in newspapers, professional and trade journals, and any other appropriate publications. The notice shall state the place, date and time of bid opening.
  - (3) Each bid shall contain the full name of every person or company interested in the same, and such other relevant information as the city agency deems appropriate.
  - (4) Bids may be submitted in either traditional hardcopy format or through an electronic agent as determined by the city agency and stated in the specifications. Any electronic agent used to receive bids must be approved prior to use by the finance and management director or designee, in consultation with the technology director or designee.
  - (5) The city shall open bids publicly in the presence of one or more witnesses, one of whom must be another city employee, at the time and place, designated in the invitation for bids. The city shall record the name of each bidder, the amount of each bid and such other relevant information as the finance and management director or designee deems appropriate. The record and each bid shall be open to public inspection. If bids are opened through an electronic agent approved by the finance and management director or designee, the city shall immediately publicly provide through the same electronic agent the required information. If bids are opened through an electronic agent approved by the finance and management director or designee, the requirement of a public opening in the presence of outside witnesses is not applicable.
  - (6) The director authorized to make the expenditure shall award the contract to the lowest, responsive, responsible, and best bidder. Life cycle costs may be considered in determining the lowest bid if they are objectively measurable and specified in the IFB.
  - (7) The director shall provide city council with a written explanation of the circumstances whenever a contract is awarded to any bidder other than the lowest.
  - (8) In determining the responsibility of a bidder, for purposes of this section only, to be considered responsible, a bidder must demonstrate that the bidder will pay a responsible wage and provide a health insurance benefit, as defined in Section 329.01, to all employees proposed to directly perform the work specified in the city bid solicitation response. Additionally, consideration shall be given to the following:
    - (a) Bidder's record of unsatisfactory judgments, as defined in Section 329.01, with any applicable federal, state or local laws or regulations; affirmative action or diversity and inclusion programs which the city is required by law to enforce in connection with funds to be spent under the procurement contract; whether the bidder is a local bidder; and the bidder's compliance with any minority business enterprise program, women business enterprise program or good faith efforts to comply with such programs adopted by the city; and
    - (b) Whether the bidder employs a local workforce, as defined in Section 329.01.
  - ~~(8) In determining the responsibility of a bidder, consideration shall be given to bidder's record of unsatisfactory judgments, as defined in Section 329.01, with any applicable federal, state or local laws or regulations; affirmative action or diversity and inclusion programs which the city is required by law to enforce in connection with funds to be spent under the procurement contract; whether the bidder is a local bidder; and the bidder's compliance with any minority business enterprise, women business~~

~~enterprise or equal business opportunity programs or good faith efforts to comply with such programs adopted by the city.~~

- (9) All successful bidders entering into a contract with the city, and their listed subcontractors, shall have a current and valid contract compliance certification number, pursuant to provisions set forth in Title 39.
  - (10) The finance and management director or designee shall prescribe the manner and form of submittals for the purpose of evaluating the considerations herein. Prior to prescribing said manner and form of submittals, the finance and management director shall consult with the directors of city agencies responsible for performing any contract-related function referred to in this section. The contracting city agency must include the prescribed submittal forms in the bid specifications.
  - (11) The finance and management director or designee shall annually determine and provide to city agencies the responsible wage, as defined in Section 329.01. The responsible wage shall be communicated to all city departments and shall be posted on the City website for access by the public and by businesses, including bidders. This notification shall take place by July 31 of each year.
    - (a) The notification shall state that the determined responsible wage will apply to all contracts executed, modified and/or renewed starting on January 1 of the upcoming calendar year.
    - (b) July 1 of each year shall be the date that forms the basis of the responsible wage determination for the upcoming calendar year.
  - ~~(14)~~(12) The city agency shall maintain in the contract file a record of the bid evaluation for the purposes of determining the lowest, responsive, responsible, and best bidder awarded the contract.
  - ~~(12)~~(13) No contract greater than \$50,000.00 awarded under this section shall be effective until approved by ordinance of city council. A city agency may place periodic orders from an indefinite quantity service contract authorized in subsection (1), so long as total expenditures do not exceed fifty thousand dollars (\$50,000) in any fiscal year from the specified indefinite quantity service contract. A city agency may place periodic orders from an indefinite quantity services contract authorized in subsection (1), in an amount exceeding fifty thousand dollars (\$50,000), only if the contract is approved by ordinance of city council.
- (c) ~~The procurement of all custodial, landscaping, guard and security service, cleaning and recycling service contracts shall be conducted under this section as follows:~~
- ~~(1) The city agency shall prepare an invitation for bids (hereinafter "IFB") containing the specifications, any requirements established under Section 3903.10, and all contractual terms and conditions applicable to the procurement. The city agency may prepare a bid for a definite quantity contract or an indefinite quantity contract.~~
  - ~~(2) The city agency shall give notice that bids will be received by advertisement in the Columbus City Bulletin at least one (1) week prior to the deadline for submission of bids, and must be posted through an electronic agent approved by the finance and management director at least twenty one (21) calendar days prior to the deadline for submission of bids. If exigent circumstances warrant, the finance and management director may direct a shorter time period for the advertisement. The city agency may also advertise in newspapers, professional and trade journals, and any other appropriate publications. The notice shall state the place, date and time of bid opening.~~
  - ~~(3) Each bid shall contain the full name of every person or company interested in the same, and such other relevant information as the city agency deems appropriate.~~
  - ~~(4) Bids may be submitted in either traditional hardcopy format or through an electronic agent as determined by the city agency and stated in the specifications. Any electronic agent used to receive bids must be approved prior to use by the finance and management director or designee, in consultation with the technology director or designee.~~
  - ~~(5) The city shall open bids publicly in the presence of one or more witnesses, one of whom must be another city employee, at the time and place, designated in the invitation for bids. The city shall record the name of each bidder, the amount of each bid and such other relevant information as the finance and management director or designee deems appropriate. The record and each bid shall be open to public~~



~~inspection. If bids are opened through an electronic agent approved by the finance and management director or designee, the city shall immediately publicly provide through the same electronic agent the required information. If bids are opened through an electronic agent approved by the finance and management director or designee, the requirement of a public opening in the presence of outside witnesses is not applicable.~~

- ~~(6) The director authorized to make the expenditure shall award the contract to the lowest, responsive, responsible, and best bidder. Life cycle costs may be considered in determining the lowest bid if they are objectively measurable and specified in the IFB.~~
- ~~(7) The director shall provide city council with a written explanation of the circumstances whenever a contract is awarded to any bidder other than the lowest.~~
- ~~(8) In determining the responsibility of a bidder, consideration shall be given to the following:
  - ~~(a) Bidder's record of unsatisfactory judgments, as defined in Section 329.01, with any applicable federal, state or local laws or regulations; affirmative action or diversity and inclusion programs which the city is required by law to enforce in connection with funds to be spent under the procurement contract; whether the bidder is a local bidder; and the bidder's compliance with any minority business enterprise, women business enterprise or equal business opportunity programs or good faith efforts to comply with such programs adopted by the city;~~
  - ~~(b) Whether the bidder employs a local workforce, as defined in Section 329.01; and~~
  - ~~(c) That the bidder shall pay a responsible wage and provides its employees a health insurance benefit as defined in Section 329.01 to the employees proposed to directly perform the work specified in the city bid solicitation.~~~~
- ~~(9) For the purpose of divisions (8)(b) and (c) only, exemption from these considerations is provided for bidders that employ twenty five (25) or fewer full time people.~~
- ~~(10) For the purpose of divisions (8)(b) and (c) only, exemption from these considerations is provided for bidders where the city solicits the bids for these services in accordance with Section 329.19(d) procurement of materials supplies, equipment, and services other than construction and professional services not exceeding fifty thousand dollars (\$50,000.00).~~
- ~~(11) The finance and management director or designee shall prescribe the manner and form of submittals for the purpose of evaluating the considerations herein. Prior to prescribing said manner and form of submittals, the finance and management director shall consult with the directors of city agencies responsible for performing any contract related function referred to in this section. The contracting city agency must include the prescribed submittal forms in the bid specifications.~~
- ~~(12) The finance and management director or designee shall annually provide to city agencies the responsible wage, as defined in Section 329.01.~~
- ~~(13) The city agency shall maintain in the contract file a record of the bid evaluation for the purposes of determining the lowest responsive, responsible and best bidder awarded the contract.~~
- ~~(14) All successful bidders entering into a contract with the city, and their listed subcontractors, shall have a current and valid contract compliance certification number, provisions set forth in Title 39.~~
- ~~(15) No contract greater than \$50,000.00 awarded under this section shall be effective until approved by ordinance of city council. A city agency may place periodic orders from an indefinite quantity service contract authorized in division (c)(1), so long as total expenditures do not exceed fifty thousand dollars (\$50,000) in any fiscal year from the specified indefinite quantity service contract. A city agency may place periodic orders from an indefinite quantity services contract authorized in division (c)(1), in an amount exceeding fifty thousand dollars (\$50,000), only if the contract is approved by ordinance of city council.~~

~~(4)(c) Multiple-source contracting/Universal Term Contract~~

- ~~(1) General. A multiple-source award is an award of an indefinite quantity contract for one or more similar supplies or services to more than one bidder or offeror.~~

- (2) Limitations on use. A multiple-source award may be made when awards to two or more bidders or offerors for similar products are necessary for adequate delivery, service or product compatibility. Any multiple-source award shall be made in accordance with provisions of section 329.18.
- (3) Contract and solicitation provisions. The city shall name all eligible users of the contract in the solicitation except that the city may add additional users to the contract upon approval of the contractor, where the needs are as described in the solicitation and doing so is in the best interests of the city. The city shall obtain the actual requirements of such users in accordance with the contract provided that:
  - (a) The city reserves the right to take bids separately if a particular quantity requirement arises which exceeds its normal requirement or an amount specified in the contract; and
  - (b) The city reserves the right to take bids separately if the finance and management director or designee approves a finding that the supply or service available under the contract will not meet a nonrecurring special need of the city.
- (4) Intent to use. If a multiple-source award is anticipated prior to issuing a solicitation, the intent must be stated in the solicitation by informing potential bidders that the city shall reserve the right to make such an award and the criteria for award shall be stated in the solicitation.

~~(e)~~(d) Best value competitive sealed proposals.

- (1) Conditions for use. The city may award contracts estimated to cost in excess of \$50,000.00 by competitive sealed proposals. The requirements of 329.18(c)(8) and (9) shall be applicable for best value competitive sealed proposals utilized for custodial, landscaping, guard and security service, cleaning and recycling service contracts conducted under this section. This procurement method may only be used by the purchasing office with the express permission of the finance and management director. This authority cannot be delegated. This method may be used by the purchasing office for purchases on behalf of other city agencies.
- (2) Invitation for proposals. An invitation for proposals shall be issued and shall contain the specifications, any requirements established under Section 3903.10, and all contractual terms, and conditions applicable to the procurement. The relative importance of price and the other evaluation factors must be clearly identified in the request for proposals.
- (3) Other evaluation factors that may be included in the city's invitation for proposals. In determining which proposal offers the best value for the city, the city shall when applicable, consider factors including:
  - (a) any relevant criteria specifically listed in the request for proposals;
  - (b) overall life of the system or equipment;
  - (c) cost of acquisition, operation, and maintenance of hardware or software included with, associated with, or required for the system or equipment during the city's ownership or lease;
  - (d) estimated cost of other supplies needed because of the acquisition;
  - (e) estimated cost of employee training needed because of the acquisition;
  - (f) estimated cost of necessary additional permanent employees because of the acquisition
  - (g) purchase price
  - (h) quality of the offeror's goods or services
  - (i) extent to which the goods or services meet the city's needs
  - (j) total long-term cost to the city to acquire the offeror's goods or services
  - (k) installation costs
- (4) Public notice. The city shall give adequate public notice of invitations for proposals of not less than twenty-one (21) calendar days prior to the date set forth therein for the opening of proposals, unless exigent circumstances require a shorter period, as determined by the finance and management director or

designee. Such notice may include the use of an electronic solicitation system. The public notice shall state the place, date and time of bid opening.

- (5) Proposal opening. The city shall open proposals publicly in the presence of one or more witnesses, one of whom must be another city employee, at the time and place designated in the invitation for bids. The city shall record the name of each proposer and such other relevant information as the finance and management director or designee deems appropriate. Once a contract is awarded, the record and each proposal shall be open to public inspection in accordance with section 329.05 of this chapter. If proposals are opened through a secure electronic agent approved by the finance and management director or designee, the requirement of a public opening in the presence of outside witnesses is not applicable.
- (6) Late Proposals. The city shall not open proposals it receives after the due date and time and shall reject such proposals as late.
- (7) The finance and management director or designee shall appoint an evaluation committee (hereinafter "committee") to evaluate proposals received. The committee shall consist of an odd number of members, no less than three (3), selected from the funding city agency, other city agencies, or both. The committee may also include non-city employees so long as neither they, nor any member of their families, nor any of their business associates have an interest in the contract being awarded. An employee of the purchasing office as assigned by the finance and management director or designee shall serve as a non-scoring chair of the committee, not to be counted as a member of the committee. The non-scoring chair will facilitate the evaluation process.
- (8) The committee shall evaluate all offerors and proposals received and rank the offerors based upon the evaluation criteria specified in the invitation for proposals. The committee may select two (2) or more of the highest qualified offerors with which to hold additional discussions. Offerors not selected for further discussions may be excluded from further consideration for the contract upon notification by the committee chair.

The discussions identified in this subsection may include, but are not limited to, presentations by the offerors to the committee to elaborate upon their qualifications, proposals, and/or other pertinent information. The committee may permit revisions of proposals so long as all offerors who are selected for additional discussions are given equal opportunity to revise their proposals.

- (9) Based upon the content of the proposals received including any revisions thereto, and upon any additional discussions with the offerors the committee shall rank the remaining offerors based upon the evaluation criteria specified in the invitation for proposals.
- (10) The committee chair shall submit the committee's ranking of the offerors along with a written explanation to the finance and management director or designee. The ranking and written explanation shall become part of the contract file.
- (11) The finance and management director or designee shall have discretion consistent with appropriate departmental and/or citywide administrative rules in selecting the offeror with which to enter into contract negotiations. The finance and management director or designee shall enter into contract negotiations with the selected offeror to determine the terms and conditions of the contract, including compensation to be paid by the city. If negotiations fail, negotiations with this offeror shall be terminated, and the finance and management director or designee may enter into contract negotiations with another offeror as selected by the director. This process may continue until a contract is successfully negotiated.
- (12) After successfully negotiating a contract, the finance and management director or designee shall submit legislation to city council requesting approval of the contract. In its request for approval, the finance and management director or designee shall explain the basis for the selection of the chosen contractor. No contract awarded under this section shall be effective until approved by ordinance of city council.