



**DPS** DEPARTMENT OF  
**PROCUREMENT  
SERVICES**

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**PROCUREMENT FUNDAMENTALS**





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Rev. 8/2019

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# 1. Overview

## Mission Statement of the Department of Procurement Services (DPS)

- DPS is the contracting authority for the procurement of goods and services for the City of Chicago.
- We pledge to work together as a team and with our customers to guarantee an open, fair, and timely process by establishing, communicating, and enforcing superior business practices.
- Integrity, Public Trust and the Law are our guiding principles.

**DPS is committed to public procurement that is open, timely, and fair to all who participate.**

- DPS is a service department; our clients are the City's User Departments.
- The City's User Departments determine their particular needs and requirements. DPS assists them in articulating those needs for the marketplace and acquiring the goods and services necessary to meet those needs. The User Departments are responsible for processing invoices for payment. DPS assists the User Departments in that effort by developing pertinent contract terms and conditions, and resolving disputes when they arise during the Departments' administration of their contracts.
- Although DPS is not responsible for the procurement of certain contracts, such as those for legal services, airport concessions, City Council contracts, and other contracts for which City Council has delegated authority to other City departments, it does coordinate with those User Departments as necessary in procuring and administering those contracts.
- The public procurement process serves two fundamental purposes:
  - 1) It enables the public to participate in the business of government; and
  - 2) It is the means through which government obtains the goods and services necessary for government to serve its constituents in the most cost-effective manner.
- The same principles apply to public procurement that apply to participation in government generally, i.e., equal opportunity and due process.
- The application of due process to public procurement means that procurement must be open, non-discriminatory, and fair to all who participate.



## 2. Definitions

There are a number of terms that are used regularly in discussing procurement. Definitions for a number of these terms are set forth in the following pages.

- **Addendum (plural, addenda)** – A change to the City’s requirements in an invitation for bids, request for qualifications (RFQ), or request for proposals (RFP). An addendum is issued by DPS to everyone who has signed in as a holder of a bid package, RFQ, or RFP. If DPS does issue an addendum or addenda for procurement, bidders will be required to acknowledge their receipt of all addenda with their bid or proposal.
- **Amendment (sometimes called a modification)** – Document which formally changes the terms and conditions of a contract. There are several forms of amendments to contracts. The form that is most commonly known is a change order to a construction contract.
- **Bids** – The majority of the City’s contracts are awarded through competitive bidding. There are limited exceptions where multiple bidders are not available or contracts by their nature are not adapted to award by competitive bidding, such as, but not limited to, contracts for certain professional services. There are several key elements to competitive bidding. For definitional purposes, competitive bidding differs from other forms of competitive procurement in that, pursuant to state and local law, price is the determining criterion in making the award, assuming that a responsible bidder has proposed goods or construction services responsive to the City’s requirements.
- **Bid Package** – A set of documents issued by the City to solicit bids for goods and services. The documents that comprise a bid package or invitation for bid (IFB) include:
  - i) Basic information regarding the procurement, including the date of advertisement, due date for bids, date of the pre-bid conference, title, and brief description of the project or procurement.
  - ii) The instructions to bidders, which instructs bidders with respect to completing the required documents.
  - iii) The bid pages, on which the bidder states its bid in the format required by the City.
  - iv) The detailed specifications, in which the City provides a detailed statement of its requirements. The detailed specifications may be prepared by consultants, and for construction projects, will include plans and drawings in addition to text. Consultants that assist in the preparation of bid requirements are prohibited from participating or bidding on those projects.
  - v) Special conditions regarding MBE/WBE/DBE participation, which include forms for the bidder to state its commitment to the City’s MBE/WBE/DBE goals, and the means through which the bidder will attempt to meet those goals.
  - vi) The City’s disclosure form, on which the bidder provides its ownership information, information regarding retained parties, and other compliance matters.
  - vii) The bidder’s statement of its qualifications, in a format furnished by the City.
  - viii) The City’s general terms and conditions that govern the contract.



- **Contract** – The written agreement between the City and a vendor for the provision of goods and/or services to the City by that vendor. There are a number of different forms of contracts, which will be discussed in later sections.
- **Good Faith Efforts** – Contractors must demonstrate good faith efforts in attempting to meet MBE, WBE, or DBE participation goals. In order to demonstrate good faith efforts, a vendor must document the methods it used to seek MBE, WBE, or DBE participation, in accordance with the Regulations Regarding the Determination of Good Faith Efforts Regarding MBE/WBE/DBE Participation at Contract Close-Out.
- **Master Consulting Agreements** – Some User Departments require consulting services on an as-needed, rather than a continuous, basis. Instead of engaging consultants for those departments through a contract with a fixed amount of services and fixed compensation, DPS issues RFQs and/or RFPs for Master Consulting Agreements or Professional Services Agreements. These Agreements establish a general scope of work and payment parameters, and include the terms and conditions that are common to nearly all City contracts. The User Departments will then issue task orders through the Agreements to secure the services they require as they are needed. Task orders will contain the specific scope of work required by the user, the compensation due for that specific scope of work, and any terms and conditions that may pertain solely to the task in question.
- **Pre-Bid Conference** – DPS conducts pre-bid conferences for procurements to provide interested bidders with an opportunity to: i) hear directly from the User Department about its requirements, ii) learn about the bidding process for the specific procurement involved, and iii) ask questions of DPS and the User Department regarding the procurement. These meetings are an excellent networking opportunity for subcontractors to meet interested bidders.
- **Purchase Order (PO)** – A form of contract that DPS typically uses for all transactions.
- **Request for Proposals (RFP)** – A form of competitive procurement that is typically used to solicit proposals to implement a new project requiring professional services. Professional services, such as architecture, engineering, and consulting, are generally procured through RFPs, as the City is at least as concerned with the proposer's experience as with its price. Proposers furnish evidence of their ability to meet the City's requirements along with a proposed price for furnishing the required goods or services.
- **Request for Qualifications (RFQ)** – A form of competitive procurement that is used to solicit qualifications for companies who possess a high degree of technical expertise and knowledge in specific disciplines. RFQs differ from RFPs in that pricing information is not a factor in the award of a contract. Federally-funded contracts for architects and engineers, for instance, require that the decision to award a contract be made solely upon the qualifications of the providers.
- **Responsibility** – This term addresses the fitness of a bidder or proposer to provide the required goods or services to the City. Responsibility includes such considerations as financial capacity, past performance, experience, adequacy of equipment, and the ability to perform the contract within the time frame required by the City.
- **Responsiveness** – This term addresses a bidder's or proposer's compliance with all of the terms, conditions, and requirements of an invitation for bids, RFP, or RFQ. For example, if a bidder states they do not agree with or tries to edit a provision in the bid package, the bid would be deemed non-responsive and would be rejected.



- **Small Orders/Purchases** – Section 2-92-642 of the Municipal Code increased the threshold at which advertised competitive bids are required from \$10,000 to \$100,000. Procurements for less than \$100,000 are small orders, and bids may be solicited by mail, telephone, e-mail, or fax.
- **Task Order** – The City requires a number of services on an as-needed basis. While the User Departments may have an idea of how often the services may be required, the actual usage is unknown at the outset of the contract. Procurement professionals refer to these as “depends upon requirements” (DURs), but they are typically referred to by most User Departments as “task order contracts.” DPS typically awards task order contracts pursuant to Master Consulting Agreements (MCAs) or Professional Services Agreements (PSAs). When the User Department has a need for the services furnished through a task order contract, the User Department typically solicits a proposal from the vendors for the specific work involved. The User Department then submits a task order request to DPS, which issues the task order to the vendor for the services. A task order is a form of amendment to an MCA or PSA.
- **Target Market** – Section 2-92-460 of the Municipal Code provides for procurements that MBEs and WBEs, or joint ventures of MBEs, WBEs or both have the exclusive right to bid upon. In order for the City to bid a project as a Target Market procurement, there must be at least three MBE or WBE vendors certified in the area of specialty of the project. Construction projects may not be bid as Target Market procurements.



### 3. Municipal Purchasing Act, 65 ILCS 5/8-10

- The Municipal Purchasing Act for Cities of 500,000 or More Population, 65 ILCS 5/8-10-1 et seq. (the “Act”), is the state statute that governs the City’s procurement practices.
- The principal requirement of the Act is that all contracts for amounts greater than \$10,000 are to be let by free and open competitive bidding.
- Section 8-10-4 of the Act also identifies the exceptions to this requirement, which include contracts “which by their nature are not adapted to award by competitive bidding,” such as contracts for professional services, contracts for goods or services that are only available from a single source, utility contracts, publications, and specified printing and binding contracts.
- The Act also authorizes emergency purchases in Section 8-10-5, requires City department heads to certify to the Chief Procurement Officer (CPO) the officers and/or employees of the department that are authorized to sign requests for purchase on behalf of the department in 8-10-6, and prohibits the splitting of such requests into amounts under \$10,000 to avoid competitive bidding in 8-10-6.
- Section 8-10-8 prohibits price fixing and other forms of collusion among bidders.
- The requirement that parties interested in doing business with the City disclose beneficial or ownership interests of their entities is set forth in Section 8-10-8.5 of the Act. Anyone with an interest, direct or indirect, of greater than 7.5% in a vendor must be disclosed to the City (see Part 6, Policies and Procedures, for a further discussion of the City’s disclosure requirements).
- Sections 8-10-11 and 8-10-12 of the Act authorize the CPO to take the responsibility of a vendor into account when awarding a contract, and to reject a bid, proposal, or qualifications if the vendor is deemed non-responsible. Responsibility includes such considerations as financial capacity, past performance, experience, adequacy of equipment, and the ability to perform the contract within the time frame required by the City.





## 4. Municipal Code of Chicago

- DPS is also regulated by Chapter 2-92 of the Municipal Code of Chicago (the “Code”). The Code addresses a number of different issues, including the public art program and the City’s diversity programs for procurement.
- The public art program requires that contracts for the construction or renovation of public buildings that have been designated as eligible public art programs by the Department of Cultural Affairs set aside 1.33% of the budget of the construction costs for a public art program fund.
- Section 250 permits the CPO to include terms providing for retainage in construction contracts when the CPO determines that their inclusion is in the City’s best interest.
- Section 320 of Chapter 2-92 of the Code lists actions by vendors that may result in their being declared ineligible for City contracts. The list includes debarment by any local, state, or federal government agency, the failure to comply with the City’s living wage requirement or the minimum wage ordinance, set forth in Section 610 of Chapter 2-92 and Chapter 1-24, respectively, along with bribery, price fixing, and violating regulations established by DPS. The definition of the term “transaction” in Section 320 was expanded on September 8, 2010, to include any contract, including contracts not awarded or administered under Chapter 2-92, concession agreements, retainer agreements, grants, loans, licenses, permits, or other conferral of status that includes the City as a part and provides a benefit, whether monetary or otherwise, to another party to the transaction.
- Section 325 authorizes the City’s Chief Financial Officer and Comptroller, along with the CPO and Commissioner of Housing and Economic Development, to bar financial institutions that engage in predatory lending practices from doing business with the City.
- The City requires that 50% of the hours worked on City construction jobs of \$100,000 or more be performed by actual residents of the City of Chicago and at least 7.5% by project area residents. This requirement is found in Section 330 of Chapter 2-92.
- Section 335 provides an incentive to bidders for using apprentices who have graduated from a Chicago Public Schools high school or are enrolled in or have graduated from the City Colleges of Chicago’s construction technology training program on prior construction projects.
- Section 336 provides a bid incentive to bidders for using ex-offenders who are participating in an apprenticeship training program and a workforce development program on prior City construction projects.
- Section 337 provides a bid incentive for using Business Enterprises owned or operated by People with Disabilities (BEPDs) as prime contractor or subcontractors on City contracts.
- Section 390 of Chapter 2-92 embodies the McLaughlin Ordinance, which establishes the Award Criteria Figure as the basis of award for bids on City construction contracts. The Award Criteria Figure represents an adjustment to the bid price on the basis of commitments made by the bidder to employ minorities and women as journeyworkers, apprentices, and laborers on construction jobs.
- Section 390 also establishes equal employment opportunity goals for the City’s construction programs. The goals call for 25% of the work hours performed by journeyworkers and apprentices to be performed by minorities, and 7% of work hours performed by journeyworkers and apprentices to be performed by women.



- The City may assess liquidated damages against a contractor for failure to meet its bid commitment.
- Section 405, the project-area subcontractor utilization bid preference ordinance, allows for up to a two percent bid preference for bidders on City construction contracts that utilize subcontractors located in the area of the construction project.
- Section 410, the local manufacturing ordinance, calls for a bid incentive to be given to bidders providing goods made or assembled in the City of Chicago for non-federally funded contracts for goods.
- Section 412, the local business preference ordinance, allows for a two percent bid preference for bidders on City contracts that have a majority of their full-time workforce in the City, a four percent bid preference for bidders if the majority of their employees are city residents, or a six percent bid preference for bidders if the majority of their employees are city residents and the majority of the city resident employees are residents of a socio-economically disadvantaged area.
- Section 413, the alternatively powered vehicles bid incentive ordinance, allows for a 1/2 percent bid incentive to local bidders on City contracts that use alternatively powered vehicles.
- Section 416 of Chapter 2-92 prohibits the award of City contracts to building scofflaws, meaning any residential building owner whose uncorrected and habitual, extensive, or serious violations of the building code have created a threat to the health, safety, or welfare of the building's tenants or the neighboring community.
- Section 420 of Chapter 2-92 sets forth the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program for all contracts other than construction.
- Section 430 establishes the participation goals of 25% for MBEs and 5% for WBEs for all non-construction contracts.
- Section 440 provides direction regarding the determination of a vendor's compliance with its goals.
- Section 445 permits the CPO to assess damages on a non-compliant vendor in the amount of the difference between its stated goal and the amount actually paid to its subcontractor(s).
- Section 460 of Chapter 2-92 permits the CPO to utilize target market procurements in an effort to encourage participation by MBEs and WBEs in non-construction contracts.
- Section 470 allows "Established" MBEs and WBEs that have exceeded the program's size standards to continue to participate in the MBE/WBE program for a period of 3 years, with 75% credit allowed in year one, 50% in year two, and 25% in year three.
- Section 525 provides a bid incentive to bidders for the utilization of MBE or WBE firms on contracts where no MBE/WBE participation goals could be assigned.
- Section 530 enables City contractors to gain credit in their City contracts for participation by MBEs and WBEs in their non-City contracts.



- Section 535, the Mentor/Protégé program ordinance, assists certified firms to develop their capacity to become self-sufficient, competitive, and profitable business enterprises by establishing a mentoring program with established prime contractors and subcontractors.
- Section 585, the City's "Business, Corporate and Slavery Era Insurance Ordinance," requires vendors to disclose records of investments or profits from slavery or slaveholder insurance policies during the slavery era.
- Section 586 promotes the use of business enterprises owned or operated by people with disabilities (BEPDs) in City contracts.
- Section 590 requires the use of recycled products in certain City procurements.
- Section 610 of Chapter 2-92 establishes a base wage (also known as living wage) that must be paid by for-profit contractors with 25 or more full-time employees to their security guards, parking attendants, day laborers, home and health care workers, cashiers, elevator operators, custodial workers, and clerical workers who perform work on City contracts
- Section 640 of Chapter 2-92 authorizes innovative procurement methods, including electronic procurement, reverse auctions, electronic bidding, electronic auctions, procurement cards, and pilot procurement programs that result in no cost to the City.
- Section 642, small orders, allows bids to be solicited by mail, telephone, e-mail or fax in amounts up to \$100,000.
- The City's MBE/WBE program for its construction contracts is embodied in Sections 650 through 780, with aspirational goals of 26% for MBE participation and 6% for WBE participation.
- The City's Mid-Sized Business Initiative Construction Program, which authorizes the CPO to identify and offer construction contract projects for the exclusive participation of mid-sized businesses, is embodied in Sections 800 through 870.
- Section 940 of Chapter 2-92 (formerly section 407) provides a bid incentive for the utilization of veteran-owned subcontractors in the performance of City construction contracts.
- Section 950 (formerly section 418), the eligible joint venture and veteran-owned small local business bid incentive, allows for a five percent bid incentive for bidders on City contracts that are joint ventures between small businesses and veteran-owned businesses and for bidders that are veteran-owned small local businesses.



## 5. Other Pertinent Laws

- The section of the Criminal Code of Illinois that addresses public contracts is found at 720 ILCS 5/33E.
- The legislature's finding that the cost to the public is increased, and the quality of goods and services decreased, when public procurement is done contrary to law, is articulated in Section 33E-1. Definitions pertinent to Article 33E are found in Section 33E-2.
- Section 33E-3 prohibits bid rigging, and identifies bid rigging as a Class 3 felony. Bid rigging occurs when two or more bidders that would otherwise be competitors cooperate so that one of them wins the bid.
- Section 33E-4 prohibits bid rotation, which is a Class 2 felony. Bid rotation occurs when two or more bidders take turns winning bids. The pattern of collusion must take place for at least three bids over the course of 10 years.
- Section 33E-5 addresses the acquisition and disclosure of bidding information by public officials, and 33E-6 prohibits interference with contract submissions and award by public officials.
- 33E-6(b) states that any government official or employee who, directly or indirectly, informs a bidder or offeror that the bid or offer will be accepted or executed only if specified individuals are included as subcontractors, commits a Class 3 felony.
- 33E-6(e) prohibits the award of a contract based on criteria that were not publicly disseminated via the invitation to bid. A violation of this section is a Class 3 felony.
- Section 33E-7 prohibits kickbacks, which are a Class 3 felony, and makes the failure to report any solicitation or offers for kickbacks a Class 4 felony.
- Section 33E-8 contains similar prohibitions against bribery and the failure to report solicitations or offers of bribes.
- Section 33E-9 requires change orders on public contracts to be in writing. In addition, the writing must certify that:
  - The circumstances requiring the change order were not reasonably foreseeable at the time the contract was signed, or
  - The change is germane to the original contract as signed, or
  - The change order is in the best interest of the unit of state or local government, and is authorized by law.
- Section 33E-11 requires public bids and contracts to contain a certification by the prime contractor that the prime is not barred from contracting with any unit of state or local government due to bid rigging or bid rotation. False statements in this regard are a Class 3 felony.
- Section 33E-14 makes the provision of false statements on vendor applications for the purpose of influencing in any way the action of any unit of local government a Class 3 felony.
- Section 33E-18 prohibits bid stringing, which is the act of breaking bid packages into lesser quantities in order to avoid a requirement to engage in competitive bidding.



- The Public Works Contract Change Order Act, 50 ILCS 525/5, requires that any additional work that requires a change order that would increase the original contract price by 50% or more must be competitively bid rather than awarded via change order.
- Chapter 1-23 of the Municipal Code prohibits individuals and companies that previously engaged in criminal misconduct against the City or its sister agencies from engaging in the City's procurement process. Pursuant to Chapter 1-23, businesses and individuals are ineligible to do business with the City if convicted or indicted for: bribery or attempted bribery, or its equivalent under any local or federal law, of any public officer or employee of the City of Chicago or of any sister agency; or theft, fraud, forgery, perjury, dishonesty or deceit, or attempted theft, fraud, forgery, perjury, dishonesty or deceit, or its equivalent under any local, state or federal law, against the City of Chicago or any sister agency.
- Chapter 2-56 of the Municipal Code established the Office of the Inspector General for the City of Chicago.
- The Inspector General investigates the performance of City officials, employees, functions, and programs to detect and prevent misconduct, inefficiency, and waste within the programs and operations of City government.
- The Inspector General may be contacted anonymously by telephone at 866-IG-TIPLINE (866-448-4754). The Inspector General may also be contacted online at [www.chicagoinspectorgeneral.org](http://www.chicagoinspectorgeneral.org).
- Any and all misconduct pertaining to City procurement should be reported promptly to the Inspector General. City officials and employees must contact the Inspector General if they have knowledge of misconduct in City government.
- The Antitrust Division of the US Department of Justice is responsible for investigating and prosecuting crimes associated with procurement, such as price fixing and bid rigging. The contact number for the Chicago office of the Antitrust Division is 312-353-7530.



## 6. Policies and Procedures

The purpose of Part 6 is to describe certain DPS policies and procedures in more detail, and thereby provide an overview of doing business with the City.

**Part 6 is organized into eight sections:**

- A. Special Conditions Regarding MBE/WBE/DBE Participation
- B. The City's Economic Disclosure Statement (EDS)
- C. Invitations for Bids
- D. Requests for Qualifications (RFQs)
- E. Requests for Proposals (RFPs)
- F. Change Orders, Modifications and Amendments
- G. Bid Protests
- H. Disputes

### **A. Special Conditions Regarding MBE/WBE/DBE Participation**

- Section 2-92-420 of the Municipal Code articulates the City's affirmative action policy with respect to contracting for its goods and services. Article VI of Chapter 2-92 sets forth the City's affirmative action policy with respect to contracts for construction. The discussion below on the completion and submission of the forms provided with the Special Conditions addresses both ordinances.
- The Special Conditions identify the governing ordinance, articulate the City's policy, and set forth the City's goals with respect to its contracts. The Special Conditions also describe the means through which contractors may achieve the goals established for their contract.
- MBE/WBE/DBE goals may be met through direct participation, such as forming a joint venture with a certified MBE/WBE/DBE, and the use of MBE/WBE/DBE subcontractors in the performance of the contract.
- Goals may also be met through indirect participation in other aspects of the contractor's business (e.g., the purchase of supplies or materials from an MBE/WBE/DBE in the contractor's ordinary course of business, not expressly and exclusively for the performance of the contract in question).
- Finally, contractors may meet their commitment to the City's goals through the utilization of MBEs/WBEs/DBEs in private sector projects pursuant to the requirements stated in Section 2-92-530 of the Municipal Code.
- The Special Conditions provide definitions of key terms and set forth the manner in which participation by MBE/WBE/DBE in the performance of the contract will be credited towards achievement of the contractor's goals.



- In order to receive credit for participation, an MBE/WBE/DBE firm must perform a commercially useful function in the area of specialty in which the firm is certified.
- A commercially useful function is defined as the performance of a clearly defined and distinct element of work in which the MBE/WBE/DBE carries out its responsibilities by actually performing, managing, and supervising the work involved.
- The CPO reserves the right to determine whether or not an MBE/WBE/DBE is performing a commercially useful function, and thus whether or not the performance of that MBE/WBE/DBE will be credited towards the contractor's achievement of its goals.
- Contractors may request a reduction in or waiver of the stated goals for a contract pursuant to the requirements stated in the Special Conditions. Contractors must demonstrate good faith efforts in attempting to meet MBE/WBE/DBE participation goals. A good faith effort documents the methods used to seek MBE/WBE/DBE participation.
- The request for a reduction or waiver must be made in writing on the bidder's letterhead, and must be included with the bid or proposal when it is submitted.
- The Special Conditions provide instructions for completing and submitting the documents that constitute the MBE/WBE/DBE proposal.
- Schedule C forms are to be completed by each MBE/WBE/DBE subcontractor for which the contractor seeks credit towards compliance with its contract goals. This document states the commitment made by the contractor to the subcontractor with respect to the work to be performed by the subcontractor and the amount that the contractor will pay the subcontractor for that work.
- Each Schedule C must be accompanied by a letter of certification issued by the City of Chicago or, in the case of DBE certified subcontractors, a letter of certification issued by an appropriate certifying agency. The letter of certification indicates the subcontractor's status as an MBE/WBE/DBE, along with the area(s) of specialty for that subcontractor. Only work performed by subcontractors in their area of specialty will be credited towards compliance with the MBE/WBE/DBE goals of a contract.
- A Schedule C and letter of certification for each of the MBE/WBE/DBEs in the MBE/WBE/DBE proposal must be included in the bid or proposal. A bid will be rejected for failure to submit a Schedule C or letter of certification.
- If joint venture participation is a component of the MBE/WBE/DBE proposal, a copy of the joint venture agreement must be included in the bid or proposal. A bid will be rejected for failure to submit a joint venture agreement.
- Bidders/proposers must complete and submit a Schedule D with their bids/proposals. The Schedule D requires the contractor to identify each of the MBE/WBE/DBE firms whose work it will seek credit for towards compliance with the contract goals. The dollar values stated on a Schedule D for each subcontractor must coincide with those stated on the Schedule C submitted by each subcontractor.

The Special Conditions contain instructions for reporting compliance efforts during the performance of the contract.

- The Special Conditions provide instructions on substituting different MBE/WBE/DBE subcontractors for those included with the initial bid/proposal.



- The Special Conditions also list the City’s rights with respect to contractors that fail to make good faith efforts towards compliance with their affirmative action goals. These rights may include the ability to default the contractor, deem the contractor non-responsible for future procurement opportunities, and to withhold payment from a contractor pending correction of deficiencies in its performance with respect to compliance with the MBE/WBE/DBE program. Affected MBE/WBE/DBEs may have the ability to seek arbitration for damages.
- If a contractor has problems or questions regarding its MBE/WBE/DBE proposal, a number of resources, including the contact information for DPS personnel responsible for these matters, is included in the Special Conditions.
- For assistance in identifying and contacting potential MBE/WBE/DBE partners or subcontractors, Attachment A to the Special Conditions lists the assist agencies that work with the City in implementing its affirmative action programs for City contracts.

Good Faith Efforts – a contractor shall not be entitled to a reduction or waiver of MBE or WBE goals during the performance of the contract, or after substantial completion of the contract at the time of contract close out, unless the contractor, by a written request to the CPO for reduction or waiver of its MBE or WBE goals, can demonstrate to the satisfaction of the CPO that it has made good faith efforts to meet its MBE and WBE utilization goals. A detailed description of what types of efforts the City will consider in making this determination is listed on the DPS website.

## **B. Economic Disclosure Statement (EDS)**

- The EDS was originally intended to address the disclosure of ownership requirements in Chapter 2-154 of the Municipal Code and 65 ILCS 5/8-10-8.5. Over the years, the form has expanded to address a number of issues of concern to the City with respect to the persons with which the City does business.
- Online completion of the EDS is mandatory for most solicitations. Therefore, references in this Section are to the online version of the EDS. Each of the requirements of the EDS will be discussed in terms of its purpose and the correct manner of completing the form. Individual training may be requested.
- The EDS identifies who must submit an EDS. Anyone seeking City Council or other City agency approval (i.e., the “Applicant”) must complete an EDS. This means that anyone seeking the award of a contract by DPS must complete an EDS.
- In addition to the Applicant, any Legal Entity which owns a greater than 7.5% interest, directly or indirectly, in the Applicant must also file its own EDS.
- If the Applicant or Legal Entity is a general partnership, limited partnership, limited liability company, limited liability partnership, or joint venture, and has a general partner, managing member, manager, or other entity that may control its day-to-day management, the controlling entity must also file its own EDS. This is required regardless of the level of ownership of the controlling entity in the Disclosing Party. For instance, a general partner may own only a 1% interest in a general partnership, but control the day- to-day operation of the partnership. If the general partner is a Legal Entity (not an individual), it must complete its own EDS. If the general partner is an individual, that person does not have to complete an EDS.
- The Disclosing Party must identify itself in Section I.A, and indicate whether it is the Applicant, a Legal Entity, or Controlling Entity.





- If completing the form for a possible contract with DPS, Section I.F, which requests the specification number and contract number, must be completed.
- Section II.A.1 asks for the nature of the Disclosing Party, and, if a legal entity, to further identify what type of entity it is. If the business organization is a corporation of any type, the state of incorporation must also be entered. If the state of incorporation is any state other than Illinois, the Disclosing Party must indicate whether or not it has registered for the purpose of doing business in Illinois.

Section II.B.1.a requires disclosure of the executive officers and directors of the business. For partnerships (including joint ventures) and LLCs, general partners, limited partners, managing members or whoever controls the day-to-day operations of the Disclosing Party must be identified.

**IF ANY OF THE PARTIES DISCLOSED IS NOT AN INDIVIDUAL, THAT PARTY MUST SUBMIT ITS OWN EDS.**

- Section II.B.2 requires the disclosure of anyone holding an interest of more than 7.5% in the Disclosing Party. The interest may be direct or indirect. For example, if Company B owns 15% of Company A (the Disclosing Party), and Company C owns 55% of Company B, then Company C owns an indirect interest of greater than 7.5% in Company A, and must be disclosed.
- In addition, both Company B and Company C must each file its own EDS, unless an exemption applies.
- Section III requires disclosure of income or compensation provided to any elected official of the City of Chicago during the 12 months prior to the date the EDS is signed. Section III also requires disclosure of financial interests in the Disclosing Party by elected officials of the City of Chicago or their spouses or domestic partners.
- Section IV of the EDS requires the disclosure of anyone that is retained or expected to be retained with respect to the matter for which the EDS is being completed. **This includes lobbyists, attorneys, accountants, consultants, and subcontractors.**
- Employees who are paid solely through regular payroll are not required to be disclosed in Section IV.
- Section V.A requires certification of compliance with the City’s ordinance regarding payment of child support. Anyone who owns 10% or more of the Disclosing Party must disclose if they are current with their child support payments.
- Section V.B lists numerous infractions of the law. The certifications in this section pertain to both the Disclosing Party and any Applicable Party. Applicable Parties are anyone involved in the performance of the matter for which the EDS is being submitted. All Retained Parties (Section IV) are Applicable Parties. The certification also includes Affiliated Entities. Affiliated Entities are persons or entities that directly or indirectly control the Disclosing Party, are controlled by the Disclosing Party, or are under common control by another person or entity with the Disclosing Party.
- The level of ownership interest is not relevant to this disclosure. For example, if Individual X owns 51% of Company B, where Company B is the general partner of Company A (the Disclosing Party), and Company B owns 10% of Company A, Individual X has an indirect ownership of 5.1% in Company A. Individual X would not appear on Company A’s EDS. Company B must file an EDS, and Individual X must be disclosed on Company B’s EDS. If Individual X attempted to bribe a City official prior to the submittal of the EDS by Company A, that must be disclosed by Company A on Company A’s EDS, and by Company B on Company B’s EDS.



- Section V.B also requires disclosure of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of the EDS, an employee or elected or appointed official of the City of Chicago. Additionally, Section V.B requires a complete list of all gifts, with certain minor exceptions, given to employees or elected or appointed officials of the City of Chicago within the last twelve months.

- **Section V.B. also requires the Disclosing Party to represent and warrant that it is not delinquent with respect to taxes owed to the Illinois Department of Revenue or any fine, fee, tax or other charge owed to the City, including without limitation water charges, sewer charges, license fees, parking tickets, property taxes, or sales taxes. It also requires the Disclosing Party and its affiliates to not use any facility listed as having an active exclusion by the U.S. EPA on the federal System for Award Management. If it is the Applicant, the Disclosing Party must secure from contractors/subcontractors it engages for the performance of the contract for which the EDS is submitted substantially similar representations.**

- Section V.C requires the Disclosing Party to disclose if it is a financial institution, as defined in that section. If it is a financial institution, it must pledge that it will not engage in predatory lending practices.

- Section V.D requires the Disclosing Party to disclose if a City official or employee (Section 3 refers solely to elected officials) has a financial interest in his or her own name, or in the name of any other person or entity involved in the matter.

- Section V.E requires disclosure by the Disclosing Party as to whether it or any of its predecessor entities invested in or profited from slavery, the slave industry, or slaveholder insurance policies.

- Section VI addresses compliance with federal lobbying and equal employment opportunity (“EEO”) laws. Completion of this section is only required if the matter is federally funded.

- Section VI.A.1 requires disclosure of anyone registered under the federal Lobbying Disclosure Act of 1995 who made lobbying contacts on behalf of the Disclosing Party with respect to the matter for which the EDS is being submitted.

- Section VI.B. requires affirmation of compliance with federal EEO requirements, or an explanation of any negative response provided.

Section VII addresses a number of issues:

- VII.A is a reminder that the EDS will become a part of the Disclosing Party’s contract with the City, and that the Disclosing Party must comply with all of the laws underlying the EDS.
- VII.B provides references to the City’s Government Ethics and Campaign Financing Ordinances; compliance with both is required.
- VII.C advises that false, incomplete, or inaccurate information provided on the EDS may result in the contract being rescinded or declared void or voidable. In addition, the Disclosing Party may be subject to any of the remedies provided in the contract; because the EDS is part of the contract, failure to comply with its requirements is a breach of that contract.



- VII.D is a reminder that the City will post the EDS on its website, and releases the City from any liability for that action.
- VII.E requires updating the information on the EDS in accordance with the terms of the contract.

- Appendix A is to be completed by the Applicant and any entity with a direct ownership of more than 7.5% in the Applicant. Those parties must disclose whether or not the Disclosing Party, or any spouse or domestic partner of the Disclosing Party, has a familial relationship with an elected City official or department head.
- Finally, Appendix B (Building Scofflaw/Problem Landlord Certification) is currently available only in paper form and must be completed by the Applicant and any entity with a direct ownership of more than 7.5% in the Applicant.

### **C. Invitations for Bids (IFB)**

- Most of the goods and services procured by the City are procured through competitive bidding.
- The formal bid process begins with the publication by the City of an invitation for bids. By statute, the invitation for bids is advertised in a newspaper of general circulation at least ten days before bids must be submitted.
- There is a lot of work that must be completed by the City prior to the advertisement of the IFB. This work involves the efforts of the User Department, DPS, the Law Department, and may include a consultant that works directly for the User Department.
- The day-to-day operations of City government take place through the actions of its User Departments and other agencies, (e.g., Police, Fire, Aviation, Water Management). Since the User Departments are responsible for City operations, they are also responsible for determining the City's needs and requirements for goods and services.
- DPS is not responsible for determining the City's needs and requirements for goods and services. DPS is responsible for acquiring those goods and services through fair and open procurement processes.
- Thus, all procurements begin with the identification of a need by a User Department. The User Department then typically works with DPS to determine the most appropriate and effective means of meeting that need.
- When the User Department and DPS determine that competitive bidding is the most appropriate means of procurement for a need, the User Department will prepare a detailed specification that describes its requirements. User Departments often work with a consultant to develop the detailed specification. Consultants who assist in bid package preparation are generally precluded from bidding on that solicitation.
- DPS then incorporates the detailed specifications within a bid package, which, as defined in Section 2 above, includes the invitation for bids, instructions for bidders, and other documents.
- The invitation for bids that is published in the newspaper of general circulation (The Chicago Sun-Times) provides potential bidders with a general description of the City's need, the place where a bid package may be obtained (typically, on the DPS website and DPS's Bid and Bond Room, Room 103, City Hall, 121 North LaSalle Street), and the deadline for submitting the bid to the Bid and Bond Room.



- If a prospective bidder obtains a bid package at the Bid and Bond Room, it will be asked to sign for the bid package and provide its contact information. The contact information is necessary in the event that DPS issues any changes to the bid package through an addendum.
- Bidders will be required to acknowledge their receipt of any and all addenda that may be issued for a bid package on the signature page of the bid.
- Failure to acknowledge receipt of the addenda may result in the bid being deemed non-responsive, and not eligible for award of a contract.
- DPS provides a checklist for bidders in every bid package. Bidders should review its bid documents and the checklist before submitting its bid. A bidder should be sure to provide all of the information requested, so that its bid is complete, as incomplete bids may be found non-responsive and will be rejected.
- A bidder should always check and re-check the math and its bid price. DPS staff may correct obvious mistakes in math, but if there is a mistake, and either the reasons for the mistake or the quoted price are ambiguous, your bid may be deemed non-responsive.
- Non-responsive bids are not eligible for award of a contract.
- Bids are opened publicly in the Bid and Bond Room at the date and time published in the IFB, or as stated in any addendum that might change the IFB.
- The bids are read aloud by DPS personnel, and bid tabulations are made available online within 48 hours. Requests for other information regarding bids will be treated as requests under the Illinois Freedom of Information Act, which means that any information pertaining to a bid beyond what appears on the bid tabulation is typically not available until after a contract has been awarded.
- You will know the identity of the apparent low bidder when the bids are opened. This bidder may turn out to be the lowest responsive and responsible bidder, but that is not always the case.
- After the bids are opened and read, DPS personnel review each set of documents submitted by the bidders to ascertain that the documents are complete and that the bids are responsive. DPS personnel will also determine if the lowest responsive bidder is also a responsible bidder.
- The lowest responsive and responsible bidder is issued a notice of award from DPS. The notice of award indicates that DPS has begun processing the bid for award of a contract. The contract is not in effect until it is executed by the Mayor, Comptroller, and CPO, and is released by DPS to the User Department and the contractor.

**REMEMBER:**

- It is illegal to engage in any form of collusion with respect to bids.
- It is illegal for City officials and personnel to disclose information regarding a bid that may provide a bidder with a material advantage over other bidders.
- It is a breach of contract, and possibly a violation of the law, for City consultants to disclose information regarding bid specifications. Architects and engineers, for instance, often discuss available materials with



suppliers. If an architect or engineer indicates that their inquiry pertains to a forthcoming bid, and that information is shared by the supplier with its customers, the architect's or engineer's promise of confidentiality to the City will have been violated.

- The City will pursue all of its rights under the law and its contracts against those that betray the City's confidence.

## **D. Requests for Qualifications (RFQ)**

- Requests for Qualifications are a form of competitive procurement. DPS issues RFQs for requirements that are not adaptable to competitive bidding.
- In some instances, RFQs are used rather than Requests for Proposals because the City's interest in the capabilities of the vendor is far more important than the price of the service. For instance, as noted in the definitions in Section 2, federal law requires that architects and engineers for federally-funded projects be selected solely on the basis of qualifications.
- RFQs are also used when the City cannot provide potential vendors with sufficient details of its requirements that would enable the vendors to provide the City with informed pricing. One example of this is the development of a customized software solution for a problem confronting a particular User Department. DPS and the User Department would work together to procure a qualified vendor. The parties would then engage in discussions regarding the User Department's requirements, and negotiate a price once the vendor has a better idea of both the need and the level of effort that will be necessary to meet that need.
- The RFQ document issued by DPS resembles a bid package. It includes a solicitation of qualifications that states the date of advertisement, describes the City's requirements, provides the date that qualifications must be submitted to the Bid and Bond Room, and announces where and when any pre-submittal meeting will be held.
- The RFQ also provides a detailed statement of the form and substance of the qualifications that respondents must provide.

### **A RESPONDENT MAY FURNISH ADDITIONAL INFORMATION SHOULD IT CHOOSE TO DO SO, BUT IT MUST BE SURE TO FURNISH THE INFORMATION REQUESTED IN THE FORM REQUESTED.**

- RFQs also include Special Conditions Regarding MBE/WBE or DBE Participation, the City's EDS, and the terms and conditions that will be included in the contract.
- Responses to RFQs are reviewed for responsiveness and responsibility.
- Respondents' qualifications are evaluated by a team of City personnel that is typically comprised of members of the User Department, DPS, and any other City department or Sister Agency that may be pertinent to the procurement. The evaluation team may also be supported by other City consultants as technical advisors who are not entitled to vote.
- Once the evaluation team has identified the most qualified respondent, DPS and the User Department, often assisted by the Law Department, will negotiate compensation and other terms and conditions of the contract.



## **E. Requests for Proposals (RFP)**

- An RFP is a form of competitive procurement in which price or costs are included in the evaluation criteria that are considered by the City's evaluation team. As one might anticipate, RFPs are used when bidding is not required, but the City's requirements may be articulated in sufficient detail to enable proposers to provide meaningful and useful pricing information along with their qualifications.
- Aside from the inclusion of documents pertaining to price, the RFP document advertised by DPS and the evaluation process used to determine the proposer that the City wishes to work with are very similar to the documents and processes for RFQs.

## **F. Change Orders, Modifications, and Amendments**

- All of the City's contracts contain the terms and conditions that must be met in order to change any provision of the contract.
- In order for changes to be binding on the City and the contractor, they must be memorialized in writing and executed by both parties.
- That writing is known by different names for different types of contracts. Changes to construction contracts are called change orders, while changes to commodities and work services agreements are usually referred to as modifications, and changes to agreements for professional services are usually called amendments.
- There is a long history of case law that provides that the City is not obligated to pay for work performed in the absence of a duly authorized and executed written agreement. This applies to change orders, modifications, and amendments. A contractor that proceeds with changed work without a change order, modification, or amendment to its contract does so at its own risk.

## **G. Bid Protests**

- DPS will consider protests that involve fraud, corruption, or illegal acts that undermine the objective and integrity of its procurement processes and may, depending upon the allegations, refer the matter to the Inspector General.
- There are three types of protests that the City will consider:
  1. Protests regarding solicitation (pre-bid or pre-proposal protests)—these must be filed no less than five days before the opening of the bid or due date of proposals.
  2. Protests regarding the evaluation of bids, qualifications or proposals (pre-award protests) – these must be filed within ten days of the opening of bids or due date of the RFQ or RFP.
  3. Protests regarding award of contract (post-award protests)—these must be filed within ten days of the date of award of a contract.

Protests must include the following information:

- \* The name, address, telephone, and facsimile number of the protestor;



- \* The number of the specification/contract solicitation;
- \* A written statement of the grounds for the protest specifying the federal, state, or local law or regulation alleged to have been violated. The statement should be accompanied by appropriate supporting documents, and should include a statement of the course of action that the protesting party desires that the Chief Procurement Officer take;
- \* All information establishing the timeliness of the protest;
- \* The signature of the protestor.

• Protests must be submitted to:

Chief Procurement Officer  
City of Chicago  
Department of Procurement Services  
121 North LaSalle Street, Room 806  
Chicago, Illinois 60602-1284

- DPS will notify a protestor if its protest has been filed in a timely manner. If additional information is required from the protestor, it will be requested, or the CPO may elect to schedule a meeting with the protestor to discuss the matter.
- Protestors may request an informal conference with the CPO within five days after a protest has been timely and appropriately filed.
- The CPO will determine if the procurement process must be suspended pending the disposition of the protest.
- A decision on the protest will be rendered in writing to the protestor. The decision will become final unless a request for reconsideration is filed within five days of the decision.

There are two acceptable bases for reconsideration:

- \* Information becomes available that was not previously known or could have reasonably become known;
- \* The decision contains an error of law or regulation.

Written protest procedures are available in the Bid and Bond Room, Room 103, City Hall, and on the DPS website.

## H. Disputes

- Nearly all of the contracts that DPS issues for the City contain provisions regarding the resolution of disputes between the User Department and the contractor.
- The detailed steps regarding the submission and processing of disputes appears in the contracts. In general, a dispute is initiated by a notice from the contractor to the User Department. If the Commissioner of the department is unable to resolve the dispute, the contractor may appeal to the CPO through the notice required by the contract.



- The User Department is provided with the opportunity to submit its own statement of the facts and issues. If necessary, the CPO may meet with the parties.
- While the CPO is a City employee, disputes are addressed with the same level of fairness, integrity, and transparency that characterize all of DPS's actions.

## **I. Additional Information**

- The DPS website provides a wealth of additional information regarding the Department's programs, policies and procurements. The website may be accessed by visiting [www.cityofchicago.org/procurement](http://www.cityofchicago.org/procurement).
- The website lists contact numbers, a list of bid opportunities, a database of contracts and disclosure statements, MBE/WBE/DBE information, and news of DPS events.
- Everyone is encouraged to sign up for DPS Alerts by clicking on the DPS Alerts tabs on either the left or right side of the Department's homepage. DPS will e-mail notices directly of upcoming events and opportunities.





## 7. Ethics and Campaign Contributions

- The Code of Conduct for City officials and employees is set forth in Article I of Chapter 2-156 of the Municipal Code, the Governmental Ethics Ordinance. Many provisions apply to or affect City contractors.
- **Section 018 requires every City contractor to report to the City’s Inspector General information concerning conduct known to involve corrupt activity. Knowing failure to report such activity constitutes an event of default under a City contract. Corrupt activity means having been convicted or in custody, under parole or under any other non-custodial supervision resulting from a conviction for commission of a felony, or of a criminal offense of whatever degree, involving bribery, or attempted bribery, or its equivalent, of any public officer or employee of the City or any sister agency; or theft, fraud, forgery, perjury, dishonesty or deceit, or attempted theft, fraud, forgery, perjury, dishonesty or deceit, or its equivalent, against the City of Chicago or any sister agency; or conspiring to engage in any of those acts.**
- Section 020 states that all officials and employees of the City owe a fiduciary duty to the City in the performance of their duties.
- Section 030(a) prohibits an official or employee from making, participating in, or in any way attempting to use their position to influence any City governmental decision or action in which the official or employee knows, or has reason to know, that they have a financial interest that is distinguishable from the effect of the decision or action on the general public, or from which the official or employee has derived any income or compensation in the preceding twelve months, or from which they reasonably expect to derive any compensation in the following twelve months.
- Section 030(b) prohibits elected officials, or anyone acting at their direction, from contacting, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected official has a business relationship that creates a financial interest on the part of the elected official, or his or her spouse or domestic partner, or from whom or which the elected official has derived any compensation or income in the preceding twelve months or expects to derive any compensation or income the following twelve months. Elected officials are also prohibited from engaging in any discussion in a City Council committee hearing or meeting, or voting, on any matter involving a person with whom the elected official has a business relationship that creates a financial interest on the part of the official or his or her spouse or domestic partner, or from whom or which he has derived any income or compensation during the preceding twelve months or from whom or which the elected official reasonably expects to derive compensation in the following twelve months.
- “Financial interest” is defined in Section 010(l) as an interest held by an official or employee that is valued or capable of being valued currently at more than \$1,000, with certain exceptions, such as: (i) the authorized compensation paid to an official or employee for any office or any employment; or (ii) ownership through purchase at fair market value or inheritance of common stock of a publicly-traded company if those shares represent not more than one-half of one percent of the company’s outstanding common stock
- Section 142 prohibits any person, including any vendor, or potential vendor, or lobbyist from:
  - giving any anonymous gift to any City official, employee or candidate for elected City office; or
  - giving or offering anything of value to any City official, employee, contractor or candidate for elected City office based on an explicit or implicit mutual understanding that the votes, official actions, decisions or judgments of the City official, employee or contractor concerning City business would be influenced by it; or



- giving any cash or gift cards in any amount, or give any other items or services worth \$50 or more per year, directly or indirectly to any City employee or official.

Note: there are limited exceptions, including gifts based on personal friendship, reasonable hosting for events related to official City business, and educational materials. Note also: these restrictions above apply to gifts or other items or services offered or given to a City employee's or official's spouse, domestic partner, or other immediate family members.

Note: any City department or agency may adopt rules that are stricter than these, such as a gift ban for its personnel. DPS has adopted a zero gift policy.

- Section 070 prohibits officials and employees from disclosing or using confidential or non-public City information for any purpose other than the discharge of their official duty.
- Section 080 states: "No official or employee shall make or participate in the making of any governmental decision with respect to any matter in which he has a financial interest distinguishable from that of the general public, or from which he has derived any income or compensation during the preceding twelve months or from which he reasonably expects to derive any income or compensation in the following twelve months." Note: there are disclosure and recusal requirement imposed on members of the City Council in City matters in which, or their spouse or domestic partner, or any person or entity in which they or their spouse or domestic partner have a financial interest, have a business relationship that gives them a financial interest.
- Sections 100 and 105 impose restrictions on hiring former City employees or officials.
  - A former City employee or official may not, for one year after leaving City service, assist or represent any person—like a new employer or client—on a transaction involving the City if he or she was personally and substantially involved in the subject matter of that transaction;
  - A former employee or official who exercised contract management authority on a City contract may not assist or represent any person—like a new employer or client—on that contract;
  - A former employee or official who was counsel of record or personally and substantially involved in a judicial or quasi-judicial proceeding involving the City may not assist or represent any person other than the City—like a new employer or client—in that proceeding;
  - A City employee or official may not negotiate the possibility of future employment with any person, except with a government agency, that has a matter currently pending before him or her; and
  - A former Mayoral staff member or department head may not lobby the City for 2 years after leaving City service; a former alderman may not lobby the City for 1 year after leaving City office; an appointed official or a former Shakman-exempt employee in the executive branch may not lobby his or her former department or board for 2 years after leaving City service.
- Section 010(g) defines "contract management authority" as personal involvement in or direct supervisory responsibility for the formulation or execution of a City contract, including but not limited to the preparation of specifications, evaluation of bids or proposals, negotiation of contract terms, or supervision of performance.
- Section 110 prohibits City officials and employees from having a financial interest in their own name, or in the name of any other person, in any contract, work, or business of the City, or in the sale of any article, whenever the expense, price, or consideration of the contract, work, business, or sale is paid with funds belonging to or administered by the City, or is authorized by ordinance.



- Section 111 prohibits a City elected official or employee (or their spouse or domestic partner), or any entity in which any of them have a financial interest, from applying for, soliciting, accepting or receiving any loan from any person doing business or seeking to do business with the City. Note: this does not prohibit market rate loans from financial lending institutions, if negotiated at arm's length and made in the ordinary course of the lender's business.
- Sections 010(h) and (x) define "doing business" and "seeking to do business" with the City as any one or combination of sales, purchases, leases, or contracts to, from or with the City or any City agency in an amount in excess of \$10,000 in any twelve consecutive months, or having taken any action with the past six months to a contract or business from the City when, if the action were successful, it would result in doing business with the City, and the contract or business sought has not been awarded to any person.
- Section 111 also prohibits any elected official or head of any City department or agency from retaining or hiring as a City contractor any person with whom any elected official has any business relationship that creates a financial interest on the part of the official or department head.
- Section 120 states: "No payment, gratuity or offer of employment shall be made in connection with any City contract, by or on behalf of a subcontractor to the prime contractor or higher-tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order. This prohibition shall be set forth in every City contract and solicitation therefore."
- Section 140(b) states: "No city employee or non-elected official shall knowingly solicit or accept any political contribution from a person doing business or seeking to do business with the city. Notwithstanding the foregoing, a city employee or non-elected official who is a candidate for public office may solicit or accept political contributions on behalf of his or her own candidacy from a person doing business or seeking to do business with the city, subject to the same restrictions as are applicable to elected city officials."
- Section 140(c) states: "No person with contract management authority shall serve on any political fundraising committee."
- Article III of Chapter 2-156 addresses lobbyists. Section 210 requires each lobbyist to register and file quarterly activity reports with the Board of Ethics.
- Section 010(p) defines "lobbyist" as anyone who undertakes to influence any legislative or administrative action as any part of his duties as an employee of another, regardless of whether such person is formally designated as a lobbyist by his employer, and regardless of whether such person is paid for this undertaking. There are certain exceptions, such as solely responding to a Request for Proposals or Request for Qualifications. Persons or entities who hire or retain unregistered lobbyists are subject to severe fines.
- Article VI of the Governmental Ethics Ordinance imposes restrictions on political or campaign contributions to any City elected official or candidate for elected office.
- No person may give or offer anonymous contributions to:
  - any candidate for elected office of City government;
  - the candidate's spouse, domestic partner or minor child;
  - the candidate's committee; or
  - any person acting on behalf of the candidate or his/her committees



- No person shall make or offer to make any contribution other than in the name of the true donor to:
  - any candidate for elected office of City government
  - the candidate's committees, or
  - any person acting on behalf of the candidate or his/her committees
  
- Cash contributions to any candidate in an amount over \$250 are prohibited.
  - By Mayoral Executive Order, City contractors and subcontractors and their owners and registered lobbyists may not make any political contributions to the Mayor or his political fundraising committee.
  - Persons or entities who have done business with the City or its sister agencies in the preceding four years or who are seeking to do business with the City or its sister agencies may not contribute more than \$1,500 in a calendar year to any elected City official, candidate for elected City office, or City employee or official seeking election to any other office.
  
- Contributions to a candidate's authorized political committees are considered contributions to the candidate.



## 8. Frequently Asked Questions

This section is designed to give vendors, City staff, elected officials, and the public quick and easy access to answer the questions the City is most often asked regarding procurement.

Additionally, information pertaining to the cost and documentation associated with bidding on City contracting opportunities (e.g., Economic Disclosure Statements and bonds) can be accessed through the Procurement Services website. Please visit us at [www.cityofchicago.org/procurement](http://www.cityofchicago.org/procurement).

### **Question: How can I find bid opportunities with the City?**

Answer:

Bid opportunities can be found:

- By signing up for DPS Alerts; bid opportunities will automatically be emailed to you weekly (see page 38 for information on how to sign up)
- Online at [www.cityofchicago.org/procurement](http://www.cityofchicago.org/procurement)
- In the Bid & Bond Room, located in City Hall Room 103
- Classified section of the Chicago Sun-Times newspaper on Mondays, Wednesdays, and Fridays

### **Question: Where can I get a list of current City contracts?**

Answer:

Visit our website at [www.cityofchicago.org/procurement](http://www.cityofchicago.org/procurement) and type “Awarded Contracts” in the Search box in the upper right hand corner. Click on the City of Chicago Awarded Contracts link, and a “Get Started Online” link will be displayed. Click on the “Get Started Online” link and it will prompt you through the Vendor, Contract and Payment Search. You can search by vendor name, contract (PO) number, department name, specification number, and original award amount or contract award date to find specific contracts.

### **Question: Do I have to be on a pre-approved vendor list to bid with the City?**

Answer:

No, you do not need to be on a pre-approved list to bid with the City unless the bid is a Target Market solicitation. In that case, you must be a certified minority- or women-owned business (MBE or WBE). Additionally, for existing Master Consulting Agreements and Demolition and Roofing contracts, there is a pre-qualified vendor pool and only those vendors may be solicited.

### **Question: Are the construction and/or Architectural and Engineering specifications available online?**

Answer:



Due to the size of construction drawings, many solicitations involving design may not be available online, but they may be picked up at the Bid and Bond Room, Room 103 City Hall, in CD-ROM form. If you would like drawings mailed to you via Federal Express or United Parcel Service, please contact the Bid and Bond Room at 312-744-9773 and provide an account number.

Architectural and Engineering Request for Proposal and Request for Qualification documents are available online as Read Only and may be downloaded.

**Question: When will we be able to submit bids electronically?**

Answer:

The Department of Procurement Services is preparing to implement E-Procurement and will notify vendors when it has fully developed and implemented the system.

However, Electronic Disclosure Statements (EDS) and Minority-owned, Women-owned and Disadvantaged Business Enterprise certification applications are available online and can be accessed via the City of Chicago website.

To find the EDS and certification applications online, type those keywords in the search box located on the left side of the DPS website.

**Question: What factors make a contract appropriate for Non-Competitive Review Board (formerly Sole Source) consideration versus competitive bidding?**

Answer:

The following are examples of cases where presentation to the Non-Competitive Review Board (NCRB) is appropriate:

- Patent or copyright restrictions apply
- Services of individuals possessing a high degree of professional skill
- Supplies, materials, parts, or equipment only available from a single source

NCRB applications are advertised on the City's website for a period of three weeks prior to being reviewed by the Board.

**Question: How fast does the City pay their vendors on average?**

Answer:

The City is committed to paying in a timely manner. However, many factors may influence the timeframe. Those factors typically include late submissions by the prime vendors and incomplete paperwork. We make an effort to work with vendors and our User Departments to standardize contract language and invoicing forms to simplify and expedite the payment process.



**Question: Can I receive credit towards meeting the contract goal requirements as a subcontractor if I am a partner of a joint venture?**

Answer:

A joint venture may count the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the minority business enterprise or woman business enterprise performs with its own forces toward the goals. Additionally, if employees of the joint venture entity itself (as opposed to employees of the MBE or WBE partner) perform the work, then the value of the work may be counted toward the contract specific goals at a rate equal to the MBE or WBE firm's percentage of participation in the joint venture as described in Schedule B of the contract.

A joint venture may also count the dollar value of work subcontracted to other minority business enterprises and woman business enterprises. Work actually performed by forces of a non-certified joint venture partner shall not be counted toward the contract specific goals.

**Question: What is the process for making a DPS Freedom of Information Act (FOIA) request under the revised FOIA laws?**

Answer:

Most of the FOIA requests received by DPS ask for information that is available on the DPS website. Before you make a FOIA request, please search the DPS website at [www.cityofchicago.org/procurement](http://www.cityofchicago.org/procurement) to save yourself time and money. The City may charge for any copies that exceed 50 pages.

Email DPS FOIA requests to [DPSfoia@cityofchicago.org](mailto:DPSfoia@cityofchicago.org), fax them to 312.744.0010, or send them via mail to:

DPS FOIA Officer  
City Hall, 121 North LaSalle Street, Room 806  
Chicago, IL 60602-1284

Please note that all FOIA requests are posted online. FOIA requests are public information, and when you submit a FOIA request, your name and information about the request will be made available on the City's website. Please be specific about the information you are seeking, and indicate the exact locations and dates. Please indicate in your request how you would like the information sent to you (via email, mail, or available to pick up at our office).

**Question: When is a performance and payment bond needed?**

Answer:

Bonds are usually required for construction contracts. The City also requires payment and performance bonds for certain work service contracts. The bid documents will always provide notice of whether or not a payment and/or performance bond is required for a particular project or contract.

**Question: What is the status of my procurement request?**

Answer:



Prior to the award of a contract, contractors should only contact Department of Procurement Services staff. After the contract is awarded, contractors may contact staff in the User Departments. The online Bid Tracker tool allows anyone to view the status of a particular procurement, from beginning (Receipt of New Project) to end (Contract Award). Additionally, DPS Procurement Specialists will be able to inform User Departments of the status of procurement requests.

**Question: Can we get training on various procurement methods and what the Department of Procurement Services requires to initiate procurement requests?**

Answer:

DPS offers monthly workshops on “How to Do Business with the City” and quarterly workshops on “How to Respond to a Request for Proposal.” For construction firms, DPS conducts a “Job Order Contracting” (JOC) seminar five times per year. Vendors should sign up for DPS Alerts to be automatically notified when training will be offered. Additionally, we now offer an introduction to City Bonding requirements and Compliance Documentation 101.

DPS has already offered training for all City Department Heads and trained more than 70 User Department staff on the fundamentals of procurement. We will continue to offer in-house training as requested.

**Question: Where do I send my Minority Business Enterprise (MBE), Women Business Enterprise (WBE), Business Enterprise Owned or Operated by People with Disabilities (BEPD), Disadvantaged Business Enterprise (DBE), or Airport Concessions Disadvantaged Business Enterprise (ACDBE) certification application(s)?**

Answer:

DPS strongly encourages applicants to submit their applications online at [chicago.mwdbe.com](http://chicago.mwdbe.com). However, if you cannot do so, paper applications should be sent to:

Department of Procurement Services  
c/o Certification Unit  
121 North LaSalle Street, Room 806  
Chicago, Illinois 60602

**Question: What is the status of my contract closeout?**

Answer:

The Department of Procurement Services works closely with the User Departments to ensure that contracts are closed out in a timely manner. The following provides a guide to the contract close out process. By knowing the steps involved, you are in a better position to identify where in the process your contract stands, what the next step is, and who is responsible for completing that step. The steps are as follows:

The contractor submits the final invoice package to the User Department and the Department of Procurement Services. Final quantities are forwarded to DPS with final waivers of lien and certified payroll documents.





If necessary, the Department of Procurement Services and User Department may request incomplete or missing documentation.

The Department of Procurement Services enters all payroll information or reviews payroll data that was entered into the certified payroll and reporting system and prepares a final assessment letter. If applicable, it details the liquidated damages for not meeting contract commitments.

The Department of Procurement Services issues a final assessment letter to the User Department and to the contractor.

The User Department pays the final invoice. The payment amount is equal to 100% of the contract minus the liquidated damages specified in the final assessment letter.

**Question: To whom do I send a request to approve the addition or removal of a subcontractor?**

Answer:

All subcontractors must be approved by the CPO prior to commencement of work. If you are adding a subcontractor, a letter with an explanation for the change must be submitted to the CPO for approval.

If you are adding or removing a firm to your existing Minority Business Enterprise, Woman Business Enterprise, or Disadvantaged Business Enterprise plan, please send a written explanation for the change, a Schedule C along with a revised Schedule D for approval, documentation to support the removal of any MBE, WBE, or DBE firms, and a copy of the subcontractor's current certification letter to:

Chief Procurement Officer  
Department of Procurement Services  
City Hall, Room 806  
Chicago, Illinois 60602

**Question: How can a contractor/supplier market its services to the City?**

Answer:

Contractors/Suppliers should sign up for DPS Alerts to monitor current bid opportunities as well as review the City's Buying Plan, which is also available on our website.

Under the leadership of Mayor Rahm Emanuel, the City of Chicago Department of Procurement Services has created an online forum to foster networking and information-sharing for the City's diverse vendor community. Everyone involved in the City's procurement process, including the operating departments, is committed to providing information, resources, and tools to assist you in your efforts to compete for City of Chicago contracting opportunities.

We invite you to visit the various forums to learn about opportunities to partner with other vendors in providing services and goods to the City of Chicago as well as learn valuable information on how to participate in the procurement process. This website is an interactive forum for all vendors.



It is important that prior to any contract award, vendors communicate directly with Department of Procurement Services staff and not the User Department. If potential vendors are contacting departments to influence City staff to procure their products or services and not to respond to an existing Request for Proposal, Request for Qualifications, or Bid, they may be lobbying and thus be required to register with the Board of Ethics as a lobbyist.

Please contact the Board of Ethics at 312-744-9660 for guidance as to whether registration is required; if it is, the Board will be happy to assist in the registration process.

**Question: If I am a Minority Business Enterprise, Women Business Enterprise, or a Business Enterprise owned or operated by People with Disabilities certified with the City of Chicago, how do I do business with the City?**

Answer:

The most valuable networking tool the City offers is the pre-bid conference. Pre-bid conferences are meetings where potential bidders can ask detailed questions about the specifications. Pre-bid conferences are usually mandatory for construction opportunities. However, bid take-out lists provide subcontractors with valuable information on prime contractors and are always available online and in the Bid and Bond Room, Room 103 in City Hall.

In addition, City officials from the Department of Procurement Services and User Departments attend the pre-bid conferences to provide information and facilitate networking between prime contractors and subcontractors.



The Department of Procurement Services is the contracting authority for the procurement of goods and services for the City of Chicago. We pledge to work together as a team and with our customers to guarantee an open, fair, and timely process by establishing communication and enforcing superior business practices.

City of Chicago  
DEPARTMENT OF PROCUREMENT SERVICES  
121 North LaSalle Street, Room 806  
Chicago, Illinois 60602  
312.744.4900 (voice)  
312.744.0010 (fax)  
312.744.2949 (TTY)  
[www.cityofchicago.org/procurement](http://www.cityofchicago.org/procurement)

**INTEGRITY, PUBLIC TRUST, AND THE LAW ARE OUR GUIDING PRINCIPLES.**







