

**RULES AND REGULATIONS OF
THE DEPARTMENT OF PROCUREMENT SERVICES FOR
PRODUCT OR SERVICE TRIALS, TESTING, AND
OTHER “NO-COST” CITY USES**

1. General Provisions

1.1. Statement of Authority

Pursuant to Section 8-10-16 of the Municipal Purchasing Act, 65 ILCS 5/8-10-1 *et seq.*, the Chief Procurement Officer is authorized to promulgate rules and regulations pertinent to the proper conduct of procurement by the City. Section 2-92-640 of the Municipal Code of Chicago further authorizes the Chief Procurement Officer to implement innovative procurement methods including pilot procurement programs that have no cost to the City, provided that these programs are competitive and in the best interest of the City. Section 2-92-640 grants the Chief Procurement Officer power to adopt rules and regulations for the proper administration and enforcement of such innovative procurement methods.

1.2. Application and Statement of Purpose

The rules and regulations set forth herein pertain to agreements entered into between the City and certain vendors for the trial, testing and other uses by the City of products and services offered at no cost to the City of Chicago. Although products and services are offered to the City, at no cost, for testing, trials and other purposes, the use of such products and services carries certain risks. The purpose of these rules and regulations is to ensure that those risks are borne by the appropriate party.

2. Procedures

2.1. Notice

The Chief Procurement Officer must receive no less than thirty (30) business days advance written notice of any proposed test, trial or other proposed no-cost use of products or services. Such notice must describe the product or service offered, the use for which it is intended, and the test, trial or other no-cost use that the User Department proposes to undertake. In addition, the notice shall contain documentation sufficient to show that the User Department has made reasonable efforts to contact all potential vendors of the product or service, in order to give those vendors the opportunity to participate in the proposed test, trial or other proposed no-cost use of the product or service. Such notice shall also include a designated departmental contact for the proposed test, trial or other proposed no-cost use. The User Department shall not proceed with any proposed test, trial or other proposed no-cost use unless the Written Agreement described in Paragraph 2, below, is executed by the Chief Procurement Officer. A separate Written Agreement shall be required for each vendor participating in the proposed test, trial or other proposed no-cost use of products or services. The Chief Procurement Officer reserves the right to deny any such test, trial or other use when, in the Chief Procurement Officer's sole judgment and discretion, such intended use is contrary to the policies, procedures and laws governing City procurement. The User Department must also inform

other City departments of any proposed test, trial, or other proposed use of the product or service, when there is a reasonable likelihood that such other City departments may: (a) be impacted by the test, trial or other use, or (b) have institutional knowledge relevant to evaluating the efficacy of the product or service that is the subject of the test, trial or other no-cost use.

2.2. Written Agreement

All tests, trials and other “no-cost” uses of products and services require a written agreement between the vendor and the City, executed by the Chief Procurement Officer. The Chief Procurement Officer shall not execute any written agreement regarding any such test, trial or other no-cost use of products or services, unless the Chief Procurement Officer first makes a determination that the test, trial or other no-cost use is: (a) competitive, and (b) in the best interest of the City. This determination shall be in writing and must be attached as an exhibit to the written agreement. The agreement must provide the name, address and other pertinent contact information for the vendor, a description of the product or service offered and the use for which the product or service is intended, a description of the test, trial or other use that the City is permitted, and the allotted length of time for such test, trial or use. The agreement must also provide that such test, trial or use is without cost to the City, and that through such test, trial or use, the City incurs no obligation to purchase, order, or otherwise procure the product or service, nor is the vendor authorized to reference the City’s test, trial or use of the product in any press release, promotional or sales material. The vendor must assume all risk of loss to its property, as well as any loss to City property or persons, or third parties and their property, through the use of the product or service, and agree to indemnify and defend the City with respect to any such loss. If the use of the product or service requires the vendor to be on City property, the agreement must also include a right of entry executed by a City official with authority to grant such right of entry, and address any permitting, badging or other security requirements entailed by the use of City property.

2.3. Proof of Insurance

The vendor must provide proof of insurance to the City’s Risk Manager in substance and amounts appropriate to the product or service and the type of use that the City will undertake.

2.4. User Department Obligations

The User Department is responsible for informing and securing any and all required permits, permission, access or authorization from other City departments. For instance, if the product is software, and must be installed on City computers to demonstrate its functions, DoIT must be advised and authorize the use of the product.

The User Department is required to maintain a file indicating the date(s) any product or service is provided, the test, trial or other use of the product or service by the City, and the outcome of such test, trial or use. The Chief Procurement Officer shall be copied on any report or other record of the outcome of any such test, trial or no-cost use.