

GLOSSARY OF PROCUREMENT TERMS

Accelerated Procurements. This procurement method is used to buy commodities, such as fuel, that must be obtained quickly due to significant shortages and/or short-term price fluctuations.

Amendment Extensions. Somewhat like renewals, contract extensions are used when an agency needs to continue a contract (most often for the delivery of a human services program) that would otherwise expire, but has no other renewal provision that it can use. An amendment may be used to extend such a contract for up to one year. These extensions ensure that services may continue uninterrupted.

Architecture/Engineering. Architecture and engineering is a class of services specifically related to the preparation of plans and specifications for construction projects. This category does not include Construction Management or CM Build nor does it include the preparation of environmental studies. Contracts to hire licensed architects or professional engineers (PE) would qualify.

Business Questionnaire. See Vendor Information Exchange System (VENDEX).

Competitive Sealed Bid (CSB). Procurement method most often used for purchasing goods, construction and standardized services, because the major basis for selecting a responsible vendor is the lowest price.

Competitiveness. For competitive sealed bids, requests for proposals and competitive innovative procurements, competitiveness is defined as receiving three or more responses. For small purchases, competition is defined as soliciting a minimum of 10 vendors.

Concept Reports. City agencies are required to issue detailed "Concept Reports" prior to the release of an RFP, when the agencies establish new client services programs, or substantially reorganize an existing program. These reports address such issues as anticipated changes in the number or types of clients, geographic areas to be served, evaluation criteria, service design or price maximums or ranges per participant. Concept reports, together with the comments received from the public, are used by agencies to draft the subsequent RFP.

Concessions. Grants for the *private* use of city-owned property such as for food sales or recreational activity programs with the City's compensation typically tied to the concessionaire's revenue.

Construction Change Orders. Amendments to construction contracts, used to implement necessary changes to ongoing construction projects, e.g., unanticipated conditions that are discovered in the field.

Construction Services. All other contracts for the construction, rehabilitation, and/or renovation of physical structures go in this category. This category does include CM Build as well as other construction related services such as: asbestos and lead abatement, painting services, carpentry services, carpet installation and removal, and demolition.

Contract Dispute Resolution Board (CDRB). Pursuant to the PPB Rules, the CDRB may resolve most types of disputes that arise under contracts between vendors and City agencies. The City Chief Procurement Officer (or her designee) participates in each CDRB panel on behalf of the City, with an Administrative Law Judge from the Office of Administrative Trials and Hearings (OATH) and an independent panel participant chosen from a pre-qualified list reflecting persons with expertise. The CDRB makes the final administrative determination of City contract disputes, following consideration of the vendors' claims by the contracting agency and the City Comptroller.

Cycletime. The typical length of time it takes City agencies to process competitive sealed bids, as well as contracts to continue ongoing human services programs.

Default. Inability of contractor to perform, usually a result of poor performance, inability to perform, unreasonable delays in performance and the like.

Director of Citywide Environmental Purchasing. The Director of the Mayor's Office of Contract Services was appointed by the Mayor as the Director of Citywide Environmental Purchasing on April 24, 2006.

Emergency Purchases. Method of procurement used to obtain goods and services very quickly, in many instances without competition, when an agency must do so to address threats to public health, safety or a necessary service.

Emerging Business Enterprises (EBE). Local Law 12 of 2006 establishes participation goals for EBEs, which are defined as businesses owned and operated by individuals who have experienced social disadvantage in American society as a result of causes not common to individuals who are not disadvantaged, and whose ability to compete in the market has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. EBE participation goals for prime contracts and subcontracts apply to the same industries as the M/WBE goals. DSBS is authorized to certify participating businesses as EBEs.

- **Environmentally Preferable Purchasing Laws (EPP).** Local Law 118 of 2005 establishes a Director of Citywide Environmental Purchasing ("DCEP") to implement the City's EPP program. Mayor Bloomberg appointed the City's Chief Procurement Officer as DCEP. Local Law 119 of 2005 requires energy-using products purchased by the City to comply with ENERGY STAR® requirements, and meet the Federal Energy Management Program ("FEMP") energy and water efficiency standards. The law also requires that the City purchase more energy efficient lighting. Local Law 120 of 2005 requires City agencies to follow the Comprehensive Procurement Guidelines ("CPG") established by the federal EPA to ensure the use of products with recycled content. Local Law 121 of 2005 requires the City to purchase electronic equipment and fluorescent lighting with low levels of potentially hazardous substances. Local Law 123 of 2005 authorizes the City to develop a pilot program to test environmentally preferable cleaning products and thereafter to establish standards requiring the purchase and use of "green cleaning" products.

Fiscal Year (FY). The City's fiscal year runs from July 1st of the preceding year to June 30th of the following year. For FY06, the covered period is from July 1, 2005 through June 30, 2006.

Franchise and Concession Review Committee (FCRC). FCRC has six members: two appointees representing the Mayor, one representing the Law Department, one representing the Office of Management and Budget (OMB), one representing the Comptroller, and one voting seat shared by the five Borough Presidents, who rotate voting control based on the location of the item under consideration. MOCS oversees and certifies agency compliance with the applicable laws and regulations for franchises, concessions and revocable consents on behalf of the Mayor.

Franchises. Grants of the right to occupy or to use the City's inalienable property, such as streets or parks, to provide a *public* service, such as telecommunications or transportation services.

Goods. This category includes all purchases of physical items. Most of these purchases above the small purchase limit will be made by DCAS.

Human Services. Human services are a class of services where the service is rendered not to the City, but to clients in various at-need groups. This category includes all homeless shelters, counseling services, youth programs, after-school programs, homes for the aged, home care, and other similar services. The vendors in this category will be primarily not-for-profit although some areas, like home care, will include for-profit vendors.

Innovative Procurements. Agencies are permitted by the PPB rules to experiment with new procurement methods. They may test the new methods for a limited number of contracts. Once the tested methods are evaluated, the PPB then determines whether to codify the new methods for future

use.

Intergovernmental Purchases. This is a relatively fast-track method that enables City agencies to buy goods or services from a pre-existing contract between a vendor and another government agency.

Line Item Appropriations. As part of the City's budget process, the City Council and Borough Presidents provide funding to specific vendors, typically community-based human services organizations, cultural institutions or other not-for-profit groups. The contracts through which those funds flow are classified as line item, or discretionary appropriations. This type of contract is noteworthy for its high volume of very small awards, some only a few thousand dollars.

Mayor's Management Report (MMR). The MMR provides elected officials, oversight entities, and the public with information about agency performance at key points during the planning and budgetary process.

Micro-Purchases. Method of procurement used to buy goods, services or construction valued at up to \$5,000 quickly; agencies may turn to any available vendor from which they may obtain a fair price without formal competition. The top buying agencies tend to be those with responsibility for widely dispersed facilities such as infrastructure, police precincts, parks and housing complexes.

- **Minority/Women-Owned Businesses (M/WBEs).** Local Law 129 of 2005 establishes race-and gender-neutral measures to increase contracting opportunities throughout City procurement, and also establishes citywide participation goals, by race, ethnicity and gender, for utilization of M/WBEs in contracts of less than \$1 million dollars. Citywide goals represent the anticipated percentage of contracting between City agencies and M/WBE firms during the course of the year. The four industry categories covered by the prime contract participation goals are: (1) construction; (2) professional services; (3) standardized services; and (4) goods. The law also establishes citywide participation goals for subcontracts under \$1 million in construction and professional services. Each agency that does at least \$5 million in procurement annually is responsible for developing a utilization plan and meeting the citywide participation goals. DSBS is authorized to certify participating businesses as M/WBEs.

Negotiated Acquisition. City agencies use this method of contracting when only a few number of vendors are available to provide the goods or services needed, when there is limited time available or when full competition is otherwise not feasible. This method is often used for litigation support services of various types.

Negotiated Acquisition Extensions. A negotiated acquisition extension is typically used when a renewal or amendment extension is unavailable, to provide an agency sufficient time to draft, issue and make new awards under an RFP for a program. These extensions ensure that services may continue uninterrupted. Negotiated acquisition extensions are also used to ensure the completion of ongoing construction projects that are not finished at the time of their contract's expiration.

Non-Responsible. A vendor who lacks the business integrity, financial capacity and/or ability to perform as required, so as not to warrant the award of public tax dollars, will be determined to be "non-responsible" and thus ineligible for the contract. A vendor who is found non-responsible may appeal that determination to the head of the City agency responsible for the contract.

Non-Responsive. A vendor whose bid or proposal does not conform to the terms set out by the City for a particular solicitation will be determined to be "non-responsive" and is then not further considered for the contract under competition. Affected vendors may appeal the findings to the head of agency procuring the contract.

Other Procurement Methods. Agencies may use demonstration projects, buy-against procurements, and government-to-government procurements (*i.e.*, where a government agency itself acts as a vendor), in specialized circumstances.

Other Services. Any contract that cannot be placed in one of the following categories – Architectural/Engineering, Construction Services, Goods, Human Services, Professional Services or Standardized Services.

Prevailing Wages. Wage schedules mandated by New York State Labor Law regarding construction and building service contracts.

Principal Questionnaire. See Vendor Information Exchange System (VENDEX).

Procurement. The City's purchasing process, which includes all of the necessary functions related to the purchasing process, such as payment, performance evaluation and contract administration.

Professional Services. Professional services are a class of services that typically require the provider to have some experience in a specialized field or an advanced degree. In the procurement process, emphasis is typically placed on the quality of the vendor's approach, as the service is likely to be highly individualized. Services of this type include: legal, management consulting, information technology, accounting, auditing, actuarial, advertising, health services, pure construction management, environmental analysis, and traffic studies.

Protest. Except for accelerated procurements, emergency procurements and small purchases, a vendor who objects to any other aspect of a procurement award, such as the qualifications of the winning vendor, may file a vendor "protest" with the head of the City agency responsible for the contract.

Public Hearing. Public hearings are held on contract awards, in order to provide transparency to the process and allow the public an opportunity to comment on proposed terms. The City conducts hearings on most contracts valued above \$100,000. Agencies may cancel a public hearing, if after notice is published, no member of the public indicates an interest in testifying.

Renewal Contracts. Method used to continue operation of an existing contract that includes one or more options to renew.

Requests for Proposals (RFPs). Method of procurement used when an agency must balance the need for a fair price with consideration of other factors such as the vendor's experience and expertise, which is typically true for human (*i.e.*, client-based) services, professional services and architecture/engineering services. Also referred to as competitive sealed proposals.

Required/Authorized Source or Method. On occasion, an outside funding entity, typically a state or federal agency or a private entity (such as a not-for-profit), that is assisting the City in making a particular purchase, mandates either the specific vendor to be used for the goods or services, or a specific process for selecting a vendor. In other instances, state law provides a "preferred source" procurement method for particular types of vendors, *e.g.*, those employing disabled New Yorkers.

Retroactive. A retroactive contract is one in which the start date occurs before the contract is registered by the Comptroller.

Revocable Consents. Grants, revocable at the City's will, for private use of city-owned property for purposes authorized in the New York City Charter (*e.g.*, for cafés and other obstructions).

Small Purchases. Method of procurement used for buying goods, services and construction valued at more than \$5,000, all the way up to (and including) \$100,000. It involves a fast-track competitive process that incorporates expanded opportunities for certified M/WBEs.

Sole Source Contracts. This procurement method is used sparingly, as it requires a finding that only one vendor is available who can provide the required goods, services or construction. This category reflects mainly the City's "pass through" funds that support EDC and the capital construction projects of cultural institutions.

Standardized Services. Standardized services are a class of services that typically do not require the provider to have experience in a specialized field or an advanced degree. In the procurement process, emphasis is typically placed on the price offered, as the service is clearly defined and highly commoditized. Services of this type include: security, janitorial, secretarial, transportation, collection, and food related services. Contracts for things like plumbing, electricians, and HVAC, when they are procured for ongoing maintenance/repair not related to new construction, would also fall into this category.

Vendor Enrollment Center (VEC). Any business wishing to sell goods or services to the City may complete an enrollment form and be added to the citywide bidder lists used by all Mayoral agencies to receive notices of City procurement opportunities.

Vendor Information Exchange System (VENDEX). The City uses the VENDEX data base to help agencies make decisions regarding vendor responsibility. Data goes into the VENDEX system from questionnaires completed by vendors, who must file if they have contracts or subcontracts that are valued at \$100,000 or more, that are sole source contracts valued at over \$10,000, or if their total (aggregate) business with the City exceeds \$100,000 during the preceding twelve months. In addition, vendors must complete questionnaires when they apply for franchises or for concessions that, either singly or in combination with other contracts held by the vendor, are valued at over \$100,000. To file with the VENDEX system, vendors must complete a "business" questionnaire for the company (or individual) signing the contract or franchise/concession agreement with the City; those vendors that are organized as corporations must also complete "principal" questionnaires for each of the major officers of the company.

Vendor Rehabilitation. A proceeding available to vendors that have had responsibility problems in the past, but can demonstrate that they have adequately addressed those problems and can prove their readiness to be awarded new contracts.

Vendors. Companies and individuals that demonstrate business integrity, financial capability and performance ability to enter into contracts with the City.