



# El Paso-Teller 9-1-1 County Authority Procurement Manual

*Updated January 2019*



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## **Part 1 – GENERAL PROVISIONS**

### **1.1 Basis and Purpose**

This manual is designed to simplify, clarify, and update the procurement process of the El Paso – Teller County 9-1-1 Authority (Authority). The rules set forth herein are meant to encourage effective competition and to ensure that expenditures are carried out in a prudent manner. They are also designed to assure a procurement system of quality and integrity and to promote fair and equal treatment of all people participating and competing in the purchasing process. However, nothing herein is intended to confer any direct or implied right of enforcement to any person due to claim of loss of opportunity or otherwise. This manual establishes the following elements of a centralized purchasing function:

- 1.1.1** The concept of a central purchasing authority which will institute and maintain an effective and economical program for the acquisition of goods and services.
- 1.1.2** The recognition of a purchasing obligation to the taxpayers and ratepayers, the using agencies, and suppliers and contractors.
- 1.1.3** The creation of a competitive environment through fair opportunity and equitable treatment.
- 1.1.4** The purchase of needed equipment, materials, supplies, and services at favorable prices in keeping with suitability, appropriate quality, and reliable vendor performance.

### **1.2 Authority**

The authority to purchase needed equipment for the initial and on-going operation of the 9-1-1 system is prescribed in § 29-11-102 and 29-11-104, C.R.S.

### **1.3 Application**

These rules shall apply, except as set forth in Subsections (1.3.1) through (1.3.12) below:

- 1.3.1** When a procurement involves the expenditure of Federal assistance or contract funds, the Authority shall follow any mandatory requirements of applicable Federal law and implementing regulations.

- 1.3.2** When complying with the terms and conditions of any grant, gift, bequest, or cooperative agreement which conflict with the requirements of these rules.
- 1.3.3** In the procurement of professional services. Requests for competitive proposals may be accepted for such services.
- 1.3.4** Intergovernmental agreements.
- 1.3.5** Extension of an existing contract with the same vendor under the same condition, at the same or lower price, taking inflation into account.
- 1.3.6** Purchases made cooperatively with other units of government utilizing awards from other governmental agencies.
- 1.3.7** Licenses and permits for telecommunications facilities on Authority sites and facilities.
- 1.3.8** Equipment and supplies required by reason of practicality, such as those necessary to maintain uniformity of equipment presently in operation, and uniformity of decorative and semi-decorative fixtures and supplies.
- 1.3.9** Energy fuels, including gasoline and diesel fuel.
- 1.3.10** Used, discounted, or otherwise unique equipment or supplies which become available, or are offered for a limited time and may be acquired below the cost of similar new or regular items.
- 1.3.11** Service on equipment when it is advantageous to obtain parts, repairs, or service from a factory-authorized dealer or distributor.
- 1.3.12** Supplies which are perishable, such as supplies which cannot be purchased by ordinary procedures by reason of imminent spoilage or decay.

## **1.4 Definitions**

- 1.4.1** AWARD – The acceptance of a bid or proposal; the presentation of a purchase agreement or contract to a bidder.
  
- 1.4.2** BEST INTEREST OF THE AUTHORITY – A term frequently used in granting a purchasing official the authority to use discretion to act when it is felt to be in the most advantageous and in the “best interest of the Authority.” The term is normally used when it has not been possible to anticipate all the circumstances that might arise to enable more specific directions to be delineated either by pre-qualification or in the bid documents.
  
- 1.4.3** BID or PROPOSAL – An offer, which may or may not include a price, in response to an informal request for pricing, an Invitation for Bid, or a Request for Proposals.
  
- 1.4.4** BID BOND – An insurance agreement in which a third party agrees to be liable to pay a certain amount of money if the third party’s bid is accepted but fails to accept the contract as awarded.
  
- 1.4.5** BRAND NAME SPECIFICATION – A specification that cites the brand name, model number, or some other designation that identifies a specific product to be offered exclusive of others.
  
- 1.4.6** BRAND NAME OR EQUAL SPECIFICATION – A specification that cites brand names, model numbers, or other identifications as representing quality or performance called for, when inviting bids on comparable items or products of any manufacturer.
  
- 1.4.7** COMPETITIVE BIDDING – The submission of prices by individuals or firms for a contract, privilege, or right to supply merchandise or services.
  
- 1.4.8** INVITATION FOR BIDS – All documents, whether attached or incorporated by reference, utilized for soliciting bids.

- 1.4.9** LOWEST RESPONSIBLE BIDDER – Originally, the bidder submitting the lowest initial price and capable of performing the proposed contract. Under current purchasing concepts, often construed as generally the same as the “lowest responsive and responsible bidder,” or as the bidder who submits the “lowest and best bid,” or the “most advantageous bid, price, and other factors considered” and whose bid meets the requirements and criteria set forth in the Invitation for Bids.
- 1.4.10** NO BID – A response to an Invitation for Bid stating that the respondent does not wish to submit a bid. In addition to serving as a courtesy of a reply, it can operate to prevent removal from the future bidder’s list for failure to show an active interest.
- 1.4.11** PERFORMANCE BOND – A contract of guaranty executed subsequent to award by a successful bidder to protect buyer or owner from loss, due to contractor inability to complete the contract as agreed.
- 1.4.12** PROFESSIONAL SERVICES – Those services which are primarily intellectual in character and which include analysis, evaluation, prediction, planning, or recommendation. Professional services involve extended analysis, the exercise of discretion and independent judgment in their performance, and an advanced, specialized type of knowledge, expertise, or training customarily acquired either by a prolonged course of study or equivalent experience in the field. Professional services include, but are not limited to, services performed by accountants, auditors, analysts, consultants, lawyers, physicians, planners, artists, engineers, architects.
- 1.4.13** PROPRIETARY INFORMATION – Information or data describing technical processes, mechanisms, or operational factors that a business wishes to keep from the general public view in order to maintain a competitive advantage in the market.
- 1.4.14** PURCHASE ORDER – A purchaser’s document which formalizes a purchase transaction with a vendor. A purchase order contains statements as to quantity, description, price, terms, discounts, date of performance, transportation, and other factors pertinent to the purchase and its execution by the vendor. Acceptance of a purchase order by the vendor constitutes a contract.

- 1.4.15 PURCHASING OFFICER** – The Purchasing Officer of the Authority or any other person(s) designated by the Authority or Authority’s Chief Executive Officer (CEO) to act on behalf of the Purchasing Officer.
- 1.4.16 QUALIFIED PRODUCTS LIST** – An approved list of supplies, services or construction items described by model or catalog numbers, which, prior to competitive solicitation, the Authority has determined will meet the applicable specification requirements.
- 1.4.17 REQUEST FOR PROPOSALS (RFP)** – All documents, whether attached or incorporated by reference, utilized for soliciting competitive proposals; the RFP procedure permits negotiation of proposals and prices as distinguished from competitive bidding and an Invitation for Bids, as set forth in Part 5 of this document.
- 1.4.18 SEALED BID** – A bid which has been submitted in a sealed envelope, to prevent its contents from being revealed or known before the deadline for the submission of all bids.
- 1.4.19 SPECIFICATIONS** – Any description of the physical, functional, or performance characteristics, or of the nature of a supply, service, or a construction item. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply, service, or construction item for delivery.
- 1.4.20 TRADE SECRET** – Any aspect of a business or its operation not made available to competitors.

## **Part 2 – SUMMARY OF BIDDING REQUIREMENTS**

### **2.1 Bidding Not Required for Purchases up to \$5,000**

Competitive bidding is not required for purchases of supplies, materials, equipment, or services costing \$5,000 or less; however, the Purchasing Officer is encouraged, but not required, to obtain informal quotes via telephone or in writing for such purchases, when practical. The buyer acquiring goods or services in this manner shall be expected to use professional judgment to ensure that the Authority is receiving maximum value. Procurement requirements shall not be artificially divided as to constitute a small purchase under this rule.



## **2.2 Informal Quotes for Purchases from \$5,000 to \$50,000**

The Purchasing Officer may procure supplies, equipment, materials, and services of more than \$5,000, but not exceeding \$50,000, by securing documented telephone quotations which provide, (a) the name of the company or firm, (b) the person providing the quotation, (c) the delivery date, (d) FOB information, (e) cash terms, and (f) price(s) of item(s). Written quotations may be used in lieu of telephone quotations if it is in the best interest of the Authority. A minimum of two businesses, if available, handling the particular commodity or service shall be requested to provide telephone or written quotations. A "no bid" shall not meet the requirement of a responsible telephone bid. The award shall be made to the business offering the lowest acceptable quotation, delivery, and terms being a consideration.

## **2.3 Formal Bids**

All purchases above \$50,000 shall be authorized by the Authority Board of Directors (Board) and bids, or proposals shall be solicited by either an Invitation for Bid or a Request for Proposals, as further set forth in Parts 3, 4, and 5 of this manual.

# **Part 3 – COMPETITIVE BIDDING GENERAL REQUIREMENTS**

## **3.1 General**

The competitive bidding requirements of this Part 3 shall apply to all purchases above \$50,000, whether solicited by an Invitation for Bid or RFP.

## **3.2 Bidder's Lists**

It is the responsibility of the Purchasing Officer to ensure that an adequate selection of bidders is solicited for each purchase or contract. An adequate number of bidders shall mean at least two. The Purchasing Officer may maintain a bidder's list with the names of businesses that may be interested in competing for various types of Authority purchases and contracts. The submittal of a vendor's application does not guarantee inclusion on any or all bid solicitations. The Purchasing Officer, or designee, shall review each application to determine if the business may be included on the bidder's list. Factors to be considered may include: financial stability, previous service history, and quality of products offered. Inclusion on a bidder's list is not a prerequisite to submitting a bid unless a bidder has been suspended or barred pursuant to §3.2.

## **3.3 Suspension from Bidder's List**

The Purchasing Officer shall have the authority to declare as unresponsive any bidder who defaults on a quotation or awarded a contract and to disqualify such vendors from

receiving any business from the Authority for a stated period of time. The Purchasing Officer shall review and investigate all reasons and evidence supporting such a decision and shall inform the suspended bidder in writing of such decision. The Purchasing Officer shall not accept bids or proposals from any vendor or contractor who is in default on the payment of any taxes, license fees, or other money due within any entity in El Paso or Teller Counties.

### **3.4 Pre-Qualification**

Pre-qualification of bidders may be required for some projects and shall be determined on an individual basis by the Purchasing Officer. When pre-qualification is required, prospective contractors may be asked to fill out and return a pre-qualification questionnaire and to submit a financial statement.

### **3.5 Specifications**

Specifications set forth in an Invitation for Bid or RFP shall not be overly restrictive but shall, to the extent practicable, allow for maximum competition and emphasize functional or performance criteria while limiting design or other detailed physical descriptions to those necessary to meet the need of the Authority.

#### **3.5.1 Preference for Commercially Available Products**

To the extent practicable, preference shall be given to the procurement of standard commercial products. In developing specifications, accepted commercial standards should be used, and unique requirements should be avoided.

#### **3.5.2 Brand Name or Equal Specifications – Conditions for Use**

Brand name or equal specifications may be used when it is in the best interest of the Authority and when the item to be procured is best described by the use of such a specification. Brand name or equal specifications shall seek to designate as many different brands as are practicable as “or equal” references and shall further state substantially equivalent products to those designated that will be considered for the award. Since the use of a brand name or equal specification is restrictive, it may be used only when the name or items will satisfy the Authority’s needs. The Purchasing Officer shall seek to identify sources from which the designated brand name or item can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made under provisions of §6.2 (sole source).

### **3.5.3 Qualified Products List – Conditions for Use**

A qualified products list may be developed when testing or examination of the materials or equipment is required prior to issuing a solicitation.

### **3.6 Solicitation Time**

Whenever possible, the minimum time for solicitation of bids shall be ten calendar days. When special requirements exist, the Purchasing Officer may lengthen or shorten the bid time, but the time cycle shall not be shortened for the purpose of reducing competition. Complicated procurements may have a time period which is longer than the standard ten (10) calendar days. Solicitation times of less than ten (10) days shall be documented by the Purchasing Officer as to why a reduced bid period was required.

### **3.7 Bid Evaluation**

Bids shall be evaluated against the specifications and requirements set forth in the specifications, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, warranties, delivery, and suitability for a particular purpose. No criteria should be used to evaluate any bid that is not set forth in the specifications.

### **3.8 One Bid Received**

If only one responsive bid is received in response to the Invitation for Bids, an award may be made to the single contractor if the Purchasing Officer finds that the price(s) submitted is fair and reasonable and that other prospective bidders had a reasonable time to respond, or there is not adequate time for re-solicitation. Otherwise, the bid may be rejected and (a) new bids may be solicited; (b) the proposed procurement may be canceled; or (c) if the Purchasing Officer and Authority determine that the price of the one bid is not fair and reasonable, and that re-solicitation would likely be futile, the procurement may be made under provision of §6.3 (emergency procurement).

### **3.9 Telephone Bids**

Telephone bids in lieu of a sealed bid will not be accepted unless the Purchasing Officer makes a written determination that market conditions are of such a nature that it is in the best interest of the Authority to solicit telephone bids.

### **3.10 Multiple or Alternate Bids**

Multiple or alternate bids by the same bidder are prohibited and shall be rejected unless multiple bids are expressly permitted by the Invitation for Bids. If available, a clearly indicated base bid may be considered for the award as though it were the only bid or offer submitted by the bidder.

### **3.11 Modification or Withdrawal of Bids or Proposals**

Bids and proposals may be modified or withdrawn by any offeror prior to the established date and time. The Purchasing Officer may allow a bid or proposal to be withdrawn after opening but prior to award, provided (a) that the bidder provides evidentiary proof that clearly and convincingly demonstrates that a mistake was made in the costs provided; (b) the mistake(s) is/are clearly evident on the face of the bid/proposal; and (c) the Purchasing Officer finds it to be unconscionable not to allow the bid/proposal to be withdrawn.

### **3.12 Mistakes in a Bid or Proposal**

When it appears from a review of a bid or proposal that a mistake has been made, the bidder should be requested to confirm the bid or proposal. Situations in which the confirmation should be requested include (a) apparent errors on the face of the bid or (b) a bid unreasonably lower than other bids submitted. If the bidder alleges a mistake, the bid may be withdrawn, provided that no correction or withdrawal of bids shall be allowed after award. If a minor mistake in the bid or proposal is discovered and the intended correct bid is clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples include typographical errors, errors in extending unit prices, and transposition errors.

### **3.13 Minor Informalities**

Minor informalities are matters of form, rather than substance, evident from the bid or proposal, or insignificant mistakes that can be waived or corrected without prejudice to other bidders, such that the effect on price, quantity, quality, delivery, or contractual conditions is negligible. The Purchasing Officer may waive such informalities or allow the bidder to correct them depending upon which is in the best interest of the Authority. Examples include the failure of the bidder to (a) return the number of signed bids or proposals required by Invitation, (b) sign the bid/proposal, but only if the bid or proposal is accompanied by other material indicating the bidder's intent to be bound, (c) acknowledge receipt of an amendment to the Invitation for Bid or Request for Proposal if it is clear from the bid or proposal that the bidder received the amendment

and intended to be bound by its terms, or that the amendment has a negligible effect on price, quantity, quality, delivery, or contractual condition.

### **3.14 Public Notice**

Invitations for Bids, or Requests for Proposals, or notices of the availability of such documents shall be mailed or otherwise furnished to a sufficient number of prospective bidders to secure adequate competition posted on the Authority's website. For construction or labor contracts in excess of \$100,000, public notice shall be published once in a newspaper of general circulation at least five calendar days prior to the date for bid opening. However, the Purchasing Officer may authorize the waiver of public notice upon written determination that circumstances call for a quick procurement action, including but not limited to when (a) supplies or equipment are needed promptly for backup to ensure against downtime; (b) a significant price increase on a needed item may be imminent; or (c) the scope of an ongoing task is unexpectedly expanded.

### **3.15 Pre-Bid Conferences**

Pre-bid conferences may be conducted for the purpose of explaining the procurement requirements and shall be announced to all prospective bidders known to have received the Invitation for Bids or RFP. The conference should be held long enough after the Invitation has been issued to allow bidders to become familiar with the Invitation or RFP, but with adequate time before bid opening to allow consideration of the conference results in preparing the bid. Nothing stated at such conference shall change the Invitation for Bids or RFP unless a change is made by written amendment.

### **3.16 Amendments to Solicitations**

Amendments to an Invitation for Bids or RFPs shall be identified as such and may require that the bidder acknowledge receipt of all amendments issued. The amendment shall reference the portions of the Invitation or RFP it amends and shall be sent to all prospective bidders known to have received an Invitation for Bids or RFP. Amendments shall be distributed within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time set for bid opening will not permit such preparation, to the extent possible, such time shall be increased in the amendment.

### **3.17 Confidential Data**

Bidders submitting trade secrets or other proprietary information which they wish to keep confidential shall submit such information under separate cover. The Purchasing Officer shall examine all bids/proposals to determine the validity of any requests for nondisclosure of trade secrets or other proprietary data identified in writing. If the

parties do not agree as to the disclosure of data, the Purchasing Officer shall inform the bidder in writing what portions of the bid will be disclosed and that the bidder may withdraw the bid or proposal, or choose to have the full bid disclosed.

### **3.18 Award**

Vendors will be selected by the Purchasing Officer for any purchases up to \$50,000, and by the Board for purchases over \$50,000. Depending on the nature of the product or service, bids are not necessarily awarded based on price alone. The contract shall be awarded with reasonable promptness to the Lowest Responsible Bidder who meets the requirements, and criteria set forth in the bid package, unless the Purchasing Officer or the Board, as applicable, determines that the public interest will be better served by accepting a different bid. When the award is not given to the Lowest Responsible Bidder, a complete statement of the reasons for placing the order with another bidder shall be made available to all bidders upon request.

### **3.19 Disposition of Bid Security**

Bid security, if any, shall be returned to the bidder when the withdrawal of the bid or proposal is permitted.

### **3.20 Waiver of Competitive Bidding Process**

The Purchasing Officer may elect to waive the competitive bidding process under certain conditions including:

**3.20.1** Any of the exceptions set forth in Part 6 of this document applies;

**3.20.2** A particular product is wanted for experiment or training;

**3.20.3** Additional products are required to complete an ongoing task;

**3.20.4** A purchase is made for another unit of government; or

**3.20.5** The purchase of a used item is available only on short notice and subject to prior sale.

The Purchasing Officer shall document, in writing, the basis and reasons for each waiver and shall be documented as a public record.

### **3.21 Cancellation or Rejection of All Bids or Proposals Prior to Opening**

Prior to the opening of bids, a solicitation may be canceled in whole or in part, when the Purchasing Officer determines in writing that such action is in the Authority's best interest for reasons including:

- 3.21.1** The Authority no longer requires the supplies, equipment, materials, or services.
- 3.21.2** The Authority can no longer reasonably expect to fund the procurement.
- 3.21.3** Proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable.

### **3.22 Notice**

When a solicitation is canceled prior to opening, notice of cancellation shall be sent to all businesses known to have received the Invitation or RFP, or alternatively, such notice may be posted on the Authority's website. The notice of cancellation shall identify the solicitation, explain the reason for the cancellation, and where appropriate, explain that an opportunity will be given to competing businesses on any re-solicitation.

### **3.23 After Opening**

The Authority expressly reserves the right to reject any or all bids for any reason. The preparation and submission of any bid do not create any express or implied contract rights. After opening, but prior to award, any or all bids or proposals may be rejected in whole or in part when the Purchasing Officer or Board determines in writing that such action is in the Authority's best interest for reasons including but not limited to:

- 3.23.1** The supplies, equipment, materials, or services being procured are no longer needed.
- 3.23.2** Ambiguous or otherwise inadequate specifications were part of the solicitation.
- 3.23.3** The solicitation did not provide for consideration of all factors of significance to the Authority.

**3.23.4** Prices exceed funds available, and it would not be appropriate to adjust quantities and qualities to come within available funds.

**3.23.4** There is a reason to believe that the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith. A notice of rejection shall be sent to all businesses that submitted bids or proposals.

#### **3.24.5** Records, Disposition of Documents

All documents relating to the modification or withdrawal of bids shall be made part of the appropriate procurement file. When bids or proposals are rejected, or a solicitation is canceled after bids or proposals are received, the bids or proposals which have been opened shall be retained in the procurement files, or if unopened, returned to the bidders or offerors upon request, or otherwise disposed of.

### **Part 4 – COMPETITIVE SEALED BIDDING – INVITATION FOR BIDS**

#### **4.1** General

An Invitation for Bids is a method of contracting for goods or services whereby price quotes are solicited from qualified bidders.

The design of the Invitation for Bids is critical to every procurement. Primary considerations include the contractual terms and conditions which must be written to protect the interest of the Authority, openness of specifications, requirements for transportation and delivery, and instructions as to how the bidder is to submit the proposal. The solicitation should seek full competition for all purchases and provide fair and equal opportunity for all qualified persons or firms to compete.

#### **4.2** Invitation for Bids – Content

The Invitation for Bids shall include the following:

**4.2.1** Instructions and information to bidders concerning the bid submission requirements, including the time and closing date, and the manner in which bids are to be submitted.

**4.2.2** The project description, evaluation factors, delivery or performance schedule, and inspection and acceptance requirements.



**4.2.3** The contract terms and conditions, including warranty and bonding or security requirements, as applicable.

### **4.3 Receipt of Bids**

Upon receipt, each bid shall be time-stamped and stored in a secure place until bid opening time. Bids shall not be opened upon receipt, except that unidentified bids may be opened for identification purposes and resealed in the presence of one or more witnesses.

### **4.4 Opening and Recording of Bids**

Bids shall be opened publicly, by the Purchasing Officer, or designee, in the presence of one or more witnesses, at the time and place designated in the Invitation for Bids. The name of each bidder, the bid price(s), and such other information as is deemed appropriate by the Purchasing Officer shall be read aloud or otherwise made available. The record shall be available for public inspection and distribution. After award, all bids shall be open to public inspection except to the extent the information qualifies as confidential trade secrets proprietary data to be confidential pursuant to §3.16.

### **4.5 Bid Evaluation – Product Acceptability**

The Invitation for Bids may require the submission of bid samples, descriptive literature, technical data, or other material necessary to determine product acceptability. The acceptability evaluation is not conducted for the purpose of determining whether one bidder's item is superior to another, but only to determine whether a bid will meet the Authority's needs as set forth in the Invitation. Any bid which does not meet acceptability requirements will be rejected as non-responsive.

## **Part 5 – COMPETITIVE SEALED BIDDING – REQUESTS FOR PROPOSALS**

### **5.1 General**

An RFP is a method of contracting for goods or services whereby proposals are solicited from qualified suppliers, following submission of which changes in proposals and prices are allowed, and the offer deemed by the Authority to be most advantageous in terms of criteria as designated in the Request for Proposals, is accepted. RFPs can also be used to solicit technical offers.

## **5.2 When RFPs are Practicable**

Factors to be considered in determining whether requests for proposals are possible include, if:

- 5.2.1** The contract needs to be other than fixed-price type.
- 5.2.2** It may be necessary to conduct oral or written discussions with offerors concerning technical and price aspects of their proposals.
- 5.2.3** It may be necessary to afford offerors the opportunity to revise their proposals.
- 5.2.4** It may be necessary to base the award on comparative evaluation as stated in the RFP of differing price, quality, and contractual factors in order to determine the most advantageous offering to the Authority.
- 5.2.5** The primary consideration(s) in determining award may be factors other than price(s).

## **5.3 Content of the RFP**

The Request for Proposals shall be prepared in accordance with provisions of the Invitation for Bids (§4.2) and shall also contain the following at a minimum: (a) A scope of services and/or detailed specifications; (b) A statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted without discussion; (c) A statement of when and how price(s) should be submitted; and (4) The manner in which proposals are to be submitted.

## **5.4 Receipt of Proposals**

Proposals may not be opened publicly and shall be opened by the Purchasing Officer in the presence of one or more witnesses who are Authority Board Members, employees, or agents. A register of proposals shall include the name of each offeror and a description sufficient to identify the supply, service, or item(s) offered.

## **5.6 Classifying Proposals**

For the purpose of conducting discussions with offerors, proposals shall be initially classified as either (a) Acceptable; (b) Potentially acceptable; or (c) Unacceptable.

## **5.7 Proposal Discussions with Individual Offerors**

Discussions are held to promote understanding of the Authority's requirements and the offeror's proposal, to facilitate arriving at a contract that will be most advantageous to the Authority, taking into consideration price and other evaluation factors set forth in

the Request for Proposals. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals, and prior to award, for the purpose of obtaining best and final offers. Auction techniques or disclosure of any information derived from competing proposals are prohibited. Any substantial verbal clarification or a proposal shall be reduced to writing by the offeror.

### **5.8 Multi-Step RFPs for Technical Offers**

When an RFP is issued to request offers, the RFP will identify whether or not priced or unpriced technical offers are required. If un-priced offers are requested, the RFP process may be split into multiple steps, with the first step in which bidders submit unpriced technical offers to be evaluated by the Board or Purchasing Officer, and a second phase in which those bidders whose technical offers are determined to be acceptable have their price bids considered. The multi-step RFP method may be used when it is not practical to prepare initially a final purchase or contract description which will be suitable to permit an award based on price.

### **5.9 Award of Contract**

Award of a contract shall be made to the offeror whose proposal is determined to be most advantageous to the Authority, based on the evaluation factors in the Request for Proposals. No other factors or criteria shall be used in the evaluation. If an evaluation committee is established, the committee shall review proposals to determine which proposal is the most advantageous. The contract file shall contain the basis on which the award is made.

## **Part 6 – EXCEPTIONS TO COMPETITIVE BID PROCESS**

### **6.1 Small Purchases and Informal Bids**

Expenditures for the procurement of supplies, equipment, materials, or services having an estimated value of less than \$50,000, may be made on the open market by informal methods without public notice, as set forth in Sections 2.1 and 2.2.

### **6.2 Sole Source Procurement**

Sole source procurement is permissible without an informal or formal bid process for goods or services that, in the opinion of the Purchasing Officer, are best obtained from a single or sole source due to one or more factors, including, but not limited to:

- 6.2.1** Compatibility of equipment, accessories, or replacement parts is the paramount consideration.

- 6.2.2** Where a sole supplier's item is needed for trial or testing purposes.
- 6.2.3** The purchase of equipment for which there is no competitive product, and which is available only from one supplier.
- 6.2.4** The purchase of a component or replacement part for which there is no commercially available product, and which can only be obtained from the manufacturer or another sole supplier.
- 6.2.5** The purchase of an item where compatibility is the overriding consideration, such as a dictation transcriber for an existing system.
- 6.2.6** Specialized skills, knowledge, and experience, unique and relevant experience, knowledge of the Authority and geographic region, or exceptional qualifications or reputation in the field.

The Purchasing Officer or designee shall make a written determination that procurement is a sole source, explaining the reasons. If procurement is restricted to one potential supplier, a written explanation as to why no other will be suitable or acceptable to meet the need shall be provided. In cases of reasonable doubt, competition should be solicited.

### **6.3 Emergency Procurement**

#### **6.3.1 Authority**

The Purchasing Officer may make emergency procurement when an emergency condition arises, and the need cannot be met through normal procurement methods.

#### **6.3.2 Emergency Conditions**

An emergency condition is a situation which creates a threat to public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, equipment failures, or other such reason as may be proclaimed by the Purchasing Officer. The existence of such condition creates an immediate and severe need for supplies, equipment, materials, and services that cannot be met through standard procurement methods and the lack of which would threaten the function of the Authority or its services.

### **6.3.3 Scope of Emergency Procurements**

Emergency procurement shall be limited only to a quantity of those supplies, equipment, materials, or services necessary to meet the emergency.

## **6.4 Equipment Leasing**

Equipment leases and lease purchase agreements do not require competitive bidding; however, when practical, the Purchasing Officer is encouraged to use either the informal or formal competitive bidding process to obtain pricing and terms that are in the best interest of the Authority.

## **Part 7 – LOCAL AND MINORITY BUSINESSES**

### **7.1 Minority Business Enterprises**

No provision is made in these rules for preferences of set-asides for minority or women-owned businesses. It is, however, the policy of the Authority to make an effort to solicit and encourage minority or women-owned business participation for Authority purchases or contracts. The Purchasing Officer shall implement the spirit and direction of this policy in all procurements.

### **7.2 Local Business Preferences**

It is the policy of the Authority to solicit bids from local suppliers whenever and wherever such competitive local sources exist, and where no sacrifice or loss in price or quality would result. No provision is made in these rules for dollar percentage or other types of preferential consideration for local vendors or contractors, except that in the event of a tie bid between a local vendor and an out-of-town vendor, the award will be made to the local vendor if all factors, including price, quality, terms, and delivery are determined to be equal.

## **Part 8 – BONDS**

### **8.1 Bid Security**

Solicitations for construction, labor, and public improvement contracts in excess of \$50,000 shall require the submission of bid security in an amount equal to at least five percent of the bid, at the time the bid is submitted. If a bidder fails to accompany the bid with the required bid security, the bid shall be rejected as non-responsive.

Acceptable Bid Security shall be limited to:

- 8.1.1 A one-time bid bond is underwritten by a company licensed to issue bonds in the State of Colorado;
- 8.1.2 A bank certified check made payable to the Authority;
- 8.1.3 A bank cashier's check made payable to the Authority; or
- 8.1.4 An irrevocable letter of credit, in a form acceptable to the Purchasing Officer.

The bid security is submitted as a guaranty that the bid will be maintained in full force and effect for a period of thirty days after the opening of the bids or as specified in the Invitation for Bids.

## **8.2 Construction Contract Payment and Performance Bond**

For construction contracts in excess of \$50,000, a payment bond and performance bond are required in the amount of at least fifty percent of the contract price. The payment and performance bonds shall be delivered by the contractor to the Authority at the same time the contract is executed. If the contractor fails to deliver the required bonds, the contractor's bid may be rejected. The bonds must be submitted in a form acceptable to the Purchasing Officer, executed by a surety company authorized to do business in the State of Colorado.

## **8.3 Additional Bonding**

If at any time during the continuance of a contract, when deemed in the best interest of the Authority, the Purchasing Officer shall have the right to require additional and sufficient sureties which the contractor shall furnish within ten calendar days after written notice to do so. Such surety bond shall cover the entire contract amount, regardless of changes in total contract amount.

## **Part 9 – PURCHASE ORDERS**

### **9.1 General Purpose and Policy**

All purchases of the Authority shall be by numbered Purchase Order except for petty cash expenditure not exceeding \$50.00. The Purchase Order must contain information as to quantity, description, price, terms, date, and vendor information with regards to

the purchase. All Purchase Orders will be cleared within one year of the date of issue, or funds will be encumbered to cover the outstanding Purchase Orders.