
APPENDIX

APPENDIX A: GLOSSARY OF TERMS

Advertisement (Notice Requirement) – To make a public announcement of the intention to procure goods or services. The Local Government Code requires certain expenditures be published in newspaper published in the municipality at least once a week for two consecutive weeks. The date of the first publication must be before the 14th day before the date set to publicly open the bids and read them aloud. Must state notice of time and place at which bids will be publicly opened and read aloud. (LGC 252.041)

Award – The act of accepting a bid, proposal, or offer; thereby resulting in a contract between the state and a vendor.

Best Value – Bidder providing goods or services at the best value for the City.

Bid – (noun) The response submitted by a bidder to a Request for Bids (RFB). Sometimes the completed document may be referred to as “the bid”. The response to a Request for Proposal (RFP) is called a proposal or offer.

Bid- (Verb) To submit a bid response. By submitting a bid response, one person (the vendor/ contractor) gives the buyer the legal power to create a contract with the responding seller in accordance with the bid response.

Bid Bond – An insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability that the bidder will proceed with the contract and will replace the bid bond with a performance and payment bonds. The bid bond is an instrument used to stop low bidders from underbidding and then withdrawing their bid. A bid bond is not statutorily required, but is generally used by the City on public works contracts

Bidder – One who submits a response to an invitation for bid or informal quote.

Bond –Written instrument executed by a bidder or contractor and a second party to assure fulfillment of their periodic interest payment until the date of maturity and a fixed sum of money on the designated maturity date to the City.

Centralized Master Bidder’s List (CMBL) – A mailing list, maintained by the Texas Comptroller of Public Accounts, of vendors who have expressed interest and registered to receive notice of bid or proposal opportunities based on the products or services they provide.

Change Order – A change in plans or specifications after the performance of a contract is begun, or if it is necessary to increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished. In reference to construction contracts, it relates primarily to changes caused by unanticipated conditions encountered during construction not covered by the drawings, plans, or specifications of the project.

Commodity – A tangible item that can be turned to commercial advantage; anything that can be processed and resold.

Competitive Sealed Bidding- Preferred method for acquiring goods, services, and construction for public use in which award is made to the lowest responsive and responsible bidder, based solely on the response to the criteria set forth in the RFB; does not include discussions or negotiations with bidders.

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Competitive Sealed Proposal- A procurement method by which a city requests proposals, ranks the offerors, negotiates as prescribed, and awards. CSPs may be used for: goods, services including professional services not listed in GC2254, high technology, insurance, civil engineered construction projects \$1.5 million or less and facilities construction.

Component Purchases - purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

Conflict of Interest- A situation wherein an individual as part of his/her duties make a decision or take action that will affect his/her personal interest.

Contract- A contract is an obligation to do or abstain from doing some act. Essential elements of a contract are: an offer and an acceptance of that offer; the capacity of the parties to contract; consideration to support the contract; a mutual identity of consent; legality of purpose; and sufficient certainty of terms.. a legally binding promise, enforceable by law.

Cooperative Buying Agreement (Cooperative Contracts, COOPs) – Competitively awarded contracts in accordance with State of Texas statues, rules, policies, and procedures, and have been extended for the use of other state agencies and active CO-OP members. A cooperative buying agreement satisfied any state law requiring a local government to seek competitive bids.

Emergency Procurement/Purchase – A situation requiring a department to make a purchase more quickly in order to prevent hazard to life, health, safety, welfare, or property or to avoid undue additional costs.

Evaluation Criteria- Generally used in the Request for Proposal method. Qualitative factors that an evaluation committee will use to evaluate/score a proposal and select the most qualified proposer/offeror. May include such factors as past performance, references, management and technical capability, price, quality and performance requirements.

Evaluation of Bids and Proposals – The process of examining a bid after opening to determine the bidder’s responsibility, responsiveness to requirements, and to ascertain other characteristics of the bid that relate to determination of the successful bidder and will meet the needs of the requesting and using department.

Formal Bid –A bid that must be submitted in a sealed envelope and in conformance with a prescribed format, to be received and opened on a specific date and at a specified time. Formal bids must be used for purchases greater than \$50,000 that are not specifically exempt.

Historically Underutilized Business (HUB) – “Is at least 51% owned by an Asian Pacific American, Black American, Hispanic American, Native American and/or American woman and has its principal place of business in Texas, and has an owner residing in Texas with a proportionate interest that actively participates in the control, operations and management of the entity's affairs”. (Texas Comptroller of Public Accounts)

Indemnification- This is a “hold harmless” agreement between the contractor and the City. It is a part of the insurance requirements and must be signed by the contractor before work can begin.

Informal Bid- An unsealed competitive bid conveyed by BidSync and under conditions different from those required for formal bidding. Informal bids may be used for purchases less than \$25,000.

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Interlocal Agreement- An agreement between 2 or more legally constituted political subdivisions of the state (county, municipality, school district, etc.) to participate, on voluntary basis, in the procurement of goods and services. Purchases made under an interlocal agreement satisfy any state law requiring the local government to seek competitive bids. Interlocal agreements must be legally executed before procurement begins.

Insurance- A contract between an insurance company and a person or group which provides for a monetary payment in case of a covered loss, accident, death or other insurable exposure. A form of risk mitigation.

Invoice- Document showing the character, quantity, price, terms, nature of delivery and other particulars of goods sold or of services rendered; a bill.

Lowest Responsive and Responsible Bidder: The bidder who fully complied with all of the bid requirements and whose past performance, reputation and financial capability is deemed acceptable and has offered the most advantageous pricing or cost benefit, based on the criteria stipulated in the bid documents.

Maintenance Bond – Guarantees defects in workmanship and/or materials for a specific time period. An extended warranty guaranteed by a surety. (Business, 2002)

National Institute of Governmental Purchasing (NIGP) Commodity/Service Codes – Standardized national classification codes that identify goods and services.

Negotiations – A consensual bargaining process in which multiple parties attempt to reach an agreement on a disputed, or potentially disputed, matter.

Non-resident Bidder– A person who is not a resident of the state.

Notice of Award- A written notification from the public entity to the successful bidder, or offeror stating that there is an award of a contract in accordance with bid or proposal previously submitted, and that effective with receipt the vendor or contractor shall proceed with performance; allows work to start while contract is printed and readied for distribution.

Notice Requirement – See Advertisement

Offer- A response to a solicitation that if accepted, would bind the Offeror to perform the resulting contract.

Offeror- A person or entity who submits a response to a solicitation.

Payment Bond- A financial or contractual instrument, issued by a surety that guarantees that subcontractors will be paid for labor and materials expended on the contract.

Performance Bond- An instrument executed, subsequent to award, by a successful bidder that protects the public entity from loss due to the bidder's inability to complete the contract as agreed. A risk mechanism that secures the fulfillment of all contract requirements.

Personal Property – Tangible or intangible property, other than real property. Moveable property subject to ownership, with exchangeable value.

Personal Services – Services other than professional services as defined by Government Code 2254. Personal services may be exempt from the competitive bid process.

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Planning Services – Services primarily intended to guide governmental policy to ensure the orderly and coordinated development of the state or of municipal, county, metropolitan, or regional land areas.

Pre-Bid/ Pre-Proposal Conference (Meeting)- A meeting held by the buyer with potential bidders/offerors, prior to the opening of the solicitation for the purpose of answering questions, clarifying any ambiguities and responding to general issues in order to establish a common basis for understanding all of the requirements of the solicitation. May result in the issuance of an addendum.

Prevailing Wage Rate- The rate of wages, including fringe benefits, paid to a majority of the workers in a geographic area for the same type of work on similar projects. (Nash, Schooner, O'Brien, 1998)

Procurement- The procedures for obtaining goods or services, including all activities from the planning steps and preparation and processing of a requisition, through receipt and acceptance of delivery and processing of a final invoice for payment. The acts of preparing specification, evaluation bids or proposals, making awards and administering contracts are involved.

Procurement Card (p-Card) A payment method whereby internal customers (requisitioners) are empowered to deal directly with suppliers for purchases using a credit card issued by a bank or major credit card provider. Generally a pre-established credit limit is established for each card issued. The cards enable e-Procurement and facilitate on-line ordering, frequently from pre-approved supplies under blanket contacts.

Professional Services – (GC 2254) Services within the scope of the practice, as defined by state law, of: accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising; or professional nursing; or services provided in connection with the professional employment or practice of a person who is licensed or registered as: a certified public accountant, an architect, a landscape architect, a land surveyor, a physician, including a surgeon, an optometrist, a professional engineer, state certified or state licensed real estate appraiser, or a registered nurse.

Proposal – An offer submitted by a supplier in response to a Request for Proposal (RFP) intended to be used as a basis to negotiate a contract.

Public Bid Opening- The process of opening and reading bids at the time and place specified in the solicitation and in the presence of anyone who wishes to attend.

Public Works (GC 2253) – A contract for constructing, altering, or repairing a public building or carrying out or completing any public work.

Purchase Agent- An official in charge of the procurement operation, from the determination of needs to follow-up, ensures timely delivery.

Purchase Order –A purchaser's written document to a vendor formalizing all the terms and conditions of a proposed transaction, such as a description of the requested items, delivery schedule, terms of payment, and transportation.

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Purchase Requisition- A document created by a requestor authorizing the commencement of purchasing transaction. Typically will include a description of the need and other information that is relative to the transaction. May be submitted in hard copy or via eProcurement software.

Purchasing Procedure- A mode of conducting purchasing activities.

Quick Quote - A small order amount purchasing method. Generally used for small orders under a certain dollar threshold. A request is sent to suppliers along with a description of the commodity or services needed and the supplier is asked to respond with price and other information by a pre-determined date. Evaluation and recommendation for award should be based on the quotation that best meets price, quality, deliver, service, past performance and reliability.

Reciprocity- The act of buying from or selling to another business in return for sales or purchases from the first organization. A mutual or cooperative interchange of favors (ISM, 2000).

Reciprocity (in bid evaluation) – If a nonresident bidder’s home state grants a preference to its resident bidders, an equal penalty is added to the nonresident bidder’s proposal when bidding in Texas. The action is opposite; a preference becomes a penalty, but the amount is equal.

Request for Bid (RFB) – A solicitation requesting submittal of a bid in response to the required specifications. RFBs are awarded to the lowest responsible bidder meeting the specifications. Price may not be altered or negotiated.

Request for Information (RFI) – An information gathering tool used to obtain comments, feedback or reactions from potential suppliers (contractors) prior to the issuing of a solicitation. Generally price or cost is not required. Feedback may include best practices, industry standards, technology issues, etc.

Request for Proposal (RFP) – A solicitation requesting submittal of a proposal in response to the required scope of services that usually includes some form of a cost proposal. An RFP requires published evaluation criteria. Price may be negotiated with firms to ensure the best value for the organization. May include a provision for the negotiation of Best and Final Offers. May be a single step or a multi-step process.

Request for Qualifications (RFQ) – The RFQ is used to allow firms and individuals the opportunity to propose demonstrated competence and qualifications for the type of professional services to be performed at fair and reasonable prices. The RFQ process gives the City of Denton the opportunity to select the firm that best meets the using department needs without price being the deciding factor in the initial phase of the process.

Requisition – An internal document the end user completes to request goods or services.

Resident Bidder– A person whose principal place of business is in this state, including a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

Respondent – A person or entity which submits a response to a solicitation.

Responsible – See Bidder, Responsible or Offeror, Responsible

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Responsible Bidder/ Offeror – A bidder who has the capability in all respects to perform fully the contract requirements, and the experience, integrity, perseverance, reliability, capacity, facilities, equipment and credit which will also assure good faith performance.

Responsive – See Bidder, Responsive or Offeror, Responsive

Responsive Bidder/Offeror- A contactor, business entity or individual who has submitted a bid or proposal that fully conforms in all material respects to the RFB/RFP and all of its requirements, including all form and substance.

Responsive Bidder- A bidder who has submitted a bid that fully conforms in all material respects to the RFB and all of its requirements, including all form and substance.

Retainage – Part of a public works contract payment withheld by the City to secure performance of the contract usually under a construction contract. Upon completion of all contract requirements, retained amounts must be paid promptly. (Harney, 1992)

Reverse Auctions – A real-time bidding procedure that is conducted at a pre-scheduled time and Internet location in which multiple suppliers, anonymous to each other, submit bids for designated goods and services.

Sealed Bid- A formal submission from a bidder/offeror submitted in response to an invitation to bid. It is submitted in a sealed envelope to prevent its contents from being revealed before the time and date set for the bid opening.

Schedule – A list of multiple award contracts from which agencies may purchase goods and services.

Scheduled Purchase – A purchasing method used for ordering goods in bulk.

Scope of Work (SOW) – A written description of the contractual requirements for materials or services contained within a Request for Proposal. The SOW can be compared to specifications within an Invitation for Bid. SOW should establish a clear understanding of what is needed, encourage competition, satisfy the departmental need, and provide the best value for the citizens.

Separate Purchases: Purchases, made separately, of items that, in normal purchasing practices, would be purchased in one purchase.

Sequential purchases: Purchases made over a period, of items that in normal purchasing practices would be purchased in one purchase.

Single Source – A procurement in which there are other products that perform the same function, but a single source is necessary for a particular justifiable reason. Usually, multiple distributors can provide competitive quotes for the single sourced product. For example, there are numerous brands of computers; however the Panasonic Toughbook may be a single source due to a particular function that is not offered by competitors. A single source will require written justification as to the business need for the single source. *Experience is not an acceptable justification.*

Sole Source – A good or service available from one source. The procurement is usually protected by patents, copyrights, secret processes or natural monopolies.

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Solicitation – The process of notifying prospective vendors of an opportunity to provide goods or services to the state. Solicitations may be conducted via telephone, fax, mail, e-mail, or in person.

Specification – Any description of the physical, functional, or performance characteristics, or of the nature of a supply, service or construction item. A specification includes, as appropriate, requirement for inspecting, testing, or preparing a supply, service or construction item for delivery.

Statement of Work – A statement outlining the specific services a contractor is expected to perform, generally indicating the type, level and quality of service, as well as the time schedule required.

Subrogation- The substitution of one person in the place of another with reference to a lawful claim, demand, or right, so that the one substituted succeeds to the rights of the other in relation to the debt or claim and its rights, remedies, and securities. (Blackis Law Dictionary, 1427, 1990).

Supplier (Vendor) – A seller of commodities and/or services.

Surplus Property – A designation that applies to property no longer needed and is designated for disposal.

Tabulation of Bids/ Responses- The recording of responses to bids and proposals for the purposes of comparison, analysis, and record keeping.

Terms and Conditions- Standard boilerplate language that includes standard clauses and rules which apply to bids and offers formally solicited that maybe incorporation into the final contract.

Term Contract- A type of contract in which a source of supply is established for a specified period of time for specified services or supplies; usually characterized by an estimated or definite minimum quantity, with the possibility of additional requirements beyond the minimum, all at a predetermined unit price.

Vendor (Supplier) – A supplier/seller of commodities and/or services.

Sources: NIGP Public Procurement Dictionary of Terms (Revised for 2010), Institute of Supply Management Glossary of Key Supply Management Terms, and Texas Comptroller of Public Accounts website (www.window.state.tx.us)