

DAR -- Part 2

Definition of Words and Terms

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Definition of Words and Terms

2.000 Scope of part

This part defines words and terms commonly used throughout the District Acquisition Regulations (DAR). For the purpose of expediency, unique terms may be defined in the specific part in which they apply, or may be italicized throughout the DAR.

Part 2.100 – Definitions

"Accrual of a claim" occurs on the date when all events, which fix the alleged liability of either the District or the contractor and permit assertion of the claim, were known or should have been known. For liability to be fixed, some injury must have occurred. However, monetary damages need not have been incurred.

"Administrative Contracting Officer (ACO)" means person appointed by a Certificate of Appointment warranted with limited procurement and contracting authority to bind the district while performing contract administration duties.

"Alternative Dispute Resolution (ADR)" means any type of procedure or combination of procedures voluntarily used to resolve issues in controversy. These procedures may include, but are not limited to, conciliation, facilitation, mediation, fact-finding, arbitration and use of ombudsmen.

"Appropriations" means funding/budget identified by the District and approved by the BOE for a given fiscal year.

"Authorized Individual" means a person who has been granted specific purchasing authority.

"Award" means the District giving notice that it is entering into a contract. The award of a contract is usually made by the acceptance of a proposal that was made by an offeror.

"Best Value" means the selection of a proposal which is not necessarily the lowest price, but rather best fits the needs and interest of the District when taking into account other factors to include the responsibility of the vendors, past performance and/or other factors.

"BidNet" means the Rocky Mountain E-Purchasing System, which is the procurement advertising system that the District uses in the competition of requirements.

"Bid Bond or Bid Security" means a form of security assuring that the bidder or offeror (a) will not withdraw a bid or offer within the period specified for acceptance and (b) will execute a written contract and furnish required bonds and insurance within the time specified in the solicitation, unless a longer time is allowed on the prescribed forms.

"Blanket Purchase Agreement (BPA)" means a simplified purchase method used for filling anticipated repetitive needs for supplies or services by establishing a primary agreement with terms and conditions with qualified sources. The District has no financial obligation to the vendor until a purchase is placed against the BPA. Funding on a BPA will not cross a fiscal year end.

“Board of Education (Board)” means the governing body authorized by law to administer the affairs of the Colorado Springs School District No. 11.

“Bona Fide Need” means a specified requirement with an identified deliverable and required delivery date, with the cost of the requirement to be encumbered in the current fiscal year with delivery/performance completed in the following fiscal year.

“Brand Name or Equal Specification” means a specification limited to one or more items by manufacturers’ names or catalogue numbers to describe the standard of quality, performance and other salient characteristics needed to meet the Districts requirements, and which provides for the submissions of equivalent products.

“Brand Name Specification” means a specification that cites the brand name, model number, or some other designation that identifies an exclusive product.

“Change Order” means a written order signed and issued by the designee of the funding department’s executive director and/or the purchasing and contracts manager, directing the contractor to make changes which the “Changes” clause of the contract authorized the designee of the funding department’s executive director of purchasing and contracts manager to make without the consent of the contractor.

“Claim” as used in this part, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the contractor seeking the payment of money exceeding \$50,000 is not a claim until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim, by written notice to the contracting officer, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

“Commercial Off The Shelf/Commercial Purchase” refers to any acquisition for goods, services or construction requirements obtained in the manner sold to the general public rather than in a manner exclusively to meet the needs of the District.

“Committed/Encumbered Funds” means funds that have been set-aside for a particular purchase. Funds are encumbered when the person entering the purchase into PeopleSoft obtains a completed budget check. Funds are committed when the fund authority approves the purchase.

“Competitive Proposals” means a solicitation method used to secure formal proposals that employs issuing of a request for proposals (RFP), non-public opening of proposals, and award made to the highest ranked or most qualified firm based on predetermined evaluation criteria specified in the RFP of which price or cost may be only one of the elements considered but not the sole factor for award.

“Confidential Information” subject to the Colorado Open Records Act (CORA), means information which is available to a District employee and is not a matter of public knowledge, such as trade secrets and test data, or other proprietary information including price which may be provided to the District on a confidential basis.

“Consultant Agreement” means a contract between the District and an independent entity to provide professional services to the District, which a District Employee cannot provide, and for which the District will provide monetary payment.

“Contract Services” are characterized by services performed under a contract with an independent entity whether on an individual or organizational basis. A consultant agreement (contract) will be prepared stating the responsibilities of the consultant in writing (statement-of-work) which identifies work to be performed for a specified price, and a specified period of time. The individual(s) working as a consultant will not work under the direct supervision of a District employee.

“Contracting Officer” means a procurement official who holds a written warrant, with primary responsibility to provide purchasing and contracting services on behalf of the District and who also is responsible for all phases of its contract administration.

“Contracting Officer’s Technical Representative (COTR)” means the designated District representative assigned in writing by the contracting officer to perform specific day to day contract management actions.

“Contractor or Provider” means any person, company, firm, or corporation which is a party to a contract with the District to provide services, equipment, supplies, or to construct, erect, alter, install, or repair any building, make improvements to real property, structure or system.

“Cooperative Purchasing” means procurement conducted by, or on behalf of, more than one public procurement unit.

“Defective Certification” as used in this subpart, means a certificate which alters or otherwise deviates from the language or which is not executed by a person duly authorized to bind the contractor with respect to the claim. Failure to certify shall not be deemed to be a defective certification.

“Deficiency” is a material failure of a proposal to meet a requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level.

“Delivery Order” means an order for equipment, supplies or services placed against an established contract or mandatory source of supply.

“Disputes” means a disagreement over a purchase such as the price, performance, receipt delivery etc. The *District* Procurement and Contracting Department is the Disputes Resolution Office.

“District” means Colorado Springs School District 11.

“District Acquisition Regulation (DAR)” means the District’s Procurement and Contracting Department’s regulation that implements board policy.

“District Contracting Officer (DCO)” means person appointed by the Superintendent to bind the District in all Procurement and Contractual matters as specified on their warrant.

“Electronic Funds Transfer (EFT)” is a process used to transfer payment of funds electronically. EFT is a faster, more secure method of transferring funds versus using checks.

“Emergency” means a situation requiring immediate action to prevent: the loss of life; injury to a person(s); damage to District property; or to prevent program stoppage. The existence of such condition creates an immediate and serious need for supplies, equipment, materials, and services.

“Emergency Purchase” means a purchase made without following the normal purchasing procedures in order to obtain goods or services to meet an urgent and unexpected requirement.

“Employee Services” are characterized by the employer-employee relationship, i.e., a District employee supervises and gives direction to the individual(s) providing the service. Employee services are also characterized by the individual performing the service being on the District’s individuals’ compensation insurance and other insurance provided to District employees.

“Established Catalog Price” means the price included in a catalog, price list, schedule, or other form that: (a) is regularly maintained by a manufacturer or contractor; and (b) is either published or otherwise available for inspection by customers; and (c) states prices at which sales are currently or were last made to a significant number of and category of buyers, or the general public for supplies or services involved.

“Evaluation” is the process of reviewing proposals against criteria stated in solicitations to result in an overall ranking of the offers received to determine the best value solution.

“Expended Funds” means funds dispersed/paid for satisfactory delivery of goods or services.

“Filed” means the complete receipt of any document by the District before its close of business. Documents received after close of business are considered filed as of the next day. The District’s close of business is 4:30 p.m., local time.

“Fiscal Services Office” is the office that provides paying services for the organization.

“F.O.B. Destination” stands for Free-On-Board which means that the vendor is responsible for shipment until it reaches your destination.

“Indefinite Delivery Indefinite Quantity (FDIQ) Contract” is a contract for specified types of work to be performed; however, the vendor is tasked via a task order that requires the vendor to perform to a defined specification with a required delivery date. The district has no financial obligation to the vendor until a task order is issued. Specific defined task order may cross fiscal year lines if the criteria of the bona fide need determination are met.

“Interested party for the purpose of filing a protest” means an actual or prospective offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract.

“Issue in controversy” means a material disagreement between the District and the contractor which: (1) May result in a claim, or (2) Is all or part of an existing claim.

“Labor and Materials Bond” means a bond that assures payments as required by law to all persons supplying labor or materials in the performance of the work provided for in the contract. This type of bond is typical to construction contracts.

“Local Businesses” means any business located in the jurisdiction of El Paso County, Colorado.

“Market Research” means collecting and analyzing information about capabilities within the marketplace to satisfy agency needs to include terms and conditions and pricing arrangements. Requirements should be reviewed so as to meet, to the maximum extent practicable, the prevailing marketplace approach to meeting the specified need.

"Misrepresentation of fact" means a false statement of substantive fact, or any conduct which leads to the belief of a substantive fact material to proper understanding of the matter in hand, made with intent to deceive or mislead with disregard for the truth or falsity of the statement or conduct.

“Mistake in Proposal” means a miscalculation in composing a bid or proposal resulting in an incorrect price or other term which will affect the bidder’s or offeror’s eligibility to be awarded a contract. Depending upon the nature of the error a mistake may be considered a minor informality or may be grounds for disqualification of the bid or proposal for consideration award.

“Modification” means any written alteration in price, delivery, terms and period of performance, quantity, or quality made to a purchase order or contract issued bilaterally.

“Multiple Year Contract” means contract issued for a basic year which is funded, and a fixed number of option years that may be exercised subject to availability of funds. It is rare that a multi-year contract would cross fiscal years. The only exception would be a special defined task order that satisfies the criteria of bona fide need determination.

“Multi-Year Contract” is a non-severable contract that crosses fiscal years.

“Negotiation” means the process between two or more parties to reach a mutual agreement on terms.

"Neutral person" means an impartial third party, who serves as a mediator, fact finder, or arbitrator, or otherwise functions to assist the parties to resolve the issues in controversy. A neutral person may be any individual who is acceptable to all parties. A neutral person shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is fully disclosed in writing to all parties and all parties agree that the neutral person may serve.

“Obligated Funds” means funds encumbered via a signed (dispatched) purchase order/contract for the purchase of construction, maintenance and repair, commodities and/or services. The purchase order/contract is a legal liability that must be paid upon satisfactory completion of and acceptance of work or delivery.

“Offer” means a response to a solicitation.

“Payment Bond” means a bond issued from an acceptable security that guarantees the contractor will pay its suppliers, employees, and sub-contractors.

“PeopleSoft” an automated system for requisitioning, funding, obtaining approvals, placing purchase orders, reporting and making payments.

“Performance Bond” means a bond issued from an acceptable surety that guarantees faithful performance and fulfillment of the contractor’s obligations under the contract.

“Petty Cash” means a purchase method using an over the counter purchase paying cash usually not exceeding a set limit, obtaining a receipt and submitting the receipt for reimbursement from a petty cashier.

“Prepaid Expenditures” means processing payment in advance of receiving the deliverable or service. Except in rare cases which must be pre-approved by the Executive Director of Procurement and Contracting, prepayments/advanced payments are not authorized.

“Procurement Card (P-Card)” means a purchase card, similar in nature to a commercial credit card, issued to authorized District personnel to use to purchase and pay for supplies and services as authorized.

“Procurement Cutoff” means the date established toward the end of each fiscal year where no additional procurement requests can be processed outside the procurement office.

“Procurement Official” means an authorized Contracting Officer who has been delegated procurement authority and who is acting within that authority.

“Professional Services” means services of accountants, clergy, physicians, lawyers, dentists, architects, engineers, land surveyors, and other professionals as defined from time to time by Colorado Code or Statute.

“Proposal” means a response to a Request for Proposal and includes price and all such other submissions as may be required for evaluation.

“Proposal Analysis Report (PAR)” A report which documents the source selection approach, description of the acquisition, evaluation results, comparative analysis of offerors, and the Source Selection Decision Document.

“Protest” as used in this subpart, means a written objection by an interested party to any of the following:

- a. A solicitation or other request by the District for offers for a contract for the procurement of property or services.
- b. The cancellation of the solicitation or other request.
- c. An award or proposed award of the contract.

“Public Employee” means an individual drawing a salary from a governmental body or non-compensated individual performing personal services for a governmental body including school districts.

“Public Entity” means federal, state, county, city, school district and any political subdivision thereof.

“Public Notice” means an open announcement of solicitations given at a reasonable time prior to the date set forth for receipt of bids or proposals. Such notice may include publication in a newspaper of general circulation or on the Rocky Mountain E-Purchasing System or on the District’s website.

“Purchase” means any written or verbal commitment to expend funds, or make agreements on behalf of the District, or make a financial commitment or other arrangement(s) that may expose the District to financial liability including a verbal commitment, purchase order, contract, lease and/or rental agreement.

“Purchase Commitment” means a mutually binding legal relationship obligating the seller to furnish supplies or services (including construction) and the buyer to pay for them.

“Purchase Description” means the words used to describe the supplies, services, or construction to be purchased, which may include specifications and drawings.

“Purchase Order” (PO) means an offer by the District to buy supplies or services, including construction, with specified terms and conditions, using simplified acquisition procedures.

“Purchase Order (PO) Roll” is a process at the beginning of a new fiscal year, for transferring the encumbrance of funds from the previous fiscal year to the current fiscal year. The PO roll is required to make funds available to pay obligations on PO/contracts that were funded but not delivered in the previous fiscal year.

“Quote” see RFQ.

“Ratification” means the act of validating an unauthorized commitment.

“Recurring Service Contracts” are contracts that for various types of services that occur repeatedly but not necessarily on set schedules, to be throughout the year.

“Request for Proposals (RFP)” is used when factors other than price, responsiveness and responsibility are critical and permits for the ability to negotiate with offerors.

“Request for Quotations (RFQ)” means the request for a verbal or written statement of current price from a potential vendor when the purchase total is under the competitive threshold requiring formal competition.

“Requirements Documents” All aspects of the RFP that convey the needs of the District to offeror, including Statements of Objectives (SOOs), Statements of Work (SOWs), Specification and Drawings (S&Ds), Technical Requirement Documents (TRDs) and Performance Requirement Documents (PRDs).

“Responsible Offeror” means a bidder who submits a bid in response to an Invitation For Bids, or an offeror who submits a proposal in response to a Request for Proposals, and has the necessary capacity, credit, finances, integrity, past satisfactory performance history, the required insurance and licenses necessary to perform, and in the case of construction can furnish performance, and payment and material bonds.

“Responsive” refers to the submission by a bidder or offeror of a bid or proposal in a timely manner and satisfying the specific submission requirements for evaluation.

“Rocky Mountain E-Purchasing System” means a procurement advertisement system used by the District in cooperation with other governmental agencies, also known as “BIDNET”.

“Shall” denotes the imperative.

“Source Selection Decision Document (SSDD)”: The document that reflects the integrated assessment and selection decision.

“Source Selection Evaluation Team (SSET)”: Group of District and, if needed, approved non-District personnel, representing the various functional disciplines relevant to the acquisition. The SSET evaluates proposals and makes selection recommendation.

“Source Selection Evaluation Team (SSET) Chair” The office (normally a program manager or department head) responsible for translating user requirements into the requirements documents that communicate those requirements to offerors within the RFP.

“Solicitation” means a request for competitive offers.

“Specification” means any description of the physical or functional characteristics or of the nature of a supply, service, or construction item. It may include drawings and/or descriptions of any requirements for inspecting, testing, or preparing a supply, service, or construction item for delivery.

“Statement of Work” means the complete description and definition of the scope of the work which sets forth the parameters of what is expected and for which payment will be rendered relative to the contract fulfillment.

“Strength” An aspect of an offeror's proposal that has merit and may exceed performance or capability requirements in a way beneficial to the District, and either will be included in the contract or is inherent in the offeror's process.

“Subcontractor” means and includes any person, company, firm, or corporation which is a party to a contract with a District contractor and who has furnished, on a District contract, equipment, supplies, or performs on-site labor with or without furnishing materials. The District does not retain privity of contract with subcontractor and holds the prime contractor responsible for performance or non-performance of the subcontracted effort.

“Task Order” means an order or partial order for services placed against an established contract.

“Unauthorized commitment” means a purchase or other commitment made by a District employee or other person who does not have delegated procurement authority or who has not been appointed as a procurement official for the District and which must be ratified by an individual with authority.

“Warrant” means a formal written certificate of appointment delegating authority to a District employee to enter into contracts, make financial and other contractual commitments on behalf of the District.

“Weakness” is a flaw in the proposal that increases the risk of unsuccessful contract performance.

“Work Day” means a day that the District Administration building is open for business, which excludes weekends and state holidays, and may include closures to any District school due to inclement weather or other circumstances.