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## ARTICLE 5 - METHODS OF COMPETITIVE SOURCE SELECTION

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This Article describes the appropriate methods of Competitive Source Selection for Standard Purchases, defined in § 3.1 as all purchases with a contract requirement \$25,000 and above. The provisions of this Article do not apply to the source selection methods applicable to Simplified Purchase solicitations, defined in § 3.3 as purchases with a contract requirement of \$10,000 up to \$25,000, or Small Purchase solicitations, defined in § 3.4 as purchases with a contract requirement less than \$10,000.

### 5.1 BID PREFERENCE - GARFIELD COUNTY RESIDENT BUSINESS

1. **BOCC Intent.** By Resolution 2011-21, the BOCC expressed its intent to utilize the goods and services provided by “Local Business” whenever possible so long as selection of a Local Business over a non-Local Business does not result in a significant increase in cost to the County. The Board intends to encourage creation of jobs in the County and to give Local Businesses an advantage in the formal competitive solicitation and procurement process (i.e. Standard Purchase solicitation) so that monies spent through that process shall be used by the employees of Local Businesses in the local economy.

2. **Preference Authorized.** Whenever an award of a contract for goods or services is pending following a Standard Purchase solicitation, a Local Business, as defined below, shall be allowed a preference against a non-Local Business as defined in this section.

#### 3. Definitions.

- a. “Headquarters” is the principal place of business where most, if not all of the important functions of a Local Business are coordinated and regularly conducted. The location is leased or owned, contains all or a majority of the following: organizational governance (such as CEO, partner, CFO, managers), warehousing operations, location of seventy-five percent (75%) of its employees, or materials and supplies are purchased within the County.
- b. “Local Business” is:
  - i. Any organization, corporation, limited liability company, or other form of business entity; partnership of any kind or sole proprietorship; or group of associated individuals whether profit or non-profit, which is registered and in good standing with the Office of Secretary of State, State of Colorado, and maintains its headquarters in Garfield County, Colorado; and
  - ii. At least seventy-five percent (75%) of its work force resides within the County. If subcontract work is involved, then at least seventy-five percent (75%) of the aggregate contract amount must be completed by Local Businesses and subcontractors who meet the Local Business criteria of

having at least seventy-five percent (75%) of its work force residing in the County; and

- iii. At least seventy-five percent (75%) of its business vehicles or its subcontractor business vehicles are registered in Garfield County, Colorado.
- iv. If a joint venture or teaming arrangement, including design-build construction, the general or primary contractor or team leader must meet the terms of this definition above.

**4. Designation as a Local Business.**

- a. Prior to submitting a bid or proposal in response to a competitive solicitation, any business that desires to obtain a Local Business designation shall apply for that designation by submitting a written request for that designation to the Procurement Department. The written request shall be in the form of a Local Business Affidavit and supported with sufficient documentation to allow the Procurement Department to review and either approve or deny that written request.
- b. The Procurement Department may grant a Local Business designation to a business if that business satisfies the above criteria.
- c. If the Procurement Department denies a request for a Local Business designation, the business may appeal the decision in writing to the BOCC within seven (7) calendar days of receipt of that decision. The decision of the BOCC on this issue is final.

**5. General Requirements for Use.** The Procurement Department shall consider all of the following factors to determine if a local preference should be granted:

- a. The respective bid or proposal amounts shall be considered. A preference may be given to a Local Business when there are no material differences between the fit, form, function, qualifications, or value of the goods to be purchased or the services to be performed by the respective bidders or offerors.
- b. The magnitude of the price differences between the Local and non-Local Business shall be considered.
- c. When evaluation of a competitive solicitation process results in a determination that the respective bids or proposals are essentially equal in value, under no circumstances shall a Local Business Preference be granted where any of the following factors apply: (i) the quoted price offered by a Local Business is more than five percent (5%) above the quoted price of a non-Local Business; or (ii) the award of a contract to a Local Business at a higher price will result in the County exceeding its budgeted appropriation for that contract award.

6. **Local Preference – Invitations for Bids: Specific Requirements for Use.** If the Procurement Department determines that a submitted bid is from a responsible and responsive bidder and that the business submitting the bid meets all criteria for a local preference, then that Local Business shall be given a five percent (5%) price preference over a non-Local Business. If within the five percent (5%) price preference, the award shall be made to the Local Business. If the two (2) lowest responsible and responsive bidders both have Local Business designation, then the lowest responsible and responsive bidder shall be awarded the contract.

7. **Local Preference – Requests for Proposals: Specific Requirements for Use.** If the Procurement Department determines that factors other than price are important for a proposal, the award will be issued on a “best value” basis. Any Local Business will receive a 5% scoring advantage during the initial evaluation to determine the competitive range. After applying the initial criteria, Local Business(es) shall not be given any additional preference. The offeror within the competitive range that provides the best value for or to the County shall be awarded the contract, consistent with the purposes of this Code.

8. **No Preference Given in Certain Circumstances.** No preference shall be given under this section if the Procurement Department determines that awarding a contract in compliance with the preference provisions of this rule: (1) may cause a denial of state or federal money that would otherwise be available; (2) may otherwise be inconsistent with any applicable requirement(s) of state law or the purposes of this Code; (3) may cause delay(s) in a procurement action that would compromise the public health, safety, or welfare, then the resident preference authorized by this rule shall be suspended; (4) is redundant, as it would be in the case of a sole source procurement, defined in Section 3.5, or cooperative procurement, defined in Section 3.2(1)(c) of this Code; or (5) is in direct conflict with Federal Grant or Contract Competition Procedures.

9. **Notice.** Every formal Invitation for Bid, defined in § 5.2 (“IFB”), and Request for Proposal, defined in § 5.3 (“RFP”), shall reference this Local Business preference rule and the procedure that must be followed to timely receive a designation as a Local Business. However, if an IFB or RFP results in a rejection of all bids or proposals and no local bids or proposals were received, then this Local Business preference rule shall not apply to any re-issued IFB or RFP for the same goods or services.

10. **Timing.** In no event shall a business be qualified to have the Local Business designation applied to a competitive solicitation unless the Local Business Affidavit has been submitted in writing ten (10) days prior to the due date of the RFP or IFB. Except where expressly authorized by other provisions of this Code, a Local Business may not submit any type of revised bid or proposal in order to take advantage of any of the provisions in this section 5.1.

11. **Challenge.** Any person who has been adversely affected in a competitive solicitation process by the designation of a business as a Local Business may file a written protest with the Procurement Department within seven (7) calendar days of the date that person knew or should have known of the adverse effect. The written protest must set forth with specificity facts supporting the allegation that the business should not receive a Local Business designation. The

Procurement Department shall investigate the allegations and make a recommendation to the BOCC.

12. **Remedies.** If the BOCC determines that a business has erroneously been given a Local Business preference designation, the business shall be assessed a monetary amount equal to the same monetary amount that resulted from application of this Rule. If the BOCC determines that a business knowingly submitted false information to obtain a Local Business designation, then in addition to the above monetary assessment, that business shall be suspended from bidding on other County procurement for a period of one (1) year from the date of the determination.

## 5.2 INVITATION FOR BIDS

An Invitation for Bids (IFB) is the formal process used to solicit bids from qualified vendors for merchandise and, in some cases for services, when complete specifications or specific purchase descriptions are available. The contract is awarded to the lowest responsive and responsible bidder.

1. **General Rule.** An IFB shall be used to solicit bids for all purchases of \$25,000 or more when complete specifications or purchase descriptions are available. Award of the contract is made to the lowest responsive and responsible bidder. The specifications for the items to be procured are not subject to negotiation.
2. **Requirements of an IFB.** In consultation with the responsible Department or Elected Official, the Chief Procurement Officer will prepare and publish an IFB solicitation package that shall include, at a minimum:
  - a. Instructions and information to bidders concerning the bid submission requirements, including the time and closing date and the address of the office to which bids are to be delivered;
  - b. The project description (furnished by the Department or Office), including the Specifications and/or SoW and all drawings;
  - c. The basis of award, delivery, or performance schedule, and inspection and acceptance requirements;
  - d. The required contract terms and conditions, including any warranty and bonding or security requirements or liquidated damage provisions as applicable; and
  - e. A list of all applicable deadlines.
3. **Public Notice - Advertisement.** Public notice of the opportunity to bid is required for any procurement utilizing the IFB process. Public notice shall be adequate if it meets the following criteria:

- a. Advertisement of the opportunity to bid in a newspaper(s) of relevant geographic circulation or other publication(s) directed to the target vendor market;
  - b. Publicizing the bid opportunity, as well as the date, time, and place of the bid opening;
  - c. At least once weekly on two (2) occasions; and
  - d. No less than fourteen (14) days prior to the date set for the bid opening.
4. **Communication.** Once an IFB is made public, and through the time of contract award, all communication regarding the invitation shall be documented and directed to the Chief Procurement Officer. No other discussion of the bid opportunity shall be discussed with a potential bidder by any other County employee.
5. **Receipt of Bids.** The time and date for receipt of bids shall be included in the IFB and must state the specific time on a certain date. All official bids shall be unconditionally received without alteration or correction, except as specifically authorized elsewhere in this Code. Upon receipt, each bid shall be date/time-stamped by machine or hand and shall be stored in a secure place until bid opening time. Bids shall not be opened upon receipt.
6. **Withdrawal of Bids.** Withdrawal of bids by a vendor may be permitted up to the time of award if the bidder provides a written request to withdraw a bid and/or submits written proof that clearly and convincingly demonstrates that an error was made.
7. **Amendments or Cancellation of an IFB.** The Chief Procurement Officer, in collaboration with the County Manager, may amend or cancel an IFB or reject a solicitation response by a vendor in whole or in part, as specified in the solicitation, when it is in the best interest of the County. Each solicitation issued by the County shall state that the solicitation may be amended or cancelled and that any vendor response to a solicitation issued by the County may be rejected in whole or in part when in the best interest of the County.
8. **Bid Opening.** Vendor bids shall be publicly opened in the presence of one or more witnesses at the time and place designated in the bid document. The name of the bidder and amount of each bid, and any other information deemed relevant by the Chief Procurement Officer or designee, shall be read aloud and recorded. This bid record, including each bid received, will become a public record upon contract award. Since each bid is subject to analysis, legal review, and appropriate approvals prior to contract award, no acceptance of any bid offer will take place at the bid opening.
9. **Bid Evaluation.** Bids shall be evaluated based on the requirements set forth in the solicitation package. Prior to confirmation of an award, the Chief Procurement Officer may contact potential vendors responding to the bid request for the purpose of obtaining clarification to assure a full understanding of, and conformance to, the solicitation requirements. Any questions or concerns regarding cost reasonableness may be addressed

by the Chief Procurement Officer in the manner deemed to be in the best interest of the County.

10. **Budget.** In the event that all bids received exceed the funds budgeted for the acquisition, the County is not required to award a contract. If, however, time or economic considerations preclude the re-solicitation of bids, the Chief Procurement Officer is authorized to negotiate an adjustment of the bid price with the lowest responsive and responsible bidder.
11. **Determination of Non-Responsibility.** If a bidder who otherwise would have been awarded a contract is found not responsible, the Chief Procurement Officer shall prepare a written determination of non-responsibility, setting forth the basis of the finding. A copy of the determination shall be sent promptly to the non-responsible bidder. The final determination shall be made part of the contract file and be made a public record.
12. **Award.** A recommendation to the BOCC that it award a contract to the lowest responsive and responsible bidder whose bid meets the requirements and criterion set forth in the IFB and is determined to be in the best interest of the County shall be made by the Chief Procurement Officer and Department Head or Elected Official with reasonable promptness. Upon BOCC approval, notice of award is sent to the successful bidder, along with all documents required to finalize the contract terms.

### 5.3 REQUEST FOR PROPOSALS

A Request for Proposals (RFP) is the formal process used to solicit proposals from qualified vendors for services, and in some cases for goods, when the specification is a desired outcome rather than a measurable task or item.

1. **General Rule.** An RFP is used to solicit proposals from potential vendors when a desired outcome is known and recommendations about how to achieve that outcome are requested. Award of the contract is based upon criteria other than or in addition to price, including what is in the best interest of the County. The terms of the proposals upon submission are open to negotiation. The response to an RFP is referred to as both “a proposal” and “an offer”.
2. **Requirements of an RFP.** The Chief Procurement Officer will prepare and publish an RFP solicitation package in consultation with the responsible Department Head or Elected Official, and shall include, at a minimum:
  - a. Instructions and information to the proposer concerning proposal submission requirements;
  - b. A copy of the proposed contract and all required clauses and attachments;
  - c. Accurate and thorough description (prepared by the Department or Office) of the Specifications or SoW;

- d. The evaluation factors and their relevant importance; and
  - e. A schedule of all deadlines and key dates.
3. **When an RFP is Practical.** The RFP process is a time consuming and costly method of procurement that should be used only when sealed bidding is not appropriate.

Factors that may be helpful in deciding whether the RFP method is practical include:

- The estimated contract value is more than \$25,000;
  - The requirement is highly technical, unusual, is not a standard “off the shelf” item, or there are little or no clear standards or specifications available to use in the solicitation;
  - The terms of contract require that payment be other than a fixed-price;
  - It is desired or necessary to conduct oral or written discussions with the offerors concerning technical and price aspects of their proposals;
  - It may be necessary to afford offerors the opportunity to revise their proposals;
  - It may be necessary to base award on a comparative evaluation of price, quality and contractual factors in order to determine the most advantageous offering to the County; or
  - The primary considerations for award are factors other than price.
4. **When an RFP is Advantageous.** Factors that may be helpful in determining whether the RFP method is advantageous include:
- If prior procurements indicate that competitive sealed proposals result in more beneficial contracts for the County; and
  - If the requirement is highly technical or complex in nature and it would be more advantageous to the County to use the RFP method of source selection.
5. **Public Notice and Preparation Time.** Public notice of the opportunity to submit proposals is required for any procurement utilizing the RFP process. Public notice shall be considered adequate if it meets the following criteria:
- a. Advertisement of the opportunity to bid in a newspaper(s) of relevant geographic circulation or other publication(s) directed to the target vendor market;
  - b. Publicizing the proposal opportunity, as well as the deadline, including date, time and location, for receipt of proposals;
  - c. At least once weekly on two (2) occasions; and
  - d. No less than thirty (30) days prior to the submission deadline, unless, the Chief Procurement Officer determines that the complexity of the proposal requires that

more or less notice by publication is appropriate. Under no circumstances will the publication period be less than 21 calendar days.

6. **Receipt of Proposals.** The time and date for receipt of proposals shall be included in the RFP and must state the specific time on a certain date. Proposals received after the specific time on a certain date will be considered late and not accepted. **Proposals will not be opened publicly.**
7. **Modification or Withdrawal of Proposals.** Proposals may be modified or withdrawn by any offeror prior to the established due date and time.
8. **Amendment or Cancellation of RFP.** The Chief Procurement Officer may amend or cancel an RFP when it is in the best interest of the County. Each solicitation issued by the County shall state that the solicitation may be amended or cancelled when in the best interest of the County. If an amendment is made after submission of proposals, any amendment shall be distributed to all offerors who submitted proposals. If the solicitation is cancelled either prior to or after opening, notice of cancellation shall be sent to all offerors and posted on Rocky Mountain ePurchasing, along with the reasons cancellation was determined to be in the County's best interest.
9. **Evaluation Factors.** The RFP shall clearly define all evaluation criteria, including price. Numerical rating systems or weights may be used but are not mandatory; however, if they are used, the criteria must be listed in the RFP and the points or weights must be assigned by the Selection Committee prior to evaluating the proposals.
10. **Evaluation Process.** The RFP evaluation process shall be conducted as a fair and objective process that requires a Selection Committee to evaluate all proposals on the specific criteria stated in the RFP and to not consider any criteria that are not specified.
  - a. **Complete confidentiality** is an ethical and legal requirement, and is vital to fair and equitable evaluation. During the entire RFP process, the Chief Procurement Officer serves as the sole contact for vendors and provides all RFP procedures and communication. Vendor information, number of proposals received, results and other evaluation proceedings should be kept confidential at all times. Following contract award, this information will become a public record available for inspection in accordance with state statute and the County's Open Record Policy.
  - b. **Single Proposal Received:** If only one proposal is received in response to a RFP, the Chief Procurement Officer may:
    - i. Determine if there was sufficient time allotted for offerors to submit a proposal. If not, the solicitation may be amended to extend the receipt of proposal date and the only proposal received shall be returned unopened to the only offeror;



- ii. Proceed with the evaluation of the proposal from the single offeror. If the offer meets the requirements stated in the RFP and the cost is determined to be fair and reasonable through negotiations, an award may be made; or
- iii. If the evaluation determines that the only offeror does not meet the County's needs, or negotiations of the cost does not result in a fair and reasonable price, then the solicitation may be cancelled and re-solicited at a later date.

11. **Selection Committee.** A Selection Committee of three (3) or five (5) County employees shall be appointed by the Department Head or Elected Official to evaluate all submitted proposals.

a. **Purpose:** The purpose of the Source Selection Committee is to ensure that proposals are reviewed on the basis of the Evaluation Criteria alone in a consistent and fair manner with a maximum degree of professionalism.

b. **Eligibility:** With the exception of members of the Procurement Department and County Attorney's Office, any full-time County employee who is willing and who agrees to maintain the confidentiality of the selection process, is eligible to serve on a Selection Committee.

i. Selection Committees should consist of at least one member that is not part of the using department;

ii. The Procurement Department staff facilitates the evaluation process and may not be members of the Selection Committee;

iii. A BOCC member who serves on a Selection Committee shall recuse himself/herself from the final approval of a contract selected by the Selection Committee.

c. **Responsibilities:**

i. Each member of the Selection Committee will be assigned a number and will receive a copy of the solicitation package, a correspondingly numbered copy of each of proposal, and a score card on which to score each proposal based on the stated criteria.

a. The scoring must be based solely on information contained in the proposal and not upon additional information, including any personal knowledge or relationship, unless such information is included as a scoring criterion.

ii. Once each member has scored each proposal, the Score Sheets will be tallied by the Selection Committee and the numbered proposals, along with the

individual score sheets, will be returned to and accounted for by the Chief Procurement Officer.

- iii. Based upon the combined scores of the members, a Selection Committee representative will complete a Source Selection Committee Decision Form that lists the names of the Selection Committee Members, states the results of the scoring, is signed by the Selection Committee Representative, and is returned to the Chief Procurement Officer.
- iv. The results of the scoring by the Selection Committee shall be totaled to determine the overall highest rated proposal.
  - a. A five percent (5%) advantage will be added to the total score of any qualifying Local Business.

## 12. Written Clarifications or Interviews:

The purpose of interviews and written clarifications is to allow the Selection Committee to differentiate between offerors otherwise similarly situated, as, for example, those offerors who fall within the Competitive Range discussed in § 5.3(13). Interviews may or may not be a part of the source selection process.

- a. **Planned Interviews.** If interviews are intended to be a part of the evaluation criteria, the RFP must contain language that allows for them. The Selection Committee, prior to entering into discussions with any offerors, will make competitive range determinations. Any and all offerors determined to be within the competitive range may be given an opportunity to interview.
- b. **Potential Interviews.** If interviews were not originally intended but the Selection Committee determines that a contract award cannot be made on the initial proposals as submitted, the Selection Committee may request written clarifications or interviews with all responsible offerors within the competitive range. The following are examples of topics that may be appropriate for such follow-up:
  - Advise the offeror of deficiencies in its proposal so the offeror is given an opportunity to satisfy the County's requirements;
  - Attempt to resolve or clarify any uncertainties concerning their proposal;
  - Resolve any suspected mistakes;
  - Provide the offeror a reasonable opportunity to discuss past performance information obtained from references. Names of individuals providing reference information shall not be disclosed; and/or
  - Provide each offeror a reasonable opportunity to submit revisions to both their technical proposals and price proposals as discussed by requiring submission of best and final offers by each offeror within the competitive range at the conclusion of the discussions (see § 5.14 below).

- c. An offeror determined to be within the competitive range will be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals prior to award and for the purpose of obtaining best and final offers.
- d. Interviews and written clarifications should not be used to:
  - i. Help one proposal rise to the level of other proposals;
  - ii. Use “auction techniques” such as indicating a cost or price an offeror must meet to be considered;
  - iii. Advising an offeror of its price standing relative to other offerors; or
  - iv. Provide any information about other offeror’s prices.

**13. Competitive Range Determination:** Competitive Range refers to a statistical grouping of proposals, as determined during the evaluation process for competitive negotiation, that includes only those offers with a reasonable chance of being selected for award and that may be considered for further discussion via interviews or written clarification. The Competitive Range shall be determined on the basis of criteria stated in the RFP. The determination shall include all proposals that have a reasonable chance of being selected for award. When there is doubt as to whether a proposal is in fact within the competitive range, the proposal shall be included.

- a. The Local Business advantage applies only to the scoring of each proposal to determine the highest rated proposal and whether it falls within the competitive range. Once the highest bid or competitive range is identified, no additional Local Business preference applies.

**14. Best and Final Offers.** Upon completion of any interviews, the Selection Committee may issue to all offerors still within the competitive range a request for best and final offers. Oral requests for best and final offers shall be confirmed in writing.

- a. The request shall include:
  - i. Notice that discussions are concluded;
  - ii. Notice that this is an opportunity to submit a best and final offer;
    - a. It should be made clear that best and final offers are not mandatory. They are only an opportunity to revise if necessary. If no best and final offer is submitted, the original proposal will be considered.
  - iii. A due date for submission of best and final offer.

- b. After receipt of best and final offers, the Selection Committee shall evaluate them accordingly and recommend that an award be made to the offeror whose best and final offer is most advantageous to the County, considering price and the other factors included in the RFP.

15. **Award.** Selection for award shall be conclusive based on scoring criteria specified in the RFP and evaluated as stated above. The County reserves the right to enter into contractual negotiations with the highest ranked firm selected by the Selection Committee. If a mutually agreeable contractual relationship cannot be established that will meet the County's needs, the County reserves the right to enter into negotiations with the second highest ranked firm, and so on. Award shall be made to the responsible offeror whose proposal is determined to be most advantageous to the County, and in the best interest of the County, based on the evaluation factors set forth in the RFP.

16. **Post Award De-Brief.** Offerors submitting an unsuccessful proposal may, within five (5) business days of the date notification of award is published via Rocky Mountain ePurchasing, request a meeting for debriefing and discussion of their proposals. The request must be submitted in writing and addressed to the Chief Procurement Officer.

#### 5.4 UNSOLICITED PROPOSALS

An Unsolicited Proposal is an offer made by a third party to sell goods or services to the County that has not been solicited or published by the County.

1. **General Rule.** Before any Unsolicited Proposal can be accepted, it must first be categorized as a grant request or an offer to sell.
  - a. **A Grant Request** is a request for assistance, including financial or other means of assistance, from the County to support a program authorized by law.<sup>4</sup> Grant Requests are not covered by this Code and instead shall be presented directly to the BOCC for consideration at a public meeting in accordance with County standards.
  - b. **An Offer to Sell** a good or service to the County in the absence of a County defined need, SoW, public notice or appropriate source selection must be properly evaluated before further action, including acceptance, is authorized. Proper evaluation includes:
    - i. All unsolicited offers to sell, regardless of who they are initially directed to, including the BOCC, shall be forwarded to the County Manager.
    - ii. The County Manager will make an initial evaluation of the offer and will either reject the offer or will forward the offer to an appropriate Department

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<sup>4</sup> C.R.S. § 24-101-302 (10.5)(a).

Head or Elected Official to determine (a) if the offer meets a County need or provides a benefit that serves the best interest of the County; and (b) whether there are sufficient resources, including an appropriate budget, to make and manage the purchase.

- iii. If the County Manager and Department Head or Elected Official decide to pursue the offer, they must then determine if the offer qualifies for a Sole Source Justification, defined in § 3.5. If so, the unsolicited offer may be accepted by complying with the Sole Source Purchase process and standards (§ 3.5).
- iv. If the offer does not qualify as a sole source but the opportunity is deemed to be worth exploring, then the Standard Purchasing requirements or an applicable exception thereto will dictate the manner in which the opportunity is to be competitively sourced and awarded. Before solicitation, the original proposal should be rejected and the pending opportunity to submit a new proposal explained.
  - a. In this instance, the party who submitted the unsolicited proposal would be required to submit a new responsive proposal and would be evaluated in the same manner as any other proposer.

## **5.5 OTHER METHODS OF COMPETITIVE SOURCE SELECTION**

The Chief Procurement Officer may recommend or utilize any other form of competitive source solicitation, such as, by way of example only, a Request for Information or a Request for Qualifications, when such an alternative may be better suited to meet a specific need or ensure the best value to the County. If an alternative solicitation method is followed, a written explanation of the reasons and the process followed shall be included in the contract file.

## **5.6 PUBLIC RECORDS AND CONFIDENTIAL BIDS OR PROPOSALS**

1. Upon contract award, information contained in bids and proposals becomes a public record subject to inspection in accordance with the Colorado Open Records Act, C.R.S. § 23-73-201.01 *et seq.*
2. If the County receives an open records request that covers information included in an offer that has been designated as “Confidential” by an offeror, the Procurement Department will examine the designated documents to determine if they should be protected from disclosure.
  - a. If some or all of the information reviewed contains trade secrets or other proprietary data identified in writing, the Procurement Department will not disclose the information.

- b. If some or all of the information reviewed does not contain trade secrets or other proprietary data, the Procurement Department will notify the party who submitted the information of the County's intention to make the information available for inspection.
  - c. If the County and the offeror do not agree about whether documents should be made available, the County will disclose what it deems appropriate unless the offeror agrees to defend and indemnify the County for withholding such information.
3. The County shall retain a copy, either in physical or electronic format, of each bid and proposal received that is not selected for contract award for a minimum of two years from the date the relevant contract is awarded. All bids and proposals selected for contract award, as well as bonds, affidavits, bid sheets, and other supporting documentation, including the original solicitation package, shall be retained, either physically or digitally, for a minimum of six years from the date of contract award.