

**CHAPTER 1**  
**GENERAL PROVISIONS**

**Section 1-01**      **USE OF LANGUAGE IN THESE RULES.**

(a) Singular-Plural and Gender Rules. In these Rules, words in the singular number include the plural and those in the plural include the singular. Words of a particular gender include any gender and the neuter. When the sense so indicates, words of the neuter gender refer to any gender.

(b) Titles. The titles to chapters, sections, subdivisions, and paragraphs, or other titles contained in these Rules, are for convenience and reference only and in no way define, describe, extend, or limit the scope or intent of the substantive provision to which the title applies unless the context so requires.

(c) Listing(s) Not Indicative of Order of Preference. Unless otherwise stated, a listing of factors, criteria, or subjects in these Rules does not constitute an order of preference.

(d) Meanings. The words defined in this section shall have the meanings set forth below whenever they appear in these Rules unless the context in which they are used clearly requires a different meaning, or a different definition is prescribed for a particular provision.

(e) Definitions.

Acceptable Brands List. An acceptable brands list is a list of manufacturer's name(s), brand name(s), or model and catalogue numbers, based on a written specification. It is arrived at by a systematic and formal process that includes public notice and certain tests or other criterion for comparing or examining and approving products for inclusion on the list.

Acceptance. 1) Acknowledgment of an offer. 2) Acknowledgment that a delivery meets contract requirements.

ACCO. An acronym that stands for Agency Chief Contracting Officer. Position delegated authority by the Agency Head to organize and supervise the procurement activity of subordinate agency staff in conjunction with the CCPO.

Agency Contract File. Those file(s) that contain information pertaining to the solicitation, award, and management of each contract.

Agency Head. A term referring to heads of city, county, borough, or other office, administration, department, division, bureau, board, or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the City treasury.

Alternative Bid/Proposal. Response to a solicitation offering an alternative to the requirements of specifications set forth in the solicitation.

Alternative Procurement Method. Any method of procurement other than competitive sealed bid.

Appeal. A formal request to redress an administrative decision.

Best and Final Offers. The revised and corrected final proposals submitted by suppliers after discussions and negotiations have been held by the procuring agency.

Bid. An offer, as a price, whether for payment or acceptance. A tender given specifically to a prospective purchaser upon request, usually in competition with other bidders.

Bidder. Any supplier submitting a competitive bid in response to a solicitation.

Bidders/Proposers List. A list maintained for the purposes of setting out the names and addresses of suppliers from whom bids and proposals can be solicited.

Brand Name Only 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.

Brand Name or Equal Specification. A specification that cites brand name, model number, etc., as representing quality and performance called for, and inviting bids on comparable items or products of any manufacturer.

Business. Any corporation, firm, company, organization, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity including not-for-profit organizations.

Buy-Against. The process by which an agency obtains goods and services to fulfill its requirements after a supplier defaults or fails to fulfill its contract responsibilities.

CCPO. An acronym that stands for City Chief Procurement Officer. Position delegated authority by the Mayor to coordinate and oversee the procurement activity of Mayoral agency staff, including the ACCOs.

CDRB. An acronym that stands for Contract Dispute Resolution Board.

Change Order. Any alteration, change, amendment, or modification to any contract or agreement approved as required by law or rule.

Charter. The New York City Charter.

City. City of New York.

Client Services. Programs contracted for by the City of New York on behalf of third-party clients, including programs to provide social services, health or medical services, housing and shelter assistance services, legal services, employment assistance services, and vocational, educational, or recreational programs. Client services are sometimes referred to as "human services" and government agencies whose primary missions involve the award and administration of such contracts, or provision of the same or similar services by agency employees, are sometimes referred to as "human services agencies." Examples of client services include, but are not limited to, day care, foster care, mental health treatment, operation of senior centers, home care, employment training, homeless assistance, preventive services, health maintenance organizations, youth services, and the like.

Competitive Sealed Bidding. The source selection method in which sealed bids are publicly solicited and opened and a contract is awarded to the lowest responsive, responsible bidder.

Competitive Sealed Proposals. The source selection method in which a solicitation is made to potential suppliers, and between receipt of proposals and award, discussions with suppliers may take place to resolve uncertainties in the proposal, advise suppliers of deficiencies in meeting the agency's requirements, allow for resulting price changes, etc.

Completion Contracts. Contracts entered into by an agency with a supplier for completion of all or part of the work of a construction contract. Completion contracts shall not be considered new procurements.

Construction. The process of building, reconstructing, rehabilitating, converting, altering, extending, improving, repairing, maintaining, or demolishing City real property or other public improvements.

Construction Management Contract. A form of construction contract that provides that the supplier is to furnish management and supervisory services necessary for the construction of facilities that may also include construction services and the ability to award the underlying construction contracts.

Construction-Related Services. Those services that may reasonably be required in the planning, design, or construction of real property or other public improvements. Such services shall include, but not be limited to, such services as architecture, engineering, construction supervision, construction management, planning, surveys and reports, testing and investigation, and printing and blueprinting.

Contract. A written agreement between the City and a supplier in an amount generally in excess of the small purchase limits that gives rise to obligations that are enforced and recognized by law.

Contracting Officer. Any person duly authorized to enter into and administer contracts and make determinations with respect thereto. The term also includes an authorized representative acting within limits of authority.

Contractor. Any person having a contract with a governmental body.

Conviction. A legal determination of guilt in any United States jurisdiction relative to a criminal offense that constitutes a felony or misdemeanor including a guilty plea or a plea of nolo contendere.

Cost Analysis. The process of examining the reasonableness of a supplier's price by evaluation of the separate cost elements and proposed profit in part on the basis of cost data supplied and certified by the supplier. Cost analysis is used on contract actions (including change orders) where price cannot be determined as fair and reasonable by using price analysis alone.

Day(s). Calendar day unless otherwise specifically stated in the applicable rule.

DBS. An acronym that stands for Department of Business Services.

DCAS. An acronym that stands for Department of Citywide Administrative Services.

DDC. An acronym that stands for Department of Design and Construction.

Debarment. Exclusion for cause of a supplier from consideration for future business for a specified period of time as determined by OATH.

DEFO. An acronym that stands for Division of Economic and Financial Opportunity of the Department of Business Services.

Discussion. The process by which the Contracting Officer enhances understanding of the City's requirements in conjunction with the supplier's proposals and capabilities to arrive at the best price prior to Best and Final Offers in a Competitive Sealed Proposal method of procurement.

DLS. An acronym that stands for Division of Labor Services of the Department of Business Services.

DOI. An acronym that stands for Department of Investigation.

Emergency. An unforeseen danger to life, safety, property, or a necessary service.

Equal Employment Opportunity/EEO. The treatment of all employees and job applicants without unlawful discrimination as to race, creed, color, national origin, sex, age, disability, marital status, sexual orientation, or citizenship status in all employment decisions, including but not limited to recruitment, hiring, compensation, fringe benefits, training and apprenticeship,

promotion, upgrading, demotion, downgrading, transfer, lay-off, termination, and all other terms and conditions of employment as required by federal, state, and local laws and executive orders.

Executed. When referring to a contract, the point at which all requirements for effectiveness of the contract have been fulfilled, including all required signatures and approvals, prior to registration by the Comptroller.

FISA. An acronym that stands for Financial Information Services Agency.

FOIL. An acronym that stands for Freedom of Information Law.

Goods. All personal property, including but not limited to equipment, materials, printing, and insurance, excluding land or a permanent interest in land.

Governmental Body. Any department, office, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment or official for the executive or legislative branches of the government of the City of New York whose operations are paid for out of the City treasury or out of the monies under the control of assessed or collected by the City or the majority of the members of whose board are City officials or are individuals appointed directly or indirectly by City officials.

Grant. A cash transfer made by a government entity to another government entity, a quasi-public entity, a private organization, or an individual, for use by the recipient in accomplishing objectives established by the recipient. A grant is permissible only to accomplish a public purpose authorized by federal, state, or City law. A grant may be conditional, although awarded without other consideration. Federal and state grants are identified specifically by formula or specific allocations in law or in the annual operating budget act, bond authorizations, or other acts of Congress or the state legislature. Grants can be distinguished from procurement contracts, which call for the supplier to produce specific end products or to deliver specific goods or services. While there are requirements under a grant that result in an executed agreement between the grantor and grantee, this document is not a contract for services.

Human Services. See Client Services.

IFB. An acronym that stands for Invitation for Bids.

Improper Conduct. Includes but is not limited to intentional or grossly negligent billing irregularities, submitting false or frivolous or exaggerated claims, the falsification of documents or records, the willful destruction of documents or records the supplier had an obligation to maintain, bribery, use of false deceptive statements to obtain some benefit, causing competition to be restrained or limited, misrepresentation, falsely claiming to be a minority or small business, violations of ethical standards established by the New York City Conflicts of Interest Board or the Procurement Policy Board, and other dishonesty incident to obtaining, prequalifying for, or performing any contract or modification thereof.

Information Technology. Systems or components thereof including, but not limited to, hardware, software, firmware, and telecommunications that integrate and process data; and services including, but not limited to, planning, consulting, project managing, developing requirements definitions, analyzing, designing, programming, testing, training, implementing, as well as conversion capacity management and quality assurance for the purpose of using, creating, maintaining, operating, or repairing computer systems or networks or computer systems or components thereof. For purposes of these Rules, information technology shall also include any goods or services determined by an ACCO to be necessary to repair or replace any systems or components thereof that may fail or malfunction due to a system's inability to recognize or accept the year 2000 date, which shall mean accurately processing date/time data (including, but not limited to, calculating, comparing, sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000, and leap year calculations.

Inspection. The process of checking material purchased against specifications to insure standards are met.

Inspector. The individual responsible for inspection in accordance with a prescribed inspection procedure.

Intergovernmental Purchase. The issuance of a purchase order or contract to procure goods, services, or construction through the United States General Services Administration, any other federal agency, the New York State Office of General Services, any other state agency or in cooperation with another public agency subject to the rules set forth herein.

Investigative or Confidential Services. Services provided by law enforcement, scientific, and/or legal consultants, or other experts or professionals that are necessary in connection with an official matter within the scope of the acquiring agency's authority and that directly or indirectly relate to a pending or contemplated case, trial, litigation, or confidential or sensitive investigation or negotiation for which such services of the nature and kind envisioned herein are ordinarily used.

Invitation for Bids (IFB). All documents, whether attached or incorporated by reference, utilized in soliciting a bid. Usually used in connection with Competitive Sealed Bidding.

LBE. Locally Based Business Enterprise program established under New York City Local Law 49 for the year 1984 as amended by New York City Local Law 25 for the year 1989 which provides assistance to small, economically-disadvantaged construction firms meeting the stated economic criteria regardless of race or sex.

M/WBE. Minority and Women's Business Enterprise; a business concern authorized to do business in the State, including sole proprietorships, partnerships, and corporations, in which (i) at least fifty-one percent of the ownership interest is held by United States citizens or permanent resident aliens who are (a) either minority group members or (b) women, (ii) the ownership interest of such person is real, substantial, and continuing, and (iii) such persons have and exercise the authority to control independently the day-to-day business decisions of the enterprise.

May. Denotes the permissive.

Multi-Step Sealed Bidding. Source selection method involving two competitive steps. In the first step, suppliers submit a technical proposal for furnishing the goods or service described in the solicitation. The solicitation may or may not require submission of a sample as part of the technical proposal. In the second step, the agency evaluates the proposals. If price bids were solicited with the technical proposals, the agency evaluates the bids of those technical proposals deemed acceptable. If price bids were not solicited with technical proposals (or if based on discussions with suppliers, technical proposals are revised), price bids are solicited from those suppliers who submitted acceptable technical proposals. In either case, award shall be made, if at all, to the lowest responsive and responsible bidder.

Negotiation. The deliberation and discussion of the terms of a proposed agreement; the act of settling or arranging the terms and conditions of a bargain, sale, or business transaction.

Negotiated Acquisition. A method of source selection under which procurements can be made through negotiation due to circumstances and subject to conditions, as specified in these Rules, in which it is not practicable and/or advantageous to the City to make the procurement through competitive sealed bidding or competitive sealed proposals. The use of negotiated acquisition requires CCPO approval.

Non-Commodity Data Processing Equipment, Products, and Services. Includes, but is not limited to, mainframes, and related peripheral equipment such as disk storage, tape storage, and associated controllers, sophisticated switching equipment, integrated systems, operating software, major applications software, and all data processing consultant services, all of which require a high level of planning, expertise, and coordination of a technical and physical nature.

Non-Responsive Bid. A bid that does not conform to the requirements of the Invitation for Bids.

Notice of Award. Process of notifying successful suppliers of an intended contract award.

OATH. An acronym that stands for Office of Administrative Trials and Hearings.

OMB. An acronym that stands for the Office of Management and Budget.

Offer. The act of one person that gives another person the legal power to create a contract to which both of them are parties.

Offeror. A person submitting an offer.

Officer. An individual holding a position of authority either in government or business.

Partner. One of two or more persons heading the same partnership.



Person. Any business, individual, partnership, corporation, union, firm, company, committee, club, other organization, governmental body, or group of individuals.

Phased Design and Construction. A method in which construction is begun when appropriate portions have been designed, but before substantial design of the entire structure has been completed.

PIN. An acronym that stands for Procurement Identification Number.

PPB. An acronym that stands for Procurement Policy Board.

PQL. An acronym that stands for prequalified list.

Prequalification. The screening of potential suppliers in which a purchaser may consider factors such as financial capability, reputation, and management in order to develop a list of prospective suppliers qualified to be sent invitations to bid or requests for proposals.

Prevailing Market Price. Prices commonly paid by the public either through a standard price list or catalogue.

Price Analysis. The process of examining and evaluating a proposed price without evaluating its separate cost elements and proposed profit. Examples of price analysis techniques that may be appropriate to use to determine whether a proposed price is fair and reasonable include, but are not limited to, comparing proposed prices received in response to a solicitation; comparing current proposed prices to prior proposed prices and contract prices; applying rough yardsticks, i.e., rough order of magnitude (e.g., dollars/lb., price/horsepower), to a proposed price to highlight inconsistencies that would warrant further review; comparing proposed prices with competitive price lists, published market prices of commodities, similar indexes, discounts or rebate arrangements, and comparing proposed prices with cost estimates prepared by City personnel charged with cost estimating.

Procurement. Buying, purchasing, renting, leasing, or otherwise acquiring any goods, services, or construction. It also includes all functions that pertain to the obtaining of any good, service, or construction, including planning, description of requirements, solicitation and selection of sources, preparation and award of contract, and all phases of contract administration, including receipt and acceptance, evaluation of performance, and final payment.

Procurement Identification Number (PIN). A unique identifying number for each solicitation or contract notification, which must be consistently used by an agency each time any action related to the procurement is published, commencing with the first time a publication related to that procurement is advertised. The first three digits of the PIN shall be the agency budget code.

Proposal. An offer made by one person to another as a basis for negotiations for entering into a contract.



Proposal Evaluation Criteria. Factors, usually weighted, relating to management capability, technical capability, manner of meeting performance requirements, price, and other important considerations used to evaluate which supplier in a competitive negotiation has made the most advantageous offer.

Proposer. A person submitting a proposal in response to a Request for Proposal.

Protest. A complaint about a governmental action or decision concerning procurement brought by an interested party to the appropriate administrative section with the intention of achieving a remedial result.

Public Notice. Advertisement and announcement of contract actions with the intended purpose of increasing competition; broadening industry participation; assisting small, disadvantaged, and minority- or woman-owned businesses; and monitoring of City procurement activities.

Public Opening. The process of opening and reading bids, conducted at the time and place specified in the Invitation of Bids and/or the advertisement and in the presence of anyone who wishes to attend.

Purchase Description. The words used in a solicitation to describe the goods, services, or construction to be purchased, including any performance, physical, or technical requirements. Unless the context requires otherwise, the terms "purchase description," "purchase specification," and "specification" may be used interchangeably.

Purchase Order. An official document of the City directing the supplier to perform. A purchase order formalizes a purchase transaction with a supplier for purchases generally at or below the small purchase limits unless the purchase order is placed against an existing contract.

Registration. The process through which the Comptroller (1) encumbers funds to insure that monies are available to pay suppliers upon the satisfactory completion of contract work; (2) maintains a registry of City contracts and agreements; (3) presents objections if, in the Comptroller's judgment, there is sufficient reason to believe that there is possible corruption in the letting of the contract or that the proposed contractor is involved in corrupt activity, and (4) tracks City expenditures and revenues associated with those contracts and agreements.

Responsible Bidder or Proposer. A supplier who has the capability in all respects to perform in full the contract requirements, and the business integrity and reliability that will assure good faith performance.

Responsive Bidder or Proposer. A supplier whose bid or proposal conforms to the terms set out by the City in the solicitation.

RFP. An acronym that stands for Request for Proposals. All documents, whether attached or incorporated by reference, used for soliciting competitive proposals.

Rule. As used herein, the statement or communication that prescribes mandatory standards for the procurement of goods, services, and construction.

Sealed Bid. A bid that has been submitted in response to an Invitation for Bids in a sealed envelope to prevent its contents being revealed or known before the deadline for the submission of all bids.

Service Contract. A contract that calls for a supplier's time and effort rather than for delivery of goods and construction. The term as defined here does not include employment agreements or collective bargaining agreements.

Services. The furnishing of labor, time, or effort by a supplier. This term shall not include employment agreements or collective bargaining agreements.

Shall. Denotes the imperative.

Single Bid/Proposal. The only bid/proposal received in response to an Invitation for Bids/Request for Proposals.

Small Purchases. Any procurement at or below the small purchase limits.

Sole Source Procurement. An award of a contract for a good, service, or construction to the only source for the required good, service, or construction.

Solicitation. The process of notifying prospective suppliers that a governmental body wishes to receive bids or proposals for furnishing goods, services, or construction. The process may consist of public advertising, mailing invitations for bids or requests for proposals, posting notices, telephone or facsimile messages to prospective suppliers, or all of these.

Special Case. A situation in which it is either not practicable or not advantageous to the City to use competitive sealed bidding as defined in Section 312 of the Charter.

Specification. A description of what the purchaser seeks to buy and, subsequently, what a supplier must be responsive to in order to be considered for award of a contract. A specification may be a description of the physical or functional characteristics, or the nature of a good, service, or construction. It may include a description of any requirements for inspecting, testing, or preparing a good, service, or construction item for delivery; also Purchase Description.

State. State of New York.

Supplier. An actual or potential contractor.

Suspension. An agency decision to exclude a supplier from consideration for award of contracts for a period not exceeding three months plus any extensions pending a debarment determination by OATH.

Time. Unless otherwise stated in these Rules, time shall be designated in calendar days.

Unsolicited Proposal. A written proposal submitted to an agency on the initiative of the proposer for the purpose of obtaining a contract with the City and which is not in response to a formal or informal request. Advertising material, commercial product offers, or technical correspondence are not considered unsolicited proposals.

User. An individual or entity for which goods, services, or construction are to be purchased.

VENDEX. A computerized citywide system providing comprehensive contract management information.

WBE. (See M/WBE).

Year. Unless otherwise indicated in these Rules, the word "year" as it relates to terms of contracts shall mean the City's fiscal year.