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June 20, 2019

AUDITOR’S LETTER

The objective of our audit of contract procurement processes both citywide and within selected City agencies was to evaluate the efficiency, effectiveness, and documentation of the City’s procurement processes from the time an agency identifies a need for a good or service to the point a vendor is chosen. We assessed whether the City and County of Denver has clear laws, rules, and policies and procedures to support these processes. We also assessed contract procurement processes in three City agencies: the departments of Public Works, Parks and Recreation, and Public Health and Environment. I am pleased to present the results of this audit.

Overall, Denver’s charter, ordinances, and policies help maintain a fair, open, and competitive market for goods and services the City procures. However, the audit revealed gaps in some citywide and agency-level practices, such as—in some cases—inadequate justifications required for contracts longer than three years, insufficient guidance for on-call contract procurement, and a lack of procedures for disclosing conflicts of interest. Such risks could impede fairness and competition, which are crucial to the integrity of the contract procurement process.

Through stronger City guidance and documented agency procedures, the Mayor’s Office and the three agencies we audited will be able to ensure more effective contract procurement. The City’s main executive order guiding contract procurement needs updating. The City also needs to strengthen requirements and procedures for conflicts of interest, and agencies should use data analytics to detect unusual trends and should better safeguard confidential bid information. Our report lists several related recommendations.

This performance audit is authorized pursuant to the City and County of Denver Charter, Article V, Part 2, Section 1, “General Powers and Duties of Auditor,” and was conducted in accordance with generally accepted government auditing standards. Those standards require we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We extend our appreciation to personnel in the departments of Public Works, Parks and Recreation, and Public Health and Environment, as well as the General Services Department’s Purchasing Division, the Mayor’s Office, and the City Attorney’s Office—who all assisted and cooperated with us during the audit. For any questions, please feel free to contact me at 720-913-5000.

Denver Auditor’s Office

Timothy M. O’Brien, CPA
Auditor
Report Highlights

Highlights

We assessed citywide requirements and procedures for contract procurement, as well as those specific to three selected City agencies: the departments of Public Works, Parks and Recreation, and Public Health and Environment. We found gaps in some citywide and agency-level policies and procedures and in how those are implemented.

Citywide Laws and Regulations for Contract Procurement Inadequately Address Conflicts of Interest and Are Not Periodically Reviewed

Agencies do not require conflict-of-interest disclosures for every solicitation, and vendor political disclosures are not required for competitive bids and contract amendments. There is also no process to periodically review and update Executive Order 8 and provisions of City charter and City ordinance that govern contract procurement.

The Department of Public Works’ Policies and Procedures Allow for Inconsistencies in Contract Procurement

Public Works lacks certain written procedures and does not adhere to some existing policies, such as for obtaining required approvals or verifying contractors’ good standing.

Some Elements of the Department of Parks and Recreation’s Policies and Procedures Are Inadequate or Not Followed

Parks does not have or follow certain procedures, such as approving solicitations and retaining evidence of approvals for requests for proposals.

The Department of Public Health and Environment Lacks Comprehensive Policies and Procedures for Its Contract Procurement

Public Health does not have policies for all its divisions and for all parts of the contract procurement process.

Agencies Do Not Have Guidance to Perform Data Analytics and Ensure Confidentiality of Proposals

Public Works, Parks, and Public Health lack adequate procedures for securing vendor proposals. They also do not perform data analytics to identify unusual trends and inefficiencies.

For a copy of this report, visit www.denverauditor.org or contact the Auditor’s Office at (720) 913-5000.
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BACKGROUND

Different governing documents—from the Denver Charter to agency-level policies and procedures—dictate how the City and County of Denver procures goods and services to get the best value. The contract procurement process spans from the time an agency identifies a need for a good or service to the point a vendor is chosen.

Citywide rules and agency-level procedures help ensure fair and transparent procurements and that taxpayer dollars are used wisely for a variety of public needs, from tree-trimming to specialized construction services worth millions of dollars.

The City and County of Denver’s Executive Order 8 emphasizes this importance of contract procurement:

“Denver owes a duty to its citizens to exercise strong financial stewardship. It is the policy of the City and County of Denver to maintain a fair, open, and competitive market for the goods and services it purchases. This is not only important in order to maintain the quality of key government services and to minimize costs, but also sets a high ethical standard and promotes greater transparency.”

Legal Standards for Contract Procurement

The Denver Charter, City ordinances, and Executive Order 8 provide the framework for how contracts are to be procured by City agencies, including the responsibilities of the entities and personnel involved in that process. The City charter and Executive Order 8 give the authority for City agencies to engage in procurement, and they also provide the process for how bids are to be obtained and evaluated.

Within City ordinance, the City’s Code of Ethics prohibits employees from accepting gifts, favors, or money from contractors or subcontractors unless they are of nominal value and unsolicited. The City requires employees to fill out an annual financial disclosure form to disclose certain gifts. The City’s Code of Ethics also has restrictions for employees regarding conflicts of interest that result from financial interests and from prior, subsequent, or outside employment. However, there is no process requiring all City employees to annually disclose such interests.

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2 Section 2-60(b)(5) of the Denver Revised Municipal Code defines nominal, or “trivial,” value as items or services valued at $25 or less.
conflicts.³ City employees cannot take direct official action on a matter before the City if they or a member of their immediate family, a business associate, or an outside employer has any substantial interest in that matter.⁴

City ordinance also requires political contributions and donations from vendors to be disclosed when the City awards expenditure contracts and purchase orders without a competitive process.⁵

Meanwhile, Executive Order 8 establishes contracting guidelines for all City agencies under the Mayor. The executive order outlines responsibilities for all parties involved in the contracting process, provides rules and guidance for initiating and executing contracts, and explains specific processes for different types of contracts and for agencies’ responsibilities in monitoring contracts for compliance.

According to Executive Order 8, contracts are considered one of the highest administrative priorities in the City. The order recommends that, absent special circumstances that would make it impractical to do so, all contracts should go through a competitive bidding process and contracts should generally have terms of no longer than “three to five years.” Agencies must justify contract durations over three years, as well as noncompetitive selections.

Construction contracts and the purchases of supplies, equipment, or personal property are among the contracts that City ordinance requires to be bid. However, there are also ways the City can procure goods and services (other than construction) without using a competitive process, such as when only one vendor is qualified or capable of fulfilling the City’s need. These two procurement methods, as well as contract amendment procedures, are depicted in Figure 1 on the following page.

**Competitive Contracts** – City ordinance and Executive Order 8 require a competitive process to be used unless special circumstances preclude or exempt a project from that process.⁶ City agencies are required to inform potential bidders of bidding opportunities in a way that achieves maximum competition among vendors and secures the best price for the City. Guidelines allow for two methods for a contract to be

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⁶ Denver Revised Municipal Code § 20-64 and Executive Order 8. The executive order does not require, but instead recommends, a competitive process.
FIGURE 1. Basic Contract Procurement Processes

Source: Auditor’s Office analysis of citywide and agency-level policies and procedures.

Note: This figure contains a simplified depiction of the City’s contract procurement processes. It does not capture special circumstances, including the many nuances of individual and unique situations in which the City might need to procure a good or service.
competitively bid; these are known as “formal” and “informal” bidding procedures.

Under Executive Order 8, formal bidding procedures recommend that a City agency formally advertise (in a printed publication or on an electronic platform) its need for services when the estimated cost is greater than $100,000. Such an advertisement, called a “solicitation,” must specify the services to be purchased and describe the standards and specifications required.

Informal bidding procedures are typically applied when the estimated cost of services is lower—between $10,000 and $100,000—and when a formal advertisement is not required. For example, this might be the case when there is a limited number of vendors offering the services the City needs and, thus, an agency can solicit them directly. In informal bidding situations, an agency must request at least three “bids,” or proposals, from responsible bidders.

Using the competitive process, agencies can award contracts known as “on-call” contracts. An on-call contract is a commitment between the City and a vendor, or sometimes multiple vendors, to pay for services only when they are used. On-call contracts allow the City to mobilize professional services quickly and easily under prenegotiated terms and conditions. For instance, the City may require services because of an urgent matter or because the City is unable to provide those services itself.

Vendors who have on-call contracts are available to respond to task orders issued by the City. Task orders define a specific project’s scope, cost, and schedule according to the terms of the master contract. A single task or work order can be written for both products and services, such as for architectural, engineering, and related technical services.

Within the on-call contracting process is what is called a “mini-bid.” A mini-bid is solicited from a few selected on-call contractors for projects over a certain dollar threshold. The purpose of this process is to have a condensed and expedited procurement process for more significant projects.

7 Exec. Order No. 8, City and County of Denver (2011), accessed October 17, 2018, https://www.denvergov.org/content/dam/denvergov/Portals/executiveorders/8-Contracts-Other-Written-Instruments-CCD.pdf. While Executive Order 8 recommends a $100,000 threshold for formal bidding, Section 20-63 of the Denver Revised Municipal Code identifies the thresholds for formal bidding as over $50,000 and for informal bidding as between $10,000 and $50,000.

8 Exec. Order No. 8, City and County of Denver (2011), accessed October 17, 2018, https://www.denvergov.org/content/dam/denvergov/Portals/executiveorders/8-Contracts-Other-Written-Instruments-CCD.pdf; Denver Revised Municipal Code § 20-64. Note that Executive Order 8 uses the threshold of $5,000, instead of $10,000. This discrepancy is explained in Finding 1.

9 Section 20-61(f) of the Denver Revised Municipal Code defines a “responsible” bidder as a “qualified bidder or proposer who is not in arrears to the city, upon debt or contract.” The ordinance also states that any bidder or proposer in default on an obligation to the City or who is not in compliance with local laws, ordinances, regulations, or contract terms and conditions “shall be considered not responsible and not qualified for award of any bid or proposal.”
Noncompetitive Contracts – City ordinance and Executive Order 8 allow for special circumstances in which a City agency does not need to use the competitive bid process to procure a contract. Such special circumstances may include:10

• Emergency situations;
• When supplies or services indispensable to the City can be obtained from only one source (known as a “sole source” procurement);
• When standardization of equipment or continuity of service is required;
• When supplies or services are required by preference, based on professional advice or judgment;
• When other governments provide supplies or services; and
• When supplies or services cost $10,000 or less.11

Contract Amendments – A contract amendment changes an existing contract. Amendments can include changes in contract duration, increases or decreases in the total contract value, or a change in the scope of the work being performed. When a contract amendment extends the contract beyond three years, the justification for this extension must be approved by the executive director of the agency that initiated the contract.

Roles of Key Personnel in the Contracting Process

Under the City charter, the General Services Department’s Purchasing Division has exclusive authority to procure goods for any agency and to procure services related to those goods, except construction and engineering services.12 While Denver International Airport has authority to procure construction and engineering services on its own, only the Department of Public Works may procure these services for all other agencies.

City agencies can use the Purchasing Division to procure their services, but Executive Order 8 also allows agency officials to procure services themselves. Agencies often do this if they have clearer knowledge of the vendors who can provide the specific services they need and if the agency can potentially procure the services faster than the Purchasing Division. If an agency does not use the Purchasing Division for procuring services, the agency can establish its own processes. Only


11 Executive Order No. 8 states this limit is $5,000; however, agencies follow Section 20-64 of the Denver Revised Municipal Code, which states the limit is $10,000. This discrepancy is explained in Finding 1.

12 Denver Charter § 2.9.3.
the Purchasing Division can procure goods.

A number of key City personnel are responsible for different steps throughout the contracting process, both within and outside of the agency that initiates a contract. These key personnel include, but are not limited to:

- **Initiating Authority**: Represented by the head of a City agency or their designee who requests a contract; reviews all solicitations, contracts, and amendment requests; and may approve those documents.

- **Project Manager**: Develops the contractor’s scope of work and the timelines and expectations for them; manages the selection committee process; reviews and approves draft contracts; tracks contract term dates, contract value, and insurance coverage; communicates with the contractor; monitors the contractor’s performance and compliance with the contract; works with the City Attorney’s Office to resolve legal issues related to the contract; resolves any billing or payment disputes; and closes out contracts.

- **Contract Administrator**: Assesses all requests to initiate a solicitation, contract, amendment, or related action; provides guidance for assisting the procurement process; compiles all necessary documents provided by the agency personnel requesting the contract; and provides guidance throughout the procurement process. Also, checks for a contractor’s standing with the federal System for Award Management to ensure they have not been barred from contracting with the federal government, and verifies business registration and good standing with the Colorado Secretary of State.

- **City Attorney’s Office**: Writes contracts and provides legal advice during the contract procurement process, as well as advice on contract interpretation.

- **Selection Committee**: Generally, made up of at least three members. Considers predetermined factors when evaluating prospective vendors before making a recommendation on qualified vendors for a request for qualifications or before awarding a contract for a request for proposals. The committee’s members commit to providing an objective evaluation and are individuals who have the required expertise to evaluate bid proposals using established criteria and to recommend a vendor be awarded a contract.

- **Clerk and Recorder’s Office**: Keeps the official City copy of all contracts and political disclosure forms.

- **Mayor’s Office**: Issued the executive order regarding contract procurement processes in the City and has contract-signing authority, which binds the City to the terms of a contract.
The Competitive Process

Denver ordinance requires City agencies to use a competitive bidding process when the estimated cost of goods or services is greater than $10,000, unless there is an allowed type of exception. Formal bids could include a request for qualifications, a request for proposals, or a hard bid.

**Request for Qualifications** – A “request for qualifications,” or RFQ, is a step sometimes used in the procurement process to establish a pool of vendors who are qualified and, thus, able to submit responses to a request for proposals. In a response to an RFQ, a company or individual typically will describe their general qualifications to perform a service or supply a product, but they generally will not include details or prices.

**Request for Proposals** – A “request for proposals,” or RFP, is when an agency solicits proposals from potential suppliers through a competitive process to procure a specific good or service. RFPs are typically for goods or services not generally available commercially, such as architectural, consulting, and security services. The RFP process can span several months, from the time an agency prepares for and issues a request for proposals to the time a contract is drafted with the winning bidder.

**Hard Bids** – A “hard bid” traditionally involves the City creating construction documents, such as plans and architectural designs, and then publicly soliciting bids for the work. Usually, general contractors bid on a project by submitting information on what they believe the project will cost, including costs for any subcontractors. The City then chooses the bid with the lowest cost as the winner from among the bids received.

The City’s Department of Public Works has a pre-qualification process for contractors bidding on construction services with an estimated value of $1 million or more. The intent of the pre-qualification process is to expedite contract procurement by limiting bidders to only those contractors who meet minimum qualifications. This reduces the unnecessary review of proposals from unqualified contractors.

A pre-qualification board reviews applications submitted by contractors seeking to be pre-qualified for construction-related City projects and ensures contractors meet the criteria outlined in the City’s pre-qualification rules. The board, which comprises at least five members, reviews whether a contractor has the expertise associated with particular work, such as paving streets or building bridges. If the

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13 Denver Revised Municipal Code § 20-64 and Executive Order 8. The executive order is being updated.

contractor can provide evidence of such prior work, the board assigns that contractor a maximum potential contract amount based on the contractor’s experience and financial strength. The board then reviews the contractor’s application, which includes:

- Self-reported litigation against the contractor;
- The contractor’s safety rating;
- The contractor’s bonding capacity, financial solvency, and financial statements;
- The size and scope of the contractor’s current projects and the size and scope of their projects performed within the last five years, both for the City and for external clients; and
- Any qualifications of the contractor’s personnel.

Based on a review of this information, the board pre-qualifies contractors to bid on City construction projects in specific categories and at set amounts, from $1.5 million to $25 million. For instance, if a contractor is pre-qualified for $6 million, they may bid on any contract whose value is expected to be up to $6 million; however, if a contract’s value is expected to range between $5.4 million and $6.6 million, a contractor must be pre-qualified at the $9 million level.15

The Types of Contracts

The City enters into various types of contracts, including expenditure contracts, revenue contracts, and general agreements.

Expenditure Contracts – Expenditure contracts require the City to expend funds. Examples include:

- Construction – such as for the construction of a building and pavement of streets16
- Services – such as for legal, engineering, architectural, accounting, medical, or other services from licensed professionals
- Real Estate – such as for the purchase or lease of another party’s property by the City
- Products – such as for software, electronics, furniture, and other tangible goods

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15 There are nine pre-qualification levels between $1.5 million and $25 million—with thresholds of $1.5 million, $3 million, $6 million, $9 million, $12 million, $15 million, $18 million, $20 million, and $25 million. Contractors wanting to bid on a project that is predetermined to cost $1 million or more must pre-qualify for at least the $1.5 million threshold. The pre-qualification rule states a contractor may obtain project-specific permission to bid on a project above the threshold for which they are pre-qualified.

16 Denver Charter § 2.3.3. Public Works holds the authority in the City charter to enter into these types of contracts and to co-administer projects with other agencies requiring construction services.
**Revenue Contracts** – Revenue contracts are those in which the City receives money from agreements made with other parties. These include concessions contracts, real estate contracts, licenses, and easements (which are the rights to use land owned by the City or by someone else for a specific purpose).

**General Agreements** – General agreements are agreements that do not fall into the category of expenditure or revenue contracts, such as intergovernmental agreements and cooperative agreements. General agreements are entered into by two or more parties, such as agreements between Denver and other local municipalities for fire department services.

City agencies and departments use a contract-recording software called Alfresco to both store and move agreements through the contracting process. We used Alfresco to determine the population of contracts throughout the City. Between January 1, 2017, through October 1, 2018, the City executed 4,650 expenditure contracts, revenue contracts, and general agreements—as shown in Table 1 and discussed further in the appendix.

### TABLE 1. Types of Contracts Executed by City and County of Denver

<table>
<thead>
<tr>
<th>Contract Type</th>
<th>Number Executed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditure Contracts</td>
<td>2,744</td>
</tr>
<tr>
<td>Revenue Contracts</td>
<td>1,622</td>
</tr>
<tr>
<td>General Agreements</td>
<td>284</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>4,650</strong></td>
</tr>
</tbody>
</table>

**Source:** Auditor’s Office analysis of Alfresco data.

**Note:** This analysis reflects data downloaded from Alfresco, the City’s contracts database, for contracts and agreements executed by the City between January 1, 2017, through October 1, 2018.

**SAMPLING AND METHODOLOGY**

For more detail on the sampling and methodology used for analyses in this audit, reference the appendix.
For this audit, we selected three agencies to evaluate the effectiveness of their contract procurement processes: the departments of Public Works, Parks and Recreation, and Public Health and Environment. Table 2 details how many expenditure contracts were executed within each of those departments from January 1, 2017, through October 1, 2018.

**TABLE 2. Number of Expenditure Contracts, by Agency Audited**

<table>
<thead>
<tr>
<th>Agency</th>
<th>Number of Expenditure Contracts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Public Works</td>
<td>262</td>
</tr>
<tr>
<td>Department of Parks and Recreation</td>
<td>154</td>
</tr>
<tr>
<td>Department of Public Health and Environment</td>
<td>163</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>579</strong></td>
</tr>
</tbody>
</table>

Source: Auditor’s Office analysis of Alfresco data.

Note: This analysis reflects data downloaded from Alfresco, the City’s contracts database, for expenditure contracts executed by the City between January 1, 2017, through October 1, 2018.

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The Department of Public Works

As authorized through the Denver Charter, the Department of Public Works is responsible for all City construction contracts, except those for Denver International Airport. The department has a centralized contracting team made up of contract administrators who coordinate with program managers when procuring contracts.

Public Works has comprehensive policies and procedures, flowcharts for its processes, and templates for procurements. For construction contracts, the department has a pre-qualification process for vendors who want to bid on any projects greater than $1 million. As mentioned, this process is meant to ensure a vendor can perform the work the City requested.

Public Works aims to “deliver critical services that help to define the quality of life in Denver.” The department is the largest agency in the City that gets its money from the general fund, and its responsibilities include:

- Year-round road maintenance and repair
- Household trash and recycling collection services

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17 Denver Charter § 2.3.3.
• Graffiti abatement
• Design and construction management of streets, bridges, storm and sanitary sewers, and public buildings
• Transportation services through its parking management, transportation planning, and traffic engineering and operations offices
• Oversight and regulation of development and use of the public rights of way
• Implementation and oversight of the City’s Environmental Management System

The Department of Parks and Recreation

The Department of Parks and Recreation is one of the City’s largest agencies, providing a broad range of programs, services, facilities, and park amenities in the City and County of Denver, as well as neighboring Douglas, Jefferson, and Clear Creek counties. Parks manages programs, services, facilities, and amenities that include:

- About 250 urban parks, parkways, and natural areas—totaling over 6,000 acres
- Fourteen thousand acres of mountain parks
- Eight golf courses
- Twenty-four lakes
- More than 80 miles of trails
- Nine off-leash dog parks
- Over 300 athletic fields
- Twenty-nine recreation centers
- Thirty-one pools, including 16 outdoor and 15 indoor

Like Public Works, the Department of Parks and Recreation has policies, procedures, and a centralized group in charge of administering contracts. For projects requiring construction, the department partners with Public Works, which administers the contract while Parks has a program manager as part of the team procuring the contract and overseeing the work performed.

The Department of Public Health and Environment

The Department of Public Health and Environment is established by the Denver Charter and administers all programs and functions relating to citizens’ physical and mental health, as well as all environmental health programs in the City. More specifically, Public Health carries out the following functions:

- Investigation and control of communicable diseases
- Regulation of publicly and privately owned institutions for the purposes of maintaining sanitation and public health standards
- Publication and enforcement of regulatory measures and rules for protecting public health
- Operation of facilities for physical and mental health
- Operation of the City morgue, and duties assigned by law to county coroners
- Duties assigned by law to local health departments, health administrators, the environmental health department, or the health officer of the City
- Management, operation, and control of solid or hazardous waste disposal sites owned or operated by the City, and management and control of all structures on which those sites are operated
- Management and operation of the City’s environmental compliance and remediation programs

As of this audit, the Department of Public Health and Environment was creating departmentwide policies and procedures for contract procurement. Previously, the department was decentralized and had contract administrators in two divisions and program managers assuming most of the responsibility for procurement. In 2018, Public Health created a contract administration team for the whole department but did not centralize all contract procurement under that team.

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20 Denver Charter § 2.12.2(d).
FINDING 1

Citywide Laws and Regulations for Contract Procurement Inadequately Address Conflicts of Interest and Are Not Periodically Reviewed

As we examined the Denver Charter, City ordinances, and citywide policies and procedures related to the procurement process and the contracts awarded through it, we noted areas where the City does not adequately monitor for improper influence. Agency employees and selection committee members who evaluate bids could possibly have conflicts of interest that are not being documented and addressed.

Meanwhile, political contribution disclosures from vendors are not required in some bid processes. For those processes that do require the forms, many of the forms are not consistently collected, filed, or reviewed.

Additionally, Executive Order 8—which gives City agencies guidance on contract procurement—is unclear in some areas and is not reviewed periodically. Likewise, we found that provisions in the Denver Charter and City ordinance pertaining to contract procurement are not periodically reviewed to ensure requirements are consistent with the changing business environment.

In our analysis of the departments of Public Works, Parks and Recreation, and Public Health and Environment, we found these agencies do not require disclosure of conflicts of interest from their employees or selection committee members for each bid solicitation. The only financial disclosures their employees submit are the annual gift disclosures City employees are required to report annually if they received any gifts worth at least $50 from people or entities doing business with the City.21

None of the three departments have policies and procedures in place to address conflicts of interest on a per-solicitation basis. These departments considered existing undocumented procedures both in the City and within their departments to be adequate in addressing this risk. Specifically, Parks and Public Health officials told auditors that, in practice, conversations are held with employees and selection committee members regarding conflicts of interest, but those conversations are not documented.

The Department of General Services’ Purchasing Division uses a form to identify potential conflicts of interest and to address the need for City employees and selection committee members to keep confidential any information regarding solicitations they are involved with. The Purchasing Division created the form with guidance from the City Attorney’s Office; other agencies can use it or work with the City Attorney’s Office when developing their own forms. This is in line with a best practice established by The Institute for Public Procurement that states selection committee members should sign a disclosure form for conflicts of interest for every bid project they participate in.

Without requiring disclosure of conflicts of interest for each project put out for bid, there is greater risk conflict-of-interest issues—whether accidental or deliberate—may not be detected and addressed.

A conflict of interest may arise when selection committee members and employees with influence over the bidding process have an interest in a particular solicitation. For example, an employee with influence over contract procurement might have a family member who owns a company seeking to get a City contract. If this relationship is not disclosed and adequately addressed, such as by removing the employee from that solicitation process, that employee may be able to share confidential information with their family member or influence the procurement decision in that company’s favor. This would result in an unfair process—and potentially lower value—for the City.

Therefore, we make the following recommendations to strengthen conflict-of-interest policies and procedures at the departments of Public Works, Parks and Recreation, and Public Health and Environment, as well as across the City.

**RECOMMENDATION 1.1**

Require Conflict-of-Interest Disclosures across All City Agencies – The Mayor’s Office should require, through its forthcoming update of Executive Order 8, conflict-of-interest disclosures at the solicitation level for all City agencies that conduct their own contract procurement.

Agency Response: Agree, Implementation Date – December 31, 2019

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**RECOMMENDATION 1.2**

Develop Procedures for Conflicts of Interest (Public Works) – The Department of Public Works should work with the City Attorney’s Office to develop and document a solicitation-level conflict-of-interest disclosure procedure and form, so that selection committee members and employees with influence over the bidding process certify they have disclosed any conflicts of interest relevant to a particular solicitation they are involved with and that they have acknowledged nondisclosure requirements related to the project. The procedure should state who is responsible for reviewing these certifications and include what steps to take when a conflict is identified.

Agency Response: Agree, Implementation Date – 120 days following publication of revised Executive Order 8

**RECOMMENDATION 1.3**

Develop Procedures for Conflicts of Interest (Parks) – The Department of Parks and Recreation should work with the City Attorney’s Office to develop and document a solicitation-level conflict-of-interest disclosure procedure and form, so that selection committee members and employees with influence over the bidding process certify they have disclosed any conflicts of interest relevant to a particular solicitation they are involved with and that they have acknowledged nondisclosure requirements related to the project. The procedure should state who is responsible for reviewing these certifications and include what steps to take when a conflict is identified.

Agency Response: Agree, Implementation Date – 120 days after Executive Order 8 revisions are published

**RECOMMENDATION 1.4**

Develop Procedures for Conflicts of Interest (Public Health) – The Department of Public Health and Environment should work with the City Attorney’s Office to develop and document a solicitation-level conflict-of-interest disclosure procedure and form, so that selection committee members and employees with influence over the bidding process certify they have disclosed any conflicts of interest relevant to a particular solicitation they are involved with and that they have acknowledged nondisclosure requirements related to the project. The procedure should state who is responsible for reviewing these certifications and include what steps to take when a conflict is identified.

Agency Response: Agree, Implementation Date – Draft: June 30, 2019

Final: 120 days following the publication of Executive Order 8
Vendor Political Disclosures Are Not Required for Competitive Contracts or Expenditure Contract Amendments

City ordinance requires vendors who are awarded a noncompetitive contract to complete and submit a political contribution disclosure form to the City’s Clerk and Recorder’s Office prior to the execution, or signing, of a contract. But vendors awarded competitive contracts are not subject to the same requirement.23

Prior to 2013, the disclosure requirement did include competitive contract awards, and the bidding process required all vendors submitting a proposal to complete and submit a political contribution disclosure. However, in 2013, the City Council passed a measure to simplify the applicable section of City ordinance to its current form by removing mandates for what contracts—and at what dollar threshold—the disclosure requirement applied.24 Some officials viewed the mandates as burdensome, and supporting documentation from City Council for this ordinance change stated officials thought there was “no opportunity for pay-for-play awards” during a competitive bid process.

However, best practices from The Institute for Public Procurement state entities should establish a transparent procurement process that has equal access to all vendors and no “insiders” when doing business with government.25

The City of Los Angeles offers an example of this best practice in action. It requires all bidders to submit conflict-of-interest certifications or disclosures early in the process as part of vendors’ bid proposals. Beyond that requirement, Los Angeles also prohibits bidders and their subcontractors from making contributions or raising money for elected officials and candidates during the bidding process and for a period of time afterward.26

Without a disclosure of political contributions early in the procurement process, it becomes more difficult to detect and deter political influence, which lowers transparency and accountability.

Therefore, we make the following recommendation to change the applicable section of Denver ordinance to require vendors to submit political contribution disclosures for both competitive and noncompetitive selection processes and require the disclosure forms to be submitted earlier in the bidding process as part of each vendor’s bid proposal.

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24 City and County of Denver, Council Bill No. CB13-0133 (Ord. No. 154-13).
RECOMMENDATION 1.5

Change City Ordinance to Require Political Contribution Disclosures for Competitive Contracts –
The Mayor’s Office should sponsor a change to City ordinance to require political contribution disclosure forms from vendors as part of bid proposals for all solicitations—competitive and noncompetitive. The ordinance change should also require the winning bidder to file their disclosure form with the Clerk and Recorder’s Office.

Agency Response: Agree, Implementation Date – December 31, 2019

Disclosure Requirements for Contract Amendments Are Inconsistent in City Ordinance

We also noted City ordinance requires political contribution disclosures from vendors for contract amendments only on leases and concessions agreements that add more than one year to the terms of a contract; however, expenditure contract amendments are not mentioned in that section.

Auditors could not determine the reason why the language was written in a way that is silent on expenditure contract amendments. The City Attorney’s Office told auditors they believed this provision on contract amendments likely refers to Denver International Airport. However, the former City Council member who sponsored the ordinance change in 2013 told auditors this was not the case, but he could not recall why it was written this way.

The Institute for Public Procurement says agency staff and all stakeholders need a clear and consistent understanding of required regulations.²⁷ The way this broader section of City ordinance is written creates inconsistency between how expenditure contract amendments and how lease and concessions contract amendments are handled—which may make it more difficult to detect and deter political influence in expenditure contract amendments.

Therefore, we make the following recommendation to amend City ordinance to include expenditure contract amendments in the requirement for vendors’ political contribution disclosure.

RECOMMENDATION 1.6

Change City Ordinance to Require Political Contribution Disclosures for Expenditure Contract Amendments – The Mayor’s Office should sponsor a change to City ordinance to ensure expenditure contract amendments that add more than one year to the term of the contract are also included in the requirements for vendors’ political contribution disclosure.

Agency Response: Agree, Implementation Date – December 31, 2019

Vendor Political Disclosure Forms Are Not Obtained and Reviewed

Auditors tested noncompetitive contracts from the departments of Public Works, Parks, and Public Health to determine whether the vendors who were awarded these contracts filed political contribution disclosure forms with the Clerk and Recorder’s Office, as required by City ordinance.

Of the 41 noncompetitive contracts selected for detailed testing from these three departments, the Clerk and Recorder’s Office was able to provide only five vendor disclosures: three from Public Works, two from Public Health, and none from Parks. Therefore, 88 percent of our sample of noncompetitive contracts did not have the required vendor political disclosure form retained at the Clerk and Recorder’s Office. Auditors followed up with the three agencies to determine if officials within the agencies had any copies of the vendor disclosures for the contracts tested. Public Works was the only agency that had its own copies, but the copies were incomplete; the department had disclosure forms for only seven of the 15 contracts tested.28

The departments of Public Works, Parks, and Public Health did not ensure applicable persons and/or entities filed vendor political disclosure forms with the Clerk and Recorder’s Office, because the agencies’ policies and procedures do not require the agencies to confirm forms are reviewed or recorded.

Best practices from The Institute for Public Procurement say policies and procedures for procurement should protect the integrity of the bid process against corruption, fraud, and abuse.29 Without policies and procedures to remind agency personnel they are required to follow up on vendor disclosures, agencies may not be able to detect whether

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28 Reference the appendix for details on the sampling and methodology used for analyses in this report.

campaign contributions and political donations are influencing City
decision-makers who award expenditure contracts. This also diminishes
transparency to the public.

Because this issue is of citywide importance, the Mayor’s Office could
address these concerns through its planned update of Executive Order
8. Therefore, we make the following recommendation that the Mayor’s
Office require agencies to develop procedural steps to ensure vendor
political contribution disclosures are submitted and reviewed.

RECOMMENDATION 1.7

Develop Procedures to Ensure Political Disclosure by Vendors – The Mayor’s Office should require,
through its forthcoming update of Executive Order 8, that agencies add the political contribution
disclosure form to the list of items required to be submitted by vendors for a contract solicitation.
The agencies should also be required to review these forms during the evaluation process and
to ensure the form of the winning bidder is forwarded to the Clerk and Recorder’s Office for
filing. Agencies should also follow up with the Clerk and Recorder’s Office to verify the office has
received the form and has made it available for public viewing.

Agency Response: Agree, Implementation Date – December 31, 2019

Three citywide documents dictate rules and guidance related to the
contract procurement processes reviewed in this audit: the Denver
Charter, City ordinance, and Executive Order 8.

The City charter and City ordinance include requirements related to
contracts procured by the General Services Department’s Purchasing
Division, the authority of both Denver International Airport and the
Department of Public Works to procure certain contracts, and the
City Council’s authority to approve contracts over a certain threshold.
Executive Order 8 interprets City ordinance and provides additional
guidance for City agencies’ procurement of services. The Purchasing
Division must follow City ordinance, which has a higher authority under
law.

Executive Order 8 has a “memorandum No. 8A,” which is a guide for
contract-related procedures, and a “memorandum No. 8B,” which
addresses competitive selection requirements and exceptions to these
requirements. As part of our audit, we evaluated whether these rules

30 Exec. Order No. 8, City and County of Denver (2011), accessed October 17, 2018, https://www.denvergov.org/content/dam/denvergov/
Portals/executiveorders/8-Contracts-Other-Written-Instruments-CCD.pdf.
Since 2011, some requirements in City ordinance have changed; as a result, Executive Order 8 is now inconsistent with City ordinance.

Executive Order 8A reflected requirements within City ordinance as of 2011, except for the formal and informal bidding thresholds. Since that time, some requirements in City ordinance have changed; as a result, the executive order is now inconsistent with City ordinance.

A draft of an updated Executive Order 8 was prepared several years ago but has not yet been adopted. City agencies—which provided input for the update—could not agree on the proposed wording for the addition of a “memorandum No. 8C” for unsolicited proposals, and this disagreement held up the process of passing an updated Executive Order 8 at that time.

As Executive Order 8 stands as of this audit, auditors identified several discrepancies with City ordinance:

- Executive Order 8B states supplies and services of $5,000 and less are exempt from competitive procurement requirements citywide, while City ordinance states the threshold is $10,000 when a contract is procured by the Purchasing Division. The City Attorney’s Office stated these thresholds must match and, therefore, the draft updates pending for Executive Order 8 address this discrepancy.

- As well, the requirement for vendor political disclosures in City ordinance is not listed in Executive Order 8. This discrepancy is also addressed in the draft updates.

- We noted City ordinance requires a formal competitive process for procurements greater than $50,000 if they are done through the Purchasing Division, while Executive Order 8 recommends this process for all agencies and departments for procurements greater than $100,000. In this case, the City Attorney’s Office stated these different thresholds are acceptable, because only the Purchasing Division must comply with City ordinance, while all other agencies must comply with Executive Order 8.

Furthermore, we noted the Denver Charter requires City Council to approve all contracts valued at or above $500,000. However, in 2007, the City Council passed an ordinance waiving the requirement that the council approve design and construction contracts for Denver.

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31 Denver Revised Municipal Code § 20-64(a)(5).
32 Denver Revised Municipal Code § 20-63(a).
33 Denver Charter § 3.2.6(E).
International Airport valued at or below $5 million.\textsuperscript{34} None of these thresholds have changed since then.

The City Attorney’s Office stated that when different threshold requirements were established in 2007 for City Council contract approvals, construction contracts at the airport were substantially larger than those procured by other City agencies. The office also said that while the size and volume of construction contracts have increased since then, the thresholds did not change. We found no evidence of a risk assessment process for evaluating thresholds and other contracting requirements.

The U.S. Government Accountability Office advises government entities to identify risks and design actions in response to those risks.\textsuperscript{35} Therefore, the threshold requirements should not be determined based on the size and volume of contracts at the agency but rather by the assessed risk of whether a contract might be procured inappropriately.

We also noted Executive Order 8 requires agencies to establish and implement policies and procedures for contract monitoring but not for any other stages of the contracting process.

Additionally, Executive Order 8B requires each request for a contract or amendment of a contract exceeding three years to have a justification for this longer duration. As detailed in subsequent findings of this report, we found agencies sometimes have properly approved justifications, but those justifications do not explain the advantages of a longer duration. This happens because there is no detailed guidance in the executive order of what constitutes a reasonable justification.

As of the end of our audit fieldwork in February, the City Attorney’s Office had planned to advocate for accelerating its update of Executive Order 8 with the City’s Executive Order Committee, which oversees the executive order process. However, more adjustments may be needed in response to both this audit and additional risks identified by the City Attorney’s Office before any update of Executive Order 8 is approved.

Moreover, we noted there is no process in the City to periodically review and update City ordinance or the Denver Charter. In researching best

\begin{footnotes}
\item[34] Denver Revised Municipal Code § 13-11.1(b)(1).
\end{footnotes}
practices for the periodic update of rules, regulations, and policies and procedures, we found two examples in our local government already.

- The City’s overview to its Fiscal Accountability Rules states the rules must be updated at least every four years because systems, processes, and City culture evolve over time. This overview requires rules be reissued—even if no changes are needed—to indicate they have been reviewed.36

- The City also once had a charter review committee, established temporarily by City ordinance in 2001, to conduct a one-time review of the Denver Charter for antiquated provisions and to propose amendments to the City Council by 2004. At that point, the committee was terminated due to a sunset provision in the ordinance.37 The existence of this committee emphasizes the importance of periodically reviewing and updating the City’s foundational governing document to reflect modern needs and practices.

Additionally, the U.S. Government Accountability Office recommends management should continually evaluate an organization’s internal control system—which includes policies and procedures—so that the controls are effective and updated as necessary in response to changes in the business environment, such as new technologies or changes in the volume of transactions.38

When the City’s authoritative guidance for contract procurement is outdated or is contradictory, it can cause inefficiencies and/or ineffectiveness, such as:

- Agencies may not be compliant with ordinances and procedures.

- Control activities—defined as policies, procedures, techniques, and mechanisms to help achieve the organization’s objectives and address identified risks—may be performed when there is low risk or no risk, which slows down the contracting process.39 For example, this can occur when technologies are improved or when more skilled personnel are responsible for the process, but requirements in the City charter or ordinance are not updated to reflect these changes.

- Alternatively, new controls needed to address the changing risk environment may be absent or lacking, which increases the risks

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of errors and fraud. This can occur when new technology does not have adequate access controls or when projects become larger and more complex.

Therefore, we make the following recommendations.

**RECOMMENDATION 1.8**

**Update Executive Order 8** – The Mayor’s Office and the City Attorney’s Office should complete the process of updating Executive Order 8. The updated executive order should require agencies to establish policies and procedures for the whole contracting process and provide more detailed guidance for justifications for contracts longer than three years and amendments extending contracts beyond three years.

*Agency Response: Agree, Implementation Date – December 31, 2019*

**RECOMMENDATION 1.9**

**Periodically Review and Update Contract Procurement Requirements** – The Mayor’s Office should establish a process for periodically reviewing the Denver Charter, City ordinances, and executive orders pertaining to contract procurement to ensure they are consistent and appropriately address risks. The Mayor’s Office should then recommend amendments to the City Council, where appropriate.

*Agency Response: Agree, Implementation Date – December 31, 2019*
FINDING 2

The Department of Public Works’ Policies and Procedures Allow for Inconsistencies in Contract Procurement

In evaluating the many types of procurement processes for expenditure contracts at the Department of Public Works, we found the department sometimes lacked key documentation to mitigate contract procurement risks and to ensure department policies are adhered to.

An effective internal control system includes a variety of safeguards designed to prevent and address risks. However, we found several key controls in Public Works’ procurement process were inadequate.

- Approvals and authorizations from managers and directors were not consistently available.
- Policies were not in place to: 1) verify whether the selection of particular contractors from within on-call pools was appropriate or accurate; and 2) detect the cause of why only a single bid was received in response to a solicitation and assess if the proposal should be accepted.
- Documents to verify the accuracy of selection committee scoring for requests for qualifications or requests for proposals were sometimes missing or incomplete.
- Approved criteria for issuing and evaluating submissions to requests for proposals were not always used.
- Verifications of contractors’ good standing were not always obtained.

Missing documentation in these key areas of the procurement process indicate issues with Public Works’ internal control system.

Before discussing the details of these concerns, it is important to note Public Works has unique protocols for procuring expenditure contracts—including processes for pre-qualification, competitive bidding, noncompetitive selection, and on-call contracting—that differ in some ways from the general processes previously described in the Background section.

- **Pre-qualification Process** – As discussed, Public Works requires a contractor to be pre-qualified for all construction projects estimated to cost $1 million or more. To become pre-qualified to bid for projects at various cost thresholds, contractors submit information and documents describing their previous work, as well as their workforce and areas of specialty.
• **Competitive Contracts** – When procuring contracts competitively, Public Works uses hard bids if the department has knowledge of the exact project scope required of a contractor. The Denver Charter requires hard bids to always be awarded to the lowest, responsive, and responsible bidder.\(^{40}\) When a desired project or service is not completely defined, Public Works uses the processes designated for a request for qualifications and/or a request for proposals to help them define the project.\(^{41}\) For these processes, Public Works requires a selection committee of at least three people to be assembled to evaluate and score responses to RFQs and RFPs, based on approved criteria for the solicitation.

The department’s processes for procuring contracts either through a hard bid or through an RFQ and RFP process are illustrated in Figure 2 on the following page.

• **Noncompetitive Contracts** – For a contract to be procured without using the competitive process, the executive director of Public Works must approve a justification memo explaining the reason the contract should not be competitively bid. Under Executive Order 8, noncompetitive contracts should be used only with good reasoning; this includes “sole source” contracts for times when there is only one regional vendor who can perform the work.\(^{42}\) In these instances, the contracting vendor must fill out a political contribution disclosure form, as described in Finding 1, to help ensure the noncompetitive contract is not misused to reward someone who essentially pays to curry favor with public officials in order to be awarded a contract.

• **On-Call Contracts** – Public Works acquires some contracts specifically for on-call work. This means the department selects a contractor, or multiple contractors, to be on hand as needed or when resources become available. For example, the department may issue on-call contracts to several engineering contractors to be available for unknown, future projects—creating an on-call pool for selection.

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\(^{40}\) Denver Charter § 2.3.3(A)(i). Section 20-61(g) of the Denver Revised Municipal Code defines a “responsive” bidder or proposer as one “whose bid or proposal [conforms] with the requirements of the bid or proposal including, but not limited to, all information, signatures, evidence of knowledge or experience, attachments, bonds, insurances, disclosures which may be required” when the bids are opened or the proposals are received, or following that time.

\(^{41}\) The RFQ process is the first phase of the RFP process. Once the agency has an understanding of contractor qualifications, they may select a vendor or continue on to the RFP process to gain further information from the vendors.

FIGURE 2. Department of Public Works’ Procurement Processes for Hard Bids and for RFQs and RFPs

**CHOOSE PROCESS: HARD BID**

1. Project manager determines basic project scope and completes form to request a solicitation.
2. Portfolio manager approves contract request form, with project scope and price range.
3. Contract administrator reviews approval and bid request form for completion.
5. Contract administrator issues bid solicitation on a public platform.
6. Contract administrator and project manager receive and review bids to select lowest bidder.
7. Contract administrator tabulates lowest bid to verify accuracy of proposed pricing.
8. Contract administrator notifies winning and unsuccessful bidders, and contract administrator begins assembling the contract for City Attorney’s Office approval.

**CHOOSE PROCESS: RFQ AND RFP**

1. Project manager assembles basic information and project scope, based on identified need.
2. Portfolio manager and project manager determine if a request for qualifications (RFQ), a request for proposals (RFP), or both are needed.
3. Project manager determines selection committee members, and division manager and executive director approve them.
4. Selection committee develops its evaluation criteria, which executive director also approves.
5. Contract administrator prepares RFQ and/or RFP for City Attorney’s Office review and then publishes solicitation.
6. Selection committee reviews submissions*, then recommends a submission to be awarded the contract based on the evaluation criteria.
7. Executive director approves final selection.
8. Project manager notifies winning and unsuccessful bidders, and then contract administrator begins the contract process with the City Attorney’s Office.

**Source:** Auditor’s Office analysis of information provided by the Department of Public Works.

**Note:** *If a request for qualifications includes a multi-step process, the selection committee chooses a shortlist of vendors to proceed on to the request-for-proposals process. The shortlist must include at least three vendors if more than three proposals are submitted.*
While our audit found many Public Works policies and procedures were well-designed and generally adhered to by department personnel, we noted the department was missing key documentation to verify contracts were awarded appropriately. Either management had not defined all procedural steps to mitigate identified risks, or management had not identified a risk and, thus, had not developed associated policies and procedures to address it.

Public Works’ policy requires various approvals to be retained for all expenditure contracts the department administers. Portfolio or division managers must approve competitive contracts for solicitation. The hierarchy for the department’s management is depicted in Figure 3.

According to the City’s Executive Order 8, a justification is required from the agency when amendments to contracts make the contract term last longer than three years. Additionally, Executive Order 8 requires all noncompetitive contracts to be justified. The executive director of Public Works must approve both types of justifications. These approvals help ensure Public Works personnel cannot procure contracts without the knowledge and authorization of the appropriate authority. However, auditors observed gaps in the prescribed process when controls are not always followed, as depicted in Figure 4 on the following page.

FIGURE 3. Department of Public Works’ Management Hierarchy for Procurement Approvals

Source: Auditor’s Office analysis of information provided by the Department of Public Works.

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43 Executive Order 8 also requires justifications when the original contract is longer than three years.

FIGURE 4. Gaps Identified in Department of Public Works’ Procurement of Noncompetitive Contracts

**HOW PUBLIC WORKS’ JUSTIFICATIONS AND APPROVALS PROCESS SHOULD WORK**

Project manager develops, and portfolio manager approves, a project and its scope of work.

Project manager creates a justification for an exception to the competitive bid process or for an amendment that extends the contract term past three years.

Project manager, through division manager, seeks and obtains executive director’s approval.

Project manager obtains a quote from a vendor.

Project manager submits approved project and scope of work, as well as approved justification, to contract administrator.

Contract administrator reviews submitted documents for authorization.

Contract administrator confirms authorization, files documents, and initiates contract-writing process.

**GAPS AUDITORS OBSERVED IN THE PROCESS**

In some cases, the project manager did not know a justification was needed.

In some cases, the project manager did not obtain approval for the justification.

Contract administrators are not required to review documentation for compliance with applicable regulations. Without this review, contract administrators were unable to identify they needed to request justifications and approvals.

Management did not perform periodic sample reviews to help ensure adherence to policies and identify process errors.

**Source:** Auditor’s Office analysis of information provided by the Department of Public Works.
We tested a sample of 28 competitive contracts, 15 noncompetitive contracts, and 13 contract amendments, as shown in Table 3 and using the methodology discussed in the appendix.

From among that sample of 56 Public Works contracts and amendments, we found one competitive contract, four noncompetitive contracts, and two contract amendments were not approved in accordance with procedures described above. Additionally, while three contract amendments that extended the contract beyond three years had approved justifications for this longer term, these justifications were not reasonable. Among these seven contracts, four were procured by contracting authorities outside of the contract administration team.

<table>
<thead>
<tr>
<th>Contract Procurement Type</th>
<th>Total Population of Contracts</th>
<th>Sample Size of Contracts Tested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Competitive</td>
<td>163</td>
<td>28</td>
</tr>
<tr>
<td>Noncompetitive</td>
<td>40</td>
<td>15</td>
</tr>
<tr>
<td>Contract Amendments</td>
<td>59</td>
<td>13</td>
</tr>
<tr>
<td>TOTAL</td>
<td>262</td>
<td>56</td>
</tr>
</tbody>
</table>

**Table 3.** Number of Department of Public Works’ Expenditure Contracts, by Type

*Source:* Auditor’s Office analysis of Alfresco data.

*Note:* This analysis reflects data downloaded from Alfresco, the City’s contracts database, for expenditure contracts executed for the Department of Public Works between January 1, 2017, through October 1, 2018.

**Decentralized Contracting Practices Lead to Missing Approvals**

Of the seven contracts lacking proper approvals, we specifically noted the two contracts procured by Public Works’ wastewater accounting division lacked appropriate authorization. The first, a competitive contract, did not have managerial approval for the solicitation. The second, a noncompetitive contract, did not have appropriate justification from the executive director of Public Works. When we requested these approvals, we learned the wastewater accounting team did not understand the responsibilities involved in securing approvals and did not understand what documentation is required. The Public Works Department has a team of 14 contract administration personnel who understand the processes and key controls for contract procurement, but this team was not used for these procurements.

A centralized purchasing division with trained procurement staff is key to an organization’s operations, as described by The Institute for Public
We found the North Denver Cornerstone Collaborative had described the vendor’s political contributions to the City as one of the justifications for why that vendor should be exclusively contracted. Procurement. The institute recommends that authority for contract procurement be reviewed periodically, because such authority may have been designed for an outdated organizational culture. As Public Works has a team of trained procurement staff, the department would benefit from keeping the contract procurement function solely within this team.

Another noncompetitive contract—which Public Works contract administrators procured for a separate contracting authority, the North Denver Cornerstone Collaborative—did not have appropriate approval and review. A single employee of the collaborative had signed the justification request document twice, and there was no higher-level approval either from within the collaborative or from Public Works. This document was also not in compliance with Public Works’ policy for noncompetitive contract procurement as it was not approved by the department’s executive director.

When we reviewed the justification for this vendor selection, we found the collaborative had described the vendor’s political contributions to a Denver bond initiative as one of the reasons that the vendor should be exclusively contracted. An excerpt of the justification document is provided in Figure 5.

As described in Finding 1, government contracts should not be awarded to “insiders” with an unfair advantage. However, this contract demonstrates apparent favoritism to a vendor who has

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**FIGURE 5.** Excerpt of North Denver Cornerstone Collaborative’s Justification Form for Noncompetitive Contract

What additional information would you like to present in support of your “Solo Source” justification?

Linhart Public Relations is based in Denver and has been in business since 1996. The firm qualifies as a woman-owned business. Linhart PR is an active participant with civic and business organizations including the Downtown Denver Partnership, the Denver Metro Chamber of Commerce and the Colorado Association of Commerce and Industry. The firm is well-known for its financial support of arts and pro bono services contributions to organizations and initiatives such as the 2017 Denver Go Bond campaign and the 2008 Democratic National Convention Host Committee. Florence Crittenton Services and Mile High United Way.

The Purchasing Division shall review this justification for compliance with applicable law and may require additional information from the agency. From the suggested vendor or alternative vendors or from trade associations, industry experts or other appropriate sources. In some instances, the Purchasing Division may request review of the “sole source” request and supporting documentation by the Office of the City Attorney.

Source: Department of Public Works documentation.

Note: Auditor’s Office staff added the dashed, red emphasis above.

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46 The North Denver Cornerstone Collaborative is the City agency charged with planning and coordination among the Globeville, Elyria, and Swansea neighborhoods. The collaborative is currently the only agency with its own signing authority that Public Works helps to procure contracts.

contributed financial support to a Denver bond initiative and other causes.

In 2017, Public Works also processed an amendment for an engineering consulting contract on behalf of North Denver Cornerstone Collaborative. This third amendment to a 2014 contract had no justification for extending the contract beyond three years. The original contract, for the first phase of the project, was valued at about $775,000. Two of the three amendments increased the contract value by about $2.1 million for the second phase of the project.

Without enforced and centralized authority, there is greater risk that appropriate contracting protocols will not be followed and that the City may procure contracts without proper authorization. Proper authorization ensures City agencies do not use tax dollars for unnecessary or unfunded contract expenditures. Additionally, when Public Works is tasked with contract procurement for other agencies and the contracting authorization is not clearly defined, Public Works takes some level of ownership and may not be able to enforce best practices that help mitigate errors and misuse. Failure to adhere to the policies and procedures of Public Works when using Public Works’ contracting authority may also lead to actual or apparent favoritism in contract procurement, which could put the City at risk of a lawsuit.

Therefore, we offer the following recommendations to strengthen Public Works’ contract authority.

### RECOMMENDATION 2.1

**Centralize Contract Procurement Process** – The Department of Public Works should centralize its contracting processes within its contract administration team to ensure other divisions within the department do not deviate from the centralized team’s procurement procedures and so the team’s expertise is maximized for the benefit of the department.

**Agency Response: Agree, Implementation Date – 120 days**
RECOMMENDATION 2.2

Establish Policies for Contracting Authority – The Department of Public Works should establish and document policy to ensure adherence to applicable laws and regulations, as well as Public Works’ internal procedures, when the department procures contracts for any external agency that has its own contract-signing authority as the department may not otherwise be able to mitigate contract procurement risks.

Agency Response: Agree, Implementation Date – 120 days

Public Works Has Not Designed Controls for Monitoring Compliance with Policies and Procedures

In addition to the four contracts procured without full authority of the Public Works contract administration team, three other contracts procured by this team lacked proper approvals. There was no required justification for two noncompetitive contracts and one contract amendment; therefore, the executive director of Public Works did not approve these exceptions to competitive procurement. Auditors also found two properly approved but unreasonable contract amendment justifications. For these two amendments, the only justification given was that a renewal option existed in the original contract.

While we observed many of the contracts procured by Public Works were appropriately approved, there are still ways to procure contracts without authorization. For instance, it is possible that project managers may request a contract without submitting the required approved justification, and contract administrators may not be aware that a contract is an amendment extending the term past three years or is a noncompetitive procurement. Public Works’ contract administration team does review documentation, but there is no higher-level review for completeness and accuracy.

According to best practices for risk management, as defined by the Committee of Sponsoring Organizations of the Treadway Commission, “ongoing evaluations ... are built into the organization’s business processes at varying levels [to] provide timely information.” Periodic management review should also be used to mitigate risks and inform operations.48 This means that, when possible, processes should be

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designed to automatically detect errors and when automatic detection is not possible, periodic review of key processes and documentation should be performed to identify and address risks of errors and fraud.

In the case of noncompetitive contract procurement, for example, business processes should be designed to ensure there is a justification document uploaded to a system of record for each noncompetitive contract. As well, instituting a periodic review of a sample of these justifications would allow management to determine how often justifications were complete and authorized. However, Public Works does not have a process in place for contract administrators to review all available documentation to determine if a contract requires justification and approval because of amendment or noncompetitive processes.

Public Works is at risk of contracting unfairly, as there is the opportunity for personnel to subvert the approval process and contract with preferred vendors. This risk could also lead to the City not receiving the best value for dollars spent because these contracts are not competitive.

Because Executive Order 8 and Public Works’ policies require justifications and approvals for certain contracts for the benefit of the City, we offer the following recommendation.

**RECOMMENDATION 2.3**

Update Policies and Procedures for Required Justifications – The Department of Public Works should update its policies and procedures to ensure properly approved justifications for noncompetitive procurements and for contracts longer than three years. These procedures should include a documented secondary review that justifications are collected and are reasonable.

Agency Response: Agree, Implementation Date – 120 days following publication of revised Executive Order 8
Public Works Lacks Guidance to Select On-Call Contractors and Evaluate Solicitations Receiving Only a Single Response

While Public Works has established policies and procedures for many of its key contracting procurement processes, audit work revealed two processes with insufficient or nonexistent policies. First, the existing procedure for selecting contractors from on-call pools is established for only one type of contract and is incomplete. Second, there is no procedure to evaluate the cause and potential issue when solicitations receive only one response.

Contractor Selection through a Mini-Bid Process – There are many on-call contracts administered by Public Works that are monitored by project and portfolio managers across the agency with no centralized management. Many of these contracts are in an on-call contract pool, where multiple contractors are available for the same type of work. Yet Public Works has no complete policy for how to choose from among contractors in such a pool.

Specifically for the mini-bid process, Public Works has developed a policy for on-call pools for professional services. This process requires two or three contractors to be selected for a request for a mini-bid on all work estimated to cost more than $100,000 or that involves multiple City agencies. But there is no procedure for deciding which two or three contractors are selected or which criteria is used to evaluate these mini-bids.

A recent Auditor’s Office examination of Public Works’ on-call contract with Halcyon Construction Inc. found that while some on-call contracting procedures are defined in the on-call contracts themselves, they are not always followed. The examination found the on-call selection policy was not formalized, which made it look like Public Works did not comply with the contract procedures for on-call selection. While the examination of the Halcyon on-call contract recommended that Public Works’ processes be enhanced to ensure adherence to contracts, a formalized, departmentwide policy—with complete procedures—would also benefit Public Works.

Federal regulations state on-call contracts should have specific procedures for selecting from a pool of contractors, including appropriate evaluation methods. These procedures should be developed in time to be published in the solicitation. This increases transparency of the process and helps mitigate the risk that contractors might view the process as inequitable.

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Evaluation of Solicitations Receiving a Single Response – Public Works’ policies do not address what steps the department should take to determine why a solicitation might have returned only one response. We found that, among the contracts tested, one contract was awarded to the only bidder on the solicitation. Public Works explained some projects funded through federal grants may require further investigation, but there is no such requirement for City-funded projects.

It is the policy of the General Services Department’s Purchasing Division that additional steps are required when only one responsive bid is received for a solicitation. These steps say an award may be made if the purchasing director determines the price submitted is fair and reasonable and that other vendors had reasonable opportunity to respond to the request for proposals. If agency personnel determine the price is not reasonable or that ample time was not provided to allow for additional bidders, the proposal can be rejected. In that case, either a new solicitation can be made, the procurement can be canceled, or an award can be made as an emergency procurement if there is no time to resolicit or if resoliciting for bids would not yield additional responses.

Federal regulations also outline similar steps as the Purchasing Division does.51 These steps in the federal code include ensuring reasonable efforts are made to ensure more than one bid is received, the scope of work is not overly restrictive, and the price is reasonable.

Without evaluating solicitations that receive only one response, Public Works may not identify shortcomings in its procurement processes. This could result in reductions to its competitive pool of contractors and ultimately limit cost-savings for the City, as otherwise responsive bidders may not submit bids because of those shortcomings.

For appropriate monitoring of on-call pool selections and of solicitations that receive only a single response, we offer the following recommendation.

RECOMMENDATION 2.4

Create Policies and Procedures for On-Call Pools and Single Responses – The Department of Public Works should create policies and procedures for making selections from all types of on-call pools and for requirements when a solicitation receives a single response. These policies should include a requirement for monitoring by management to ensure adherence to policies and procedures and a requirement for documenting that monitoring.

Agency Response: Agree, Implementation Date – 180 days

Documents to Validate the Selection of Vendors Are Not Always Available

Public Works has policies and procedures for how selection committees should establish evaluation criteria and how they should perform that evaluation of potential contractors. There are also policies and procedures for verifying contractor information—such as business registrations and debarment history—before the selection is finalized and the contract-drafting process begins.

However, key personnel do not always follow these policies and procedures. Additionally, the evaluation of potential contractors is not always documented for reference and assurance purposes.

Evaluation Criteria Agreement and Approval – The processes for requests for qualifications and requests for proposals use selection committees and criteria for evaluating proposals. While basic evaluation criteria are established in policies and procedures, the unique projects or services required by Public Works often require alterations to that standard criteria. However, appropriate management must approve altered criteria.

In our sample of 15 requests for qualifications and requests for proposals, we found one contract in Public Works for which the selection committee had approved alterations to the standard criteria, but used different, unapproved criteria and scoring for the solicitation documents and then used that same unapproved criteria and scoring for the selection committee score sheets.52 Although the difference in criteria was small, Public Works did not discover this during its contracting process, because there is not a formal process to review the accuracy of selection committee criteria.

52 Our sample of 28 competitive contracts in Public Works included 15 requests for qualifications and requests for proposals and 13 hard bids. Hard bids are not evaluated by a selection committee; the only criteria used is the price.
Selection Committee Scoring Validity – Public Works has designed a process to ensure all voting members of a selection committee can evaluate the contractors’ qualifications and submitted proposals. These evaluations are compiled, and the final scoring and vendor selection is agreed upon by all committee members in a meeting. However, we found two items out of 15 in our sample when we could not reasonably determine that all selection committee members’ scores were represented in the final selection for a contract.

This occurred because Public Works does not have a requirement for retaining documentation that can either be recalculated for assurance purposes or reviewed for signature approval of the final selection, as shown in Figure 6. When reviewing selection criteria and committee scoring for completeness, we found not all selection committee members completed the evaluation score sheets.

When we asked Public Works officials for further documentation, they explained the evaluation process is finalized during a group meeting.

FIGURE 6. Gaps Identified in Department of Public Works’ Selection Committee Process

<table>
<thead>
<tr>
<th>HOW SELECTION COMMITTEE PROCESS SHOULD WORK</th>
<th>GAPS AUDITORS OBSERVED IN THE PROCESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive director approves selection committee members.</td>
<td>Selection committee may not actually use approved criteria for solicitation and evaluation of a request for qualifications or proposals.</td>
</tr>
<tr>
<td>Selection committee agrees on evaluation criteria and obtains executive director approval.</td>
<td>Final selections and/or recommendations are not consistently documented.</td>
</tr>
<tr>
<td>Selection committee reviews submissions and may also develop interview questions and perform interviews.</td>
<td>Public Works personnel could make errors in scoring documents—which affects the recommendation—without selection committee members knowing.</td>
</tr>
<tr>
<td>Selection committee meets to compile scores and recommend top vendor for selection.</td>
<td></td>
</tr>
<tr>
<td>Project manager submits final recommendation for selection to executive director for approval.</td>
<td></td>
</tr>
</tbody>
</table>

Source: Auditor’s Office analysis of information provided by the Department of Public Works.
after each committee member enters their own evaluation scores into a spreadsheet. Scores are subsequently read out loud for validation and totaled. At the time the scores are compiled, all committee members are present and can review the scoring and the final selection outcome. While this process, in practice, does allow for transparency and limits any single individual’s ability to alter results, there are no formal procedures defining these steps and there is no record of the group’s consensus for a final selection.

**Contracts Are Not Consistently Subject to Vendor Verifications** – All contracts require two verifications, one each from the state and the federal government:

- A “certificate of good standing” from the Colorado Secretary of the State’s Office to verify a contractor’s business information is accurate, and
- The federal System for Award Management’s verification for debarment (wherein contractors are banned from federal contracts), which alerts Public Works that a potential contractor has failed to complete work or is in legal proceedings.

From among the 43 competitive and noncompetitive contracts tested, Public Works was unable to provide auditors the certificate of good standing for one noncompetitive contract and the federal debarment verification for one competitive contract and six noncompetitive contracts.

When we asked Public Works about these inconsistencies, the department explained that the federal system through which it reviews verifications is not always functional and a contractor’s insurance and bonding documents often provide mitigating assurance of their ability to complete the work. While we see this may be reasonable, there is a risk of this control failing without a written procedure and documentation requirement for such situations. There is also no secondary review to verify whether the documents were procured or were adequately reviewed.

**Management Has Not Defined All Procedures to Mitigate Risks When Procuring Contracts**

Through our testing of Public Works’ contracts, we concluded Public Works did not always have procedures to ensure adherence to policies for key controls and had not identified some risks or designed mitigating controls.

As described by the Committee of Sponsoring Organizations of the Treadway Commission, evaluation of documentation to determine
validity or errors is vital for operations. Management review should also be performed periodically to identify trends or necessary changes to procedures.53

Without policies and procedures for retention and appropriate review of key documents in a centralized setting, Public Works may not consistently award contracts to the most qualified and appropriate vendors and may reduce the number of competitors willing to work with the City. Public Works is also at risk of being unable to determine errors—intentional or otherwise—in the contracting process without the review and availability of key documentation.

To mitigate the risks associated with insufficient documentation and review, we offer the following recommendation.

RECOMMENDATION 2.5

Update Policies and Procedures for Contract Procurement (Public Works) – The Department of Public Works should update its existing contract procurement policies and procedures to ensure all required documentation is adequately approved, reviewed, and retained. Specific procedures that need more detail include but may not be limited to: verifying selection criteria, documenting scoring decisions, and checking debarments and certificates of good standing. The policies and procedures should assign responsibilities for monitoring and should include a requirement for documenting that monitoring.

Agency Response: Agree, Implementation Date – 180 days following publication of revised Executive Order 8

FINDING 3

Some Elements of the Department of Parks and Recreation’s Policies and Procedures Are Inadequate or Not Followed

The Department of Parks and Recreation’s competitive contract procurement process is similar to the one at the Department of Public Works, but Parks’ processes are also unique in some respects.

Auditors found, in general, Parks had created sound policies and procedures for processing requests for qualifications and requests for proposals, for managing contract administration, and for managing on-call contracts. As with our analysis of Public Works, though, auditors identified gaps in Parks’ procurement procedures when the procedures either do not require controls or do not reflect actual controls. The process and identified gaps for Parks are illustrated in Figure 7 on the following page.

We reviewed Parks’ procedures against best practices and evaluated them based on detailed testing of a sample of nine competitive bids, 11 noncompetitive selections, and 17 contract amendments, as shown in Table 4 and using the methodology discussed in the appendix. We noted several areas where the department’s policies and procedures are lacking and contradict day-to-day practices.

**TABLE 4. Number of Department of Parks and Recreation’s Expenditure Contracts, by Type**

<table>
<thead>
<tr>
<th>Contract Procurement Type</th>
<th>Total Population of Contracts</th>
<th>Sample Size of Contracts Tested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Competitive</td>
<td>51</td>
<td>9</td>
</tr>
<tr>
<td>Noncompetitive</td>
<td>29</td>
<td>11</td>
</tr>
<tr>
<td>Contract Amendments</td>
<td>74</td>
<td>17</td>
</tr>
<tr>
<td>TOTAL</td>
<td>154</td>
<td>37</td>
</tr>
</tbody>
</table>

**Source:** Auditor’s Office analysis of Alfresco data.

**Note:** This analysis reflects data downloaded from Alfresco, the City’s contracts database, for expenditure contracts executed for the Department of Parks and Recreation between January 1, 2017, through October 1, 2018.
FIGURE 7. Gaps Identified in Department of Parks and Recreation’s Competitive Bid Process

**HOW PARKS’ COMPETITIVE PROCUREMENT PROCESS SHOULD WORK**

1. **Project manager obtains approval to solicit bid from director or deputy executive director via email.** Fiscal administrator approves the request.
2. **Project manager and contract administrator develop request for proposals* and identify selection committee members.**
3. **Project manager develops selection criteria and scoring framework. Then, the contract administrator reviews the scoring framework for fairness and compliance.**
4. **The contract administrator, fiscal administrator, project manager, finance director, and deputy executive director approve the request for proposals.**
5. **Contract administration team publicly advertises the request for proposals.**
6. **Contract administrator reviews if any parts of proposal are missing. If there are, then executive director may approve an exception to allow proposal to still compete.**
7. **After bids are submitted, selection committee members review the proposals and fill out individual score sheets.**
8. **At selection committee meeting, contract administrator consolidates score sheets, ranks vendors, and identifies top-ranked vendor.**
9. **Project manager checks references for top-ranked vendor.**
10. **Executive director approves selection recommendation letter, then City Attorney’s Office drafts contract.**

**GAPS AUDITORS OBSERVED IN THE PROCESS**

- **Email evidence of approval is not obtained.**
- **There is no documentation retained evidencing the contract administrator completed the review.**
- **Evidence of these approvals is not retained in Alfresco.**
- **There are no guidelines describing when an exception should and should not be granted—which creates a risk of unfairness and lack of transparency in the competitive bid process.**
- **While the policy does not reflect the practice of determining the winner in a meeting, this does reduce the risk of the contract administrator potentially manipulating the scores.**
- **No evidence is retained acknowledging review of references unless negative feedback was obtained.**

**Source:** Auditor’s Office analysis of information provided by the Department of Parks and Recreation.

**Note:** *In this graphic, “request for proposals” is used generically and could include requests for qualifications, requests for proposals, and hard bids.*
Parks Does Not Document Its Practices to Approve Solicitations and Requests for Proposals

We found two key stages of the contract procurement process where evidence of approvals was missing—specifically, approvals to solicit and approvals for requests for proposals.

Approval to Solicit – Parks’ policies and procedures require a project manager to obtain—and the fiscal administrator to retain—an approval to solicit from a director or the deputy executive director. During testing, however, we found this step was not performed for all nine competitive contracts tested and that, instead, the agency was relying on several other controls and processes, which are not documented in the policies and procedures.

Parks representatives stated one of their informal controls is periodic meetings between project managers and department management in which upcoming projects are discussed. In addition, project managers submit the project initiation form to the fiscal administrator via email. This email from the project manager is their approval of this request to initiate the process; however, these emails are not organized and we could not verify if all have been retained.

Finally, the fiscal administrator maintains a list of upcoming requests for proposals, or RFPs, which would indicate if an unexpected initiation form is submitted. During testing, we noted all nine project initiation forms for competitive bids were not signed; therefore, we concluded no evidence of project manager approval is retained.

Approvals of Requests for Proposals – For all nine competitive contracts tested, Parks also did not have evidence its RFPs were approved. Approvals are routed in Alfresco, yet we found there is no process to retain the RFP approval evidence in that software system. Instead, Alfresco was designed to wipe out this approval evidence for the RFP once a contract is set up to be approved.54

Contract administration practices evolve over time due to workload, technology changes, and personnel turnover. While Parks’ RFP policy was updated in January 2018, some controls were not identified as “key” or “non-key” controls and, therefore, were either not performed or not documented. Although solicitation authorization was required per Parks’ policies, Parks officials said they did not perform this control because they did not find it helpful.

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54 Additionally, Parks maintains some emails on an internal shared drive. These emails can be vague but do imply the request for proposals is complete and approved for advertising to potential vendors. We noticed some emails applicable to our sample items but did not test these emails as this is not the department’s process to route for approvals.
Yet, the review and approval of RFPs is one of the key controls in the contract procurement process, because the ability to manipulate the requirements of an RFP creates the opportunity to favor a specific vendor. When internal controls are not documented, there is a risk that personnel will not perform the control or not act when irregularities are discovered. When there is no evidence the deputy director or project manager has approved a solicitation initiation, there is a risk unauthorized solicitations might be processed and unnecessary services procured.

This risk is mitigated by the department’s RFP approval requirement. Alfresco does not allow the process to continue until all required approvers have authorized the request for proposals; therefore, even if the solicitation was initiated without authorization, it cannot be advertised without management approvals. However, we were unable to review which individuals in Parks were set up as approvers for selected sample items. As a result, we could not verify whether the RFPs were properly approved by the project manager, fiscal administrator, director of finance, and deputy director as required in Parks’ policy.

Parks Lacks Detailed Guidance for Required Justifications of Noncompetitive Procurements and Contract Amendments

Parks does not have clear policies for situations when the department chooses to not use a competitive contract procurement process, such as for noncompetitive selections and contract amendments.

Written Policies for Noncompetitive Contracts – Parks’ policy defines the process for “sole source” procurement as when supplies or services indispensable to the City can be obtained from only one source. However, there are no detailed procedures describing what steps should be taken to adhere to the policy or identifying the employees responsible for those tasks. In addition, we noted sole source is just one type of noncompetitive contract; therefore, the use of the term “sole source” in Parks’ policy is not accurate.

Without a detailed policy and procedure, noncompetitive procurements without a valid justification can provide opportunities to favor a specific vendor and may result in higher prices, lower quality, and a lack of transparency—all of which would violate the City’s Executive Order 8.

Justifications for Contracts Longer than Three Years – In our detailed testing of 17 amendments, five Parks contracts—with and without amendments—lasted longer than three years. Three of these items had reasonable and properly approved justifications when their amendments extended the contracts beyond the three-year threshold.
One of these justifications was not originally saved with other project documentation, but the fiscal administrator was able to locate it. Two items identified in our sample were original contracts longer than three years, which did not have a justification as required under Executive Order 8B.

Parks officials were not aware their policies lacked sufficient guidance regarding noncompetitive contracts and amendments. They told auditors they were using standard guidance laid out in the City’s Executive Order 8. We noted Executive Order 8B states managers must justify any deviation from City policy, but it does not specify who must provide this justification or specify the timing and approval requirements for that justification.

Further, Parks officials said the required justification for the contracts lasting over three years was not prepared because, at the time, they did not understand the requirement in Executive Order 8B to provide justification in such situations. However, this requirement appears to be unambiguous.

The lack of a valid justification for contracts longer than three years provides an opportunity to circumvent the competitive procurement process.

**Inaccurate Policies Create Confusion over Responsibility for Parks’ Construction Contracts**

While we found Parks’ policies and procedures for on-call contracts were clear and effective in ensuring a fair distribution of work among the on-call vendors, we noted significant inaccuracies related to how construction contracts are handled and whether it is Parks or Public Works that has responsibility for them.

Parks’ on-call policy states Public Works had delegated construction authority to Parks for contracts of up to $400,000. It also states Parks must engage Public Works for construction projects worth more than $450,000. Parks officials explained the gap in the dollar threshold was due to an oversight when the policy was recently updated. Parks officials could not locate documentation describing this delegation of authority but stated there was an old agreement that allowed the department to procure maintenance services. Therefore, the policy incorrectly speaks of construction authority and provides thresholds inconsistent with Parks’ authority.

Under City ordinance, Parks cannot procure any construction contracts without authority from Public Works. In addition, Parks does not have any written documentation of what constitutes “maintenance” versus
“construction.” If those terms are not defined, Parks might not know whether the services it procures are truly for construction, and therefore, whether Public Works ought to procure them instead.

The lack of clarity between Public Works’ and Parks’ responsibilities is due to an evolving relationship and the types of projects these departments undertake. It appears the departments’ top management have not discussed a cooperative approach for years. The only evidence of documented collaboration we found was a 2002 memorandum of understanding between these two departments. Parks officials did not have a copy of the memorandum at the time of our audit and, thus, were not using it. Parks officials stated their project managers regularly communicate with Public Works’ project managers about upcoming projects, which should help both parties to identify construction projects.

Incorrect or inadequate procedures create opportunities for Parks to procure construction services—which is not allowed per City ordinance, may violate construction codes, and may result in inefficiencies and higher costs.

Parks’ Practice for Selecting Winning Bidders Is Not Correctly Documented in Policy

Parks’ policies do not accurately reflect its practices for determining the winning bidder for a contract.

Department policies say the contract administrator should consolidate the selection committee’s individual score sheets to determine the top-ranked bidder after the committee meeting. The project manager is then supposed to verify the top bidder’s references, and the fiscal administrator should then review that bidder’s documentation.

However, because the score sheets are typically electronic and not signed and because there is no evidence of the fiscal administrator’s review, auditors were initially concerned the contract administrator could manipulate the scores when consolidating the score sheets. We learned that, while the contract administrator compiles the scores, the actual process is for the selection committee to discuss scores and determine the top-ranked vendor during the committee’s meeting. As the project manager is a member of the committee, they are aware of whom the committee selects as the top-ranked vendor. Therefore, there is no opportunity for the contract administrator to change that outcome. However, this process is not accurately documented in Parks’ policy for requests for proposals.
Additionally, project managers do not have a process to consistently document what they learn during reference checks. If they know the vendor, they do not perform reference checks; if they do not know the vendor, they check references and document only negative feedback. Moreover, we learned the contract administration team does not have a process to obtain and retain evidence the project manager has checked the top-ranked vendor’s references.

Parks’ policies and procedures do not specify that this reference check must be documented and reviewed by management. As a result, this step may be overlooked, and the City may contract with subpar vendors.

**Parks Lacks a Written Procedure for Addressing Incomplete or Missing Items in Bid Proposals**

When proposals are incomplete or contain discrepancies, Parks must evaluate whether the missing or incorrect items—called “nonresponsive items”—can be waived and whether an exception can be granted.

However, this evaluation process is not sufficiently detailed in Parks’ policy for requests for proposals, which says proposals with nonresponsive items must be evaluated with others in case these nonresponsive items are deemed insignificant. The executive director must waive nonresponsive items in a letter. However, the policy does not specify who is responsible for documenting these items or what types of items are “significant.”

Parks officials said, in practice, a contract administrator notes what is missing upon receipt of a vendor’s proposal and, together with the fiscal administrator, the contract administrator evaluates what incomplete items might be waived. This decision then is reviewed and approved by the executive director.

Parks officials said no detailed guidance was included in the policy, because there are many different scenarios difficult to capture in the policy. However, a lack of clear guidance can lead to favoritism, either in actuality or in appearance, which could compromise the integrity of the bidding process.

**Parks’ Policies Do Not Detail Procedures for Bid Protests**

Parks’ policies also do not describe any procedures in case a bidder protests a procurement decision or complains about the contract procurement process. Parks officials told auditors the Colorado Open Records Act and the procedures described in department policies for Parks’ debriefing process are sufficient to address any concerns.
regarding the fairness and effectiveness of the contract procurement process.

The “debrief” is when department representatives meet with and provide feedback to the unsuccessful bidders after a contract is signed with the top-ranked vendor. Meanwhile, the Colorado Open Records Act allows any member of the public to request public records from the City, such as certain documentation related to the bidding process.

Although these avenues would allow the vendors to receive feedback and review other proposals, neither the state open records law nor the department’s debriefing process prescribe what should be done in case a vendor questions the fairness of the process. Additionally, neither prescribes how Parks might use such a protest to improve its procurement process in the future.

**Parks Lacks Procedures for Solicitations Yielding Only One Response**

Similar to the circumstances we described for Public Works, Parks’ policies do not address situations when there is only one proposal received in response to a bid solicitation.

For Parks, we found one such procurement in our sample of nine competitive contracts that had no analysis of the service’s value and whether the procurement method was effective.

Parks officials said they have no additional procedures regardless of how many proposals are received. This means when a single response to a solicitation is received, Parks has no opportunity to compare qualifications, types of services, and prices between competitive proposals, and to evaluate whether a bid is a good value.

A single response can indicate the solicitation may have been too restrictive, it was drafted to exclude other vendors, it was insufficiently advertised, or that there was perhaps only one vendor in the market and the solicitation itself was unnecessary. In other words, a single bid response could indicate Parks' solicitation process is insufficient or that the service should be solicited again.

Each of these issues identified in Parks’ procurement processes could be addressed by having more comprehensive policies and procedures, as outlined in several leading practices.

- The U.S. Government Accountability Office recommends organizations design control activities—which, as mentioned, are policies, procedures, techniques, and mechanisms to help
achieve the organization’s objectives and address identified risks.\(^{55}\)

- The Institute for Public Procurement also has best practices that strongly recommend organizations create comprehensive policies for procurement. This ensures procurement professionals, agencies, and other stakeholders follow proper procedures consistently and that procurement decisions are—and appear to be—fair and transparent.\(^{56}\)

- More specifically, The Institute for Public Procurement recommends establishing a publicly available policy and process to investigate protests openly and thoroughly. Conducting an assessment after resolving the protest helps improve the procurement process.\(^{57}\)

- Within Denver government itself, Executive Order 8B says City employees must exercise strong financial stewardship and procure goods and services in a fair, open, and competitive market. This helps maintain the quality of government services, control costs, and promote transparency. As previously described, City ordinance and Executive Order 8 require agencies to follow competitive procurement requirements, aside from a few allowed exceptions.\(^{58}\)

- And specifically regarding solicitations receiving only one responsive bid, both the policy manual for the General Services Department’s Purchasing Division and federal regulations offer relevant guidance and best practices, as detailed in the previous finding.\(^{59}\)

Without adequate contract procurement and on-call policies and procedures, Parks cannot ensure a fair and equitable procurement process was used to obtain the best value for the City.

Therefore, we make the following recommendation to address these risks.


RECOMMENDATION 3.1

Update Policies and Procedures for Contract Procurement (Parks) – The Department of Parks and Recreation should update its policies and procedures to address noncompetitive procurement, documentation of approvals and reference checks, solicitations yielding only one response, protests, and nonresponsive items. The policies and procedures should assign responsibilities for monitoring and should include a requirement for documenting that monitoring. These policies should also clearly define the roles and responsibilities between the departments of Public Works and Parks and Recreation regarding construction and maintenance contracts.

Agency Response: Agree, Implementation Date – 120 days after Executive Order 8 revisions are published
FINDING 4

The Department of Public Health and Environment Lacks Comprehensive Policies and Procedures for Its Contract Procurement

The Department of Public Health and Environment has minimal written policies and procedures and decentralized contract procurement. We found some contracts were missing approvals to solicit, lacked analysis when a single proposal is received, were missing scoring rationale, and did not have adequate justifications for noncompetitive contracts and contract amendments.

The contract procurement process in Public Health is quite similar to the basic procurement process as described in the Background section and illustrated in Figure 1 on page 3.

Public Health has seven divisions, as illustrated in Figure 8, and they each use different procedures for procurement. Some have written policies, while others use only General Services’ Purchasing Division for their procurement.

FIGURE 8. Department of Public Health and Environment Organizational Chart

Public Health’s Environmental Quality Division operates using enterprise funds and has its own contracting policies and procedures, as well as a contract administrator. Environmental Quality’s procurement policy is the most substantial, but it still lacks guidance for various parts of the

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60 An enterprise fund is a fund for a specific purpose that is separated from the City’s general funds. Enterprise funds are funded by fees originating from the services an agency provides, and the dollars can be spent only on the specific purpose they are designated for, such as environmental quality. The Environmental Quality enterprise fund is funded from landfill tipping fees at the Denver Arapahoe Disposal Site Landfill in Aurora.
process, such as noncompetitive procurement, nonresponsive items, and the whole process for collecting and evaluating proposals, among other gaps.

The Office of HIV Resources, within the department’s Community and Behavioral Health Division, has an officewide policy and procedure for procurement, but the document includes only a small section on contracting. The office awards expenditure contracts to grant subrecipients and uses selection and documentation requirements for specific grants. This division also has a contract administrator on staff.

The other five divisions in this department—Denver Animal Protection, the Division of Public Health Inspections, the Division of Administration, the Office of Sustainability, and the Office of the Medical Examiner—did not have any written policies and procedures for contract procurement at the time of our audit. Between 2011 and April 2018, none of the five had a contract administrator to oversee their procurement. Department officials said three of these divisions (Denver Animal Protection, the Office of the Medical Examiner, and the Office of Sustainability) procure contracts only via General Services.

Because the Department of Public Health and Environment does not have comprehensive agencywide policies and procedures, we gained an understanding of its procurement process by reviewing the Environmental Quality Division’s policies and procedures and by interviewing employees. In addition, when we designed our testing of the agency’s contracts, we consulted leading practices and citywide requirements to identify the key processes that should be a part of a fair and transparent contract procurement.

We tested a sample of nine competitive contracts, 15 noncompetitive contracts, and 15 contract amendments, as shown in Table 5 and using the methodology discussed in the appendix.

<table>
<thead>
<tr>
<th>Contract Procurement Type</th>
<th>Total Population of Contracts</th>
<th>Sample Size of Contracts Tested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Competitive</td>
<td>54</td>
<td>9</td>
</tr>
<tr>
<td>Noncompetitive</td>
<td>41</td>
<td>15</td>
</tr>
<tr>
<td>Contract Amendments</td>
<td>68</td>
<td>15</td>
</tr>
<tr>
<td>TOTAL</td>
<td>163</td>
<td>39</td>
</tr>
</tbody>
</table>

Source: Auditor’s Office analysis of Alfresco data.

Note: This analysis reflects data downloaded from Alfresco, the City’s contracts database, for expenditure contracts executed for the Department of Public Health and Environment between January 1, 2017, through October 1, 2018.
Based on that testing, we noted the following concerns:

**Missing Approvals to Solicit** – Policies and procedures under the Environmental Quality Division say initiation for new contracts and amendments need prior approval from the supervisor and division director. As this is consistent with the leading practices, we included this attribute to test for all Public Health divisions.

During our testing of the nine competitive contracts, we identified six contracts awarded by the Environmental Quality Division that were approved for solicitation through emails or forms, in addition to officials having gathered information about what was needed and who could provide the good or service. The remaining three contracts were procured by the other divisions and did not have documentation for their solicitation approvals.

**No Analysis when a Solicitation Receives a Single Response** – Among the nine competitive contracts, we found one instance of a solicitation receiving only one bid. However, the agency did not perform an analysis to ensure the proposed price was fair and reasonable. Again, as detailed in previous findings, both the policy manual for the General Services Department’s Purchasing Division and federal regulations offer specific guidance and best practices on how Public Health should respond when only one response is received for a solicitation.61

**Lack of Scoring Rationale** – We found a lack of transparency in Public Health’s process for selection committees’ evaluations and bid score documentation. Across all divisions, we noted inconsistencies in the level of detail provided for scoring competitive bids. In one instance out of the nine competitive contracts tested, we examined scores from four committee members who were all provided the same guidelines. Points awarded by committee members varied by as much as 40 points (out of a possible 100) when evaluating the same vendor, but only one committee member justified their scores.

Best practices from The Institute for Public Procurement strongly recommend that when committee members evaluate proposals, they provide rationale or justification for their scores.62 Without scoring rationale included in the evaluation report, Public Health lacks the contextual information necessary if a vendor protests the selection committee’s decision.

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Inadequate Justification for Noncompetitive Procurement - As discussed, Executive Order 8B requires written justification when the head of an agency grants an exemption to the competitive process. However, we identified two instances out of 15 when either documentation for a justification did not exist or the documentation did not contain the department head’s signature authorizing the noncompetitive procurement.

Lack of Justification for Contract Amendments – The City’s Executive Order 8B requires justifications also be provided for any contract lasting three years or more. Yet, during our review of contract amendments for Public Health, we identified two contracts out of 15 that lasted more than three years and did not include the required justification. The reason the executive order requires justification for extending contracts is to ensure the City engages in fair and reasonable pricing and allows adequate competition to take place.

The reason for these issues was the department’s lack of comprehensive policies and procedures. Specifically, there was no standard process to ensure all relevant and required documentation was retained.

Additionally, in 2011, most contract administrators from Public Health were transferred to work for accounting services within the City’s Controller’s Office. Two contract administrators remained in Public Health and were assigned to work for two specific divisions: the Environmental Quality Division and the Office of HIV Resources within the Community and Behavioral Health Division.

This lack of policies, procedures, and contract administrators resulted in:

- A variety of procedures, documentation requirements, and document retention practices in different divisions, which led to inconsistent documentation requirements and no monitoring of documentation. In some cases, the employees responsible for originating a contract no longer work for Public Health, making it impossible to locate a document.
- Potentially no guidance or supervision for portfolio managers procuring contracts, which creates a risk these contracts were not procured in compliance with citywide policies. This could lead to favoritism of a specific vendor, lower quality and/or higher costs for services and goods procured, and a lack of transparency in the selection process.

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• A risk of low participation or unreasonable prices for solicitation, because Public Health does not perform additional steps when a competitive bid receives only one responsive bidder.
• A risk of higher prices for goods and services, because Public Health extends some contracts through amendments without authorized and/or documented justification.

Therefore, we make the following recommendation to address these risks.

**RECOMMENDATION 4.1**

**Establish and Follow Policies and Procedures for Contract Procurement (Public Health)** – The Department of Public Health and Environment should complete comprehensive, departmentwide policies and procedures for contract procurement. The policies should include, but not be limited to, guidance for approvals to solicit, analysis of single-bid responses, scoring rationale requirements, justifications for noncompetitive selections, and reasonable justification for contracts lasting over three years. The policies should also state who is responsible for implementing, monitoring, and documenting compliance with these policies.

**Agency Response:** Agree, Implementation Date – Draft: December 31, 2019  
Final: 120 days following the publication of Executive Order 8
FINDING 5

Agencies Do Not Have Guidance to Perform Data Analytics and Ensure Confidentiality of Proposals

City agencies procuring goods and services should safeguard confidential information and implement controls to detect unusual trends. Data analytics can provide multiple benefits in addition to detecting situations of unfair procurement.

We found none of the three agencies audited—the departments of Public Works, Parks and Recreation, and Public Health and Environment—had adequate procedures for periodic review of related data or for ensuring confidentiality of proposals.

Contract-Related Data Analytics Are Not Used to Ensure Fairness of the Procurement Process

As part of having an effective internal control system that can identify and address risks in the procurement process, organizations can analyze contract procurement data to identify actual or apparent conflicts of interest, inefficiencies, errors, excessive costs, and other irregularities.

Data for contracts and amendments could be analyzed to identify excessive amendments; relationships among vendors, consultants, project managers, and other City employees who have influence over the contract procurement process; consistently low rates of response to certain solicitations; or whether a single vendor is securing certain types of competitive or noncompetitive contracts over multiple years. For example, data can be analyzed to determine whether a project manager favors a particular vendor or tends to excessively request noncompetitive contracts or contract amendments, which could be indicative of fraud.

In our audit work, we found that none of the three agencies we assessed are analyzing contract data or have any requirements to do so within their policies and procedures.

The departments of Parks and Recreation and Public Health and Environment have not done this because of a lack of reliable centralized data. Parks officials stated they lacked resources to perform analytics. Meanwhile, Public Works officials said they do have reliable data but they do not track in those data sets who the project managers are for particular contracts.

Parks and Public Health, as well as Public Works, also have not considered data analytics to address the risks of either fraud or
ineffective contract procurement procedures. Department officials relied on the existing policies and procedures, such as various approval levels, to address these risks.

A 2017 Denver Auditor’s Office audit of contract controls in Alfresco found that data in Alfresco was not reliable as agency employees inconsistently enter data. Agencies have the capability to create and maintain accurate data, because their personnel are the ones entering the data in Alfresco for their agency’s contracts and they know other information not tracked by Alfresco. In response to our 2017 audit, the Mayor’s Office committed to training employees who enter data and to implementing application controls over certain data fields in Alfresco. However, because the data in Alfresco was still unreliable at the time of this current audit, we chose to not clean it up and, therefore, did not perform data analytics as part of auditing the City’s contract procurement processes.

Several organizations recommend performing data analytics as a best practice. Both the Committee of Sponsoring Organizations of the Treadway Commission and the U.S. Government Accountability Office have published guidance recommending data analytics as a fraud detection and prevention strategy. Additionally, a 2017 report on managing fraud risks from the Auditor General of Canada also said organizations must have internal controls, such as data analytics procedures, to detect unusual transactions. Unusual transactions identified by Canada’s auditor general included contract-splitting to circumvent thresholds, unusual amendments, and “sole source” procurement without a valid justification. Our office previously analyzed the practice of contract-splitting in the City and County of Denver and reported our findings in a December 2017 audit discussing contract controls in Alfresco.

By not conducting data analyses for trends and unusual activity, the City—and specifically the three agencies we assessed—may fail to detect and address unusual items. Unusual items may indicate actual or apparent conflicts of interest, ineffective processes, or higher costs. Therefore, we make the following recommendations to each agency.

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RECOMMENDATION 5.1

Analyze Contracts Data (Public Works) – The Department of Public Works should establish and document a process to analyze data and identify and address unusual items in the contract procurement process.

Agency Response: Agree, Implementation Date – December 31, 2019

RECOMMENDATION 5.2

Analyze Contracts Data (Parks) – The Department of Parks and Recreation should establish and document a process to analyze data and identify and address unusual items in the contract procurement process.

Agency Response: Agree, Implementation Date – December 31, 2019

RECOMMENDATION 5.3

Analyze Contracts Data (Public Health) – The Department of Public Health and Environment should establish and document a process to analyze data and identify and address unusual items in the contract procurement process.

Agency Response: Agree, Implementation Date – December 31, 2019

Agencies Lack Written Policies and Procedures to Ensure Confidentiality of Proposals

City agencies should have controls to ensure confidentiality over both electronic and paper copies of bid proposals, especially before all proposals have been received and the solicitation period has closed. However, we found the departments of Public Works, Parks and Recreation, and Public Health and Environment do not address confidentiality of bid proposals in their policies and procedures.

Regarding the safeguarding of paper copies of proposals, Parks officials said vendors occasionally submit proposals as paper copies. They also said the contract administrator secures their paper copies, and then those paper copies are distributed to the selection committee members, collected after the review period, and shredded. Public Health officials stated that all their proposals are received electronically.
At Public Works, hard bids are submitted through physical paper copies on the day the bids are opened. Therefore, there is no opportunity for anyone to inappropriately obtain and disclose confidential information prior to the due date. Because the winner for a hard bid is the responsive and responsible bidder with the lowest price and because the prices are publicly announced, there is no risk of inappropriate disclosure. For requests for proposals, Public Works officials stated it is the responsibility of the project manager to secure hard copies of proposals the project managers possess.

There are also risks for electronic copies of proposals. Public Health’s bidding platform, eCivis, does not secure submitted proposals in the system before the solicitation period is closed. The other bidding platform both Public Health and Parks use is BidNet, which has a lockdown feature to ensure confidentiality.

In Public Works, electronic proposals are submitted on flash drives to the department’s contract administration team. Vendors typically deliver their proposals on the day the bid closes, but the proposals can sometimes arrive a few days before. The responsible contract administrator holds and has access to the delivered copies until the bidding deadline. Until 2019, the contract administrator would save them in a shared folder on the City’s network accessible to all Public Works employees. The files were disseminated via these shared folders to the project manager and to the Division of Small Business Opportunity within the Denver Economic Development & Opportunity office. The contract administration team said that it secured its procurement folder on the network in early 2019 and that the folder is now available only to team members.

Although management of these three departments recognize the general risk of inappropriate disclosure, none of the departments took action to establish and document internal controls required to mitigate the risk. Internal controls were not designed because management thought that the need to safeguard confidentiality was common knowledge.

The Institute for Public Procurement emphasizes organizations must ensure the integrity of the sealed bid process. Specifically, the bidding system that receives vendor proposals must have sufficient controls to ensure security of those proposals. Organizations must examine technology used for bidding to ensure such controls are in place.68

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When requirements for a bid’s confidentiality are not documented and accompanying procedures are not established, there is an opportunity for inappropriate access—whether intentional or unintentional—to the confidential proposals. If an employee were to access confidential proposal information and distribute it to other vendors before the solicitation period closed, those other vendors would have an advantage in the bid process and the process itself would not be fair and transparent.

Although Public Health is not planning to use eCivis going forward, there is a risk that confidentiality of past proposals might have been compromised. We did not assess whether breaches of confidentiality occurred, but no evidence of such activity came to our attention during this audit.

**RECOMMENDATION 5.4**

**Ensure Confidentiality of Proposals (Public Works)** – The Department of Public Works should identify specific risks in the procurement process related to confidentiality of proposals—including, but not limited to, access to proposals prior to solicitation deadlines—and create internal controls within policies and procedures to mitigate these risks. The department should also consider the implications of confidentiality requirements for later stages of the contracting process.

**Agency Response:** Agree, Implementation Date – 120 days following publication of revised Executive Order 8

**RECOMMENDATION 5.5**

**Ensure Confidentiality of Proposals (Parks)** – The Department of Parks and Recreation should identify specific risks in the procurement process related to confidentiality of proposals—including, but not limited to, access to proposals prior to solicitation deadlines—and create internal controls within policies and procedures to mitigate these risks. The department should also consider the implications of confidentiality requirements for later stages of the contracting process.

**Agency Response:** Agree, Implementation Date – 120 days after Executive Order 8 revisions are published
RECOMMENDATION 5.6

Ensure Confidentiality of Proposals (Public Health) – The Department of Public Health and Environment should identify specific risks in the procurement process related to confidentiality of proposals—including, but not limited to, access to proposals prior to solicitation deadlines—and create internal controls within policies and procedures to mitigate these risks. The department should also consider the implications of confidentiality requirements for later stages of the contracting process.

Agency Response: Agree, Implementation Date – Draft: December 31, 2019
Final: 120 days following the publication of Executive Order 8
RECOMMENDATIONS

1.1 **Require Conflict-of-Interest Disclosures across All City Agencies** – The Mayor’s Office should require, through its forthcoming update of Executive Order 8, conflict-of-interest disclosures at the solicitation level for all City agencies that conduct their own contract procurement.

Agency Response: Agree, Implementation Date – December 31, 2019

Agency Narrative: The Mayor’s Office is working closely with the City Attorney’s Office to update Executive Order 8 and will include this provision in the update.

1.2 **Develop Procedures for Conflicts of Interest (Public Works)** – The Department of Public Works should work with the City Attorney’s Office to develop and document a solicitation-level conflict-of-interest disclosure procedure and form, so that selection committee members and employees with influence over the bidding process certify they have disclosed any conflicts of interest relevant to a particular solicitation they are involved with and that they have acknowledged nondisclosure requirements related to the project. The procedure should state who is responsible for reviewing these certifications and include what steps to take when a conflict is identified.

Agency Response: Agree, Implementation Date – 120 days following publication of revised Executive Order 8

Agency Narrative: Denver Public Works agrees that once updated Executive Order 8 guidance is formalized, a work group will be assembled to work with the City Attorney’s office to develop a solicitation level conflict-of-interest disclosure form and create and document a procedure for the process.

1.3 **Develop Procedures for Conflicts of Interest (Parks)** – The Department of Parks and Recreation should work with the City Attorney’s Office to develop and document a solicitation-level conflict-of-interest disclosure procedure and form, so that selection committee members and employees with influence over the bidding process certify they have disclosed any conflicts of interest relevant to a particular solicitation they are involved with and that they have acknowledged nondisclosure requirements related to the project. The procedure should state who is responsible for reviewing these certifications and include what steps to take when a conflict is identified.

Agency Response: Agree, Implementation Date – 120 days after Executive Order 8 revisions are published

Agency Narrative: Parks and Recreation will develop procedures to address this recommendation after Executive Order 8 revisions are published.
1.4 Develop Procedures for Conflicts of Interest (Public Health) - The Department of Public Health and Environment should work with the City Attorney’s Office to develop and document a solicitation-level conflict-of-interest disclosure procedure and form, so that selection committee members and employees with influence over the bidding process certify they have disclosed any conflicts of interest relevant to a particular solicitation they are involved with and that they have acknowledged nondisclosure requirements related to the project. The procedure should state who is responsible for reviewing these certifications and include what steps to take when a conflict is identified.

Agency Response: Agree, Implementation Date – Draft: June 30, 2019 Final: 120 days following the publication of Executive Order 8

Agency Narrative: DDPHE agrees with this recommendation and will work with the department of General Services and the City Attorney’s Office to create a solicitation-level conflict of interest form in accordance with updated Executive Order 8, and include the use of this form in our policies and procedures. We will aim to complete a draft of the policies and procedures by December 31, 2019. We will use an interim form until the Citywide form can be completed. The interim form will be in place by June 30, 2019.

1.5 Change City Ordinance to Require Political Contribution Disclosures for Competitive Contracts – The Mayor’s Office should sponsor a change to City ordinance to require political contribution disclosure forms from vendors as part of bid proposals for all solicitations—competitive and noncompetitive. The ordinance change should also require the winning bidder to file their disclosure form with the Clerk and Recorder’s Office.

Agency Response: Agree, Implementation Date – December 31, 2019

Agency Narrative: The Mayor’s Office agrees that DRMC 20-69 should be reviewed and that the City should consider changes, particularly to provide clarity around filing of forms. The Mayor’s Office is unwilling to predict what the appropriate policy outcome of revisions to DRMC 20-69 should be, however. Considering current state law and new city law that impacts campaign contributions, the Mayor’s Office will assemble a working group to evaluate the current ordinance and applicable laws and will present recommended changes from the working group to Policy Review Committee, and to City Council, as appropriate. Ultimately, the decision to make any changes to DRMC 20-69 is for City Council, and we would need to work in partnership to advance any code change.

1.6 Change City Ordinance to Require Political Contribution Disclosures for Expenditure Contract Amendments – The Mayor’s Office should sponsor a change to City ordinance to ensure expenditure contract amendments that add more than one year to the term of the contract are also included in the requirements for vendors’ political contribution disclosure.

Agency Response: Agree, Implementation Date – December 31, 2019

Agency Narrative: As noted above in response to Recommendation 1.5, the ultimate decider on changes to DRMC 20-69 is City Council. However, the Mayor’s Office will agree
to coordinate a working group to evaluate changes to DRMC 20-69 and will work with City Council to advance code change if there is appropriate Council support for the action.

1.7 **Develop Procedures to Ensure Political Disclosure by Vendors** – The Mayor’s Office should require, through its forthcoming update of Executive Order 8, that agencies add the political contribution disclosure form to the list of items required to be submitted by vendors for a contract solicitation. The agencies should also be required to review these forms during the evaluation process and to ensure the form of the winning bidder is forwarded to the Clerk and Recorder’s Office for filing. Agencies should also follow up with the Clerk and Recorder’s Office to verify the office has received the form and has made it available for public viewing.

**Agency Response:** Agree, Implementation Date – December 31, 2019

**Agency Narrative:** The Mayor’s Office is already working with the City Attorney’s Office to have the political contribution disclosure form added to the list of required items in Executive Order 8. Currently the form is only required for vendors selected through a non-competitive process.

1.8 **Update Executive Order 8** – The Mayor’s Office and the City Attorney’s Office should complete the process of updating Executive Order 8. The updated executive order should require agencies to establish policies and procedures for the whole contracting process and provide more detailed guidance for justifications for contracts longer than three years and amendments extending contracts beyond three years.

**Agency Response:** Agree, Implementation Date – December 31, 2019

**Agency Narrative:** The Mayor’s Office is already working with the City Attorney’s Office to update Executive Order 8 and will include these suggested provisions in the update.

1.9 **Periodically Review and Update Contract Procurement Requirements** – The Mayor’s Office should establish a process for periodically reviewing the Denver Charter, City ordinances, and executive orders pertaining to contract procurement to ensure they are consistent and appropriately address risks. The Mayor’s Office should then recommend amendments to the City Council, where appropriate.

**Agency Response:** Agree, Implementation Date – December 31, 2019

**Agency Narrative:** The Mayor’s Office has existing work groups or committees in place that address potential Charter revisions, ordinance revisions and Executive Orders. The Mayor’s Office will work with the City Attorney’s Office and through those work groups to schedule periodic reviews specific to contract procurement as noted.

2.1 **Centralize Contract Procurement Process** – The Department of Public Works should centralize its contracting processes within its contract administration team to ensure other divisions within the department do not deviate from the centralized team’s procurement procedures and so the team’s expertise is maximized for the benefit of the department.

**Agency Response:** Agree, Implementation Date – 120 days
Agency Narrative: Denver Public Works agrees to explore centralization of the contracting function, or other means of ensuring City and departmental procurement and contracting policies and procedures are adhered to.

2.2 Establish Policies for Contracting Authority - The Department of Public Works should establish and document policy to ensure adherence to applicable laws and regulations, as well as Public Works' internal procedures, when the department procures contracts for any external agency that has its own contract-signing authority as the department may not otherwise be able to mitigate contract procurement risks.

Agency Response: Agree, Implementation Date – 120 days

Agency Narrative: Denver Public Works agrees to document contracting steps where an external agency has its own contract-signing authority.

2.3 Update Policies and Procedures for Required Justifications - The Department of Public Works should update its policies and procedures to ensure properly approved justifications for noncompetitive procurements and for contracts longer than three years. These procedures should include a documented secondary review that justifications are collected and are reasonable.

Agency Response: Agree, Implementation Date – 120 days following publication of revised Executive Order 8

Agency Narrative: Denver Public Works agrees to update its procedures to ensure justifications for noncompetitive procurements and contracts longer than three years are properly authorized, documented, and verified.

2.4 Create Policies and Procedures for On-Call Pools and Single Responses - The Department of Public Works should create policies and procedures for making selections from all types of on-call pools and for requirements when a solicitation receives a single response. These policies should include a requirement for monitoring by management to ensure adherence to policies and procedures and a requirement for documenting that monitoring.

Agency Response: Agree, Implementation Date – 180 days

Agency Narrative: Denver Public Works agrees to create departmental guidance regarding selection and issuance of Work Orders and Task Orders for the various types of on-call pool contracts. Further, Denver Public Works will document a procedure for when an advertised solicitation garners a single response. A monitoring step will be included in procedures.

2.5 Update Policies and Procedures for Contract Procurement (Public Works) - The Department of Public Works should update its existing contract procurement policies and procedures to ensure all required documentation is adequately approved, reviewed, and retained. Specific procedures that need more detail include but may not be limited to: verifying selection criteria, documenting scoring decisions, and checking debarments and certificates of good standing. The policies and procedures should assign responsibilities for monitoring and should include a requirement for documenting that monitoring.
Agency Response: Agree, Implementation Date – 180 days following publication of revised Executive Order 8

Agency Narrative: Denver Public Works agrees to update guidance documents to ensure documentation is obtained, reviewed and retained, including a monitoring step.

3.1 Update Policies and Procedures for Contract Procurement (Parks) - The Department of Parks and Recreation should update its policies and procedures to address noncompetitive procurement, documentation of approvals and reference checks, solicitations yielding only one response, protests, and nonresponsive items. The policies and procedures should assign responsibilities for monitoring and should include a requirement for documenting that monitoring. These policies should also clearly define the roles and responsibilities between the departments of Public Works and Parks and Recreation regarding construction and maintenance contracts.

Agency Response: Agree, Implementation Date – 120 days after Executive Order 8 revisions are published

Agency Narrative: Parks and Recreation will develop procedures to address this recommendation after Executive Order 8 revisions are published.

4.1 Establish and Follow Policies and Procedures for Contract Procurement (Public Health) - The Department of Public Health and Environment should complete comprehensive, departmentwide policies and procedures for contract procurement. The policies should include, but not be limited to, guidance for approvals to solicit, analysis of single-bid responses, scoring rationale requirements, justifications for noncompetitive selections, and reasonable justification for contracts lasting over three years. The policies should also state who is responsible for implementing, monitoring, and documenting compliance with these policies.

Agency Response: Agree, Implementation Date – Draft: December 31, 2019

Final: 120 days following the publication of Executive Order 8

Agency Narrative: While DDPHE currently has several division-level policies and procedures related to procurement and vendor selection, we recognize the need for a holistic department-wide policy and procedure manual. At the time this report was written, DDPHE had already begun to map future state procurement processes, which will serve as the basis for our procedures. DDPHE will establish a working group to create the policy and procedure manual, which will include all aspects recommended in this audit. The working group will complete a draft manual by December 31, 2019. If the XO 8 revision is not complete by then, we will update our policies and procedures once it has been completed.

5.1 Analyze Contracts Data (Public Works) - The Department of Public Works should establish and document a process to analyze data and identify and address unusual items in the contract procurement process.
Agency Response: Agree, Implementation Date – December 31, 2019

Agency Narrative: Denver Public Works agrees to establish and document a process to analyze available data and identify and address unusual items in the contract procurement process with regular frequency. Jaggaer reporting capabilities have not yet been disseminated, extent of reporting is unknown.

5.2 **Analyze Contracts Data (Parks)** – The Department of Parks and Recreation should establish and document a process to analyze data and identify and address unusual items in the contract procurement process.

Agency Response: Agree, Implementation Date – December 31, 2019

Agency Narrative: Parks and Recreation will develop procedures to address this recommendation utilizing information available in Jaggaer. Our target date is predicated on the reporting functionality of Jaggaer being developed to the point of being able to provide the relevant information.

5.3 **Analyze Contracts Data (Public Health)** – The Department of Public Health and Environment should establish and document a process to analyze data and identify and address unusual items in the contract procurement process.

Agency Response: Agree, Implementation Date – December 31, 2019

Agency Narrative: DDPHE will include analysis in the DDPHE policy and procedure manual including sources of data, standard reports and analysis, frequency of analysis, and remediation procedures.

5.4 **Ensure Confidentiality of Proposals (Public Works)** – The Department of Public Works should identify specific risks in the procurement process related to confidentiality of proposals—including, but not limited to, access to proposals prior to solicitation deadlines—and create internal controls within policies and procedures to mitigate these risks. The department should also consider the implications of confidentiality requirements for later stages of the contracting process.

Agency Response: Agree, Implementation Date – 120 days following publication of revised Executive Order 8

Agency Narrative: Denver Public Works agrees to identify specific risks in the procurement process related to confidentiality of proposals update procedures to better reflect applicable updated internal controls.

5.5 **Ensure Confidentiality of Proposals (Parks)** – The Department of Parks and Recreation should identify specific risks in the procurement process related to confidentiality of proposals—including, but not limited to, access to proposals prior to solicitation deadlines—and create internal controls within policies and procedures to mitigate these risks. The department should also consider the implications of confidentiality requirements for later stages of the contracting process.
Agency Response: Agree, Implementation Date – 120 days after Executive Order 8 revisions are published

Agency Narrative: Parks and Recreation will develop procedures to address this recommendation after Executive Order 8 revisions are published.

5.6 **Ensure Confidentiality of Proposals (Public Health)** – The Department of Public Health and Environment should identify specific risks in the procurement process related to confidentiality of proposals—including, but not limited to, access to proposals prior to solicitation deadlines—and create internal controls within policies and procedures to mitigate these risks. The department should also consider the implications of confidentiality requirements for later stages of the contracting process.

**Agency Response: Agree, Implementation Date – Draft: December 31, 2019 Final: 120 days following the publication of Executive Order 8**

**Agency Narrative:** DDPHE agrees to include confidentiality in the policy and procedure manual. DDPHE has taken the following steps toward ensuring confidentiality independent of this audit: DDPHE stopped using eCivis for procurement in 2018. Additionally, DDPHE has evaluated confidentiality of data and has implemented standard practices to keep proposal data secure and viewable only to selection committee members and contract administrators. If the XO 8 revision is not complete by December 31, 2019, we will update our policies and procedures once it has been completed.
AGENCIES’ RESPONSES TO AUDIT RECOMMENDATIONS

June 3, 2019

Auditor Timothy M. O’Brien, CPA
Office of the Auditor
City and County of Denver
201 West Colfax Avenue, Dept. 705
Denver, Colorado 80202

Dear Mr. O’Brien,

The Office of the Auditor has conducted a performance audit of Contract Procurement Processes.

This memorandum provides a written response for each reportable condition noted in the Auditor’s Report final draft that was sent to us on May 28, 2019. This response complies with Section 20-276 (c) of the Denver Revised Municipal Code (D.R.M.C.).

AUDIT FINDING 1
Citywide Laws and Regulations for Contract Procurement Inadequately Address Conflicts of Interest and Are Not Periodically Reviewed

RECOMMENDATION 1.1
Require Conflict-of-Interest Disclosures across All City Agencies – The Mayor’s Office should require, through its forthcoming update of Executive Order 8, conflict-of-interest disclosures at the solicitation level for all City agencies that conduct their own contract procurement.

<table>
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<th>Agree or Disagree with Recommendation</th>
<th>Target date to complete implementation activities (Generally expected within 60 to 90 days)</th>
<th>Name and phone number of specific point of contact for implementation</th>
</tr>
</thead>
</table>
| Agree                                 | December 31, 2019                                                                                | Skye Stuart
|                                       |                                                   | 720-865-9058                                                          |

Narrative for Recommendation 1.1

The Mayor’s Office is working closely with the City Attorney’s Office to update Executive Order 8 and will include this provision in the update.

RECOMMENDATION 1.5
Change City Ordinance to Require Political Contribution Disclosures for Competitive Contracts – The Mayor’s Office should sponsor a change to City ordinance...
to require political contribution disclosure forms from vendors as part of bid proposals for all solicitations—competitive and noncompetitive. The ordinance change should also require the winning bidder to file their disclosure form with the Clerk and Recorder’s Office.

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**Narrative for Recommendation 1.5**

The Mayor’s Office agrees that DRMC 20-69 should be reviewed and that the City should consider changes, particularly to provide clarity around filing of forms. The Mayor’s Office is unwilling to predict what the appropriate policy outcome of revisions to DRMC 20-69 should be, however. Considering current state law and new city law that impacts campaign contributions, the Mayor’s Office will assemble a working group to evaluate the current ordinance and applicable laws and will present recommended changes from the working group to Policy Review Committee, and to City Council, as appropriate. Ultimately, the decision to make any changes to DRMC 20-69 is for City Council, and we would need to work in partnership to advance any code change.

**RECOMMENDATION 1.6**

Change City Ordinance to Require Political Contribution Disclosures for Expenditure Contract Amendments – The Mayor’s Office should sponsor a change to City ordinance to ensure expenditure contract amendments that add more than one year to the term of the contract are also included in the requirements for vendors’ political contribution disclosure.

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**Narrative for Recommendation 1.6**

As noted above in response to Recommendation 1.5, the ultimate decider on changes to DRMC 20-69 is City Council. However, the Mayor’s Office will agree to coordinate a working group to evaluate changes to DRMC 20-69 and will work with City Council to advance code change if there is appropriate Council support for the action.

**RECOMMENDATION 1.7**

Develop Procedures to Ensure Political Disclosure by Vendors – The Mayor’s Office should require, through its forthcoming update of Executive Order 8, that agencies add
the political contribution disclosure form to the list of items required to be submitted by vendors for a contract solicitation. The agencies should be required to review these forms during the evaluation process and to ensure the form of the winning bidder is forwarded to the Clerk and Recorder’s Office for filing. Agencies should also follow up with the Clerk and Recorder’s Office to verify the office has received the form and has made it available for public viewing.

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**Narrative for Recommendation 1.7**

The Mayor’s Office is already working with the City Attorney’s Office to have the political contribution disclosure form added to the list of required items in Executive Order 8. Currently the form is only required for vendors selected through a non-competitive process.

**RECOMMENDATION 1.8**

**Update Executive Order 8** – The Mayor’s Office and the City Attorney’s Office should complete the process of updating Executive Order 8. The updated executive order should require agencies to establish policies and procedures for the whole contracting process and provide more detailed guidance for justifications for contracts longer than three years and amendments extending contracts beyond three years.

<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>Agree</td>
<td>December 31, 2019</td>
<td>Skye Stuart 720-865-9058</td>
</tr>
</tbody>
</table>

**Narrative for Recommendation 1.8**

The Mayor’s Office is already working with the City Attorney’s Office to update Executive Order 8 and will include these suggested provisions in the update.

**RECOMMENDATION 1.9**

**Periodically Review and Update Contract Procurement Requirements** – The Mayor’s Office should establish a process for periodically reviewing the Denver Charter, City ordinances, and executive orders pertaining to contract procurement to ensure they are consistent and appropriately address risks. The Mayor’s Office should then recommend amendments to the City Council, where appropriate.

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<th>Name and phone number of specific point of contact for implementation</th>
</tr>
</thead>
</table>
| Agree | December 31, 2019 | Skye Stuart  
720-865-9058 |

**Narrative for Recommendation 1.9**

The Mayor’s Office has existing work groups or committees in place that address potential Charter revisions, ordinance revisions and Executive Orders. The Mayor’s Office will work with the City Attorney’s Office and through those work groups to schedule periodic reviews specific to contract procurement as noted.

Please contact Skye Stuart at 720-865-9058 with any questions.

*Sincerely,*

Skye Stuart  
Senior Advisor for Policy & Legislation

**cc:** Valerie Walling, Deputy Auditor, CPA, CMC®  
Dawn Wiseman, Audit Director, CRMA  
Cody Schulte, Audit Supervisor, CPA, CIA  
Kristin Bronson, City Attorney  
Deanne Durfee, City Attorney’s Office
June 3, 2019

Auditor Timothy M. O’Brien, CPA
Office of the Auditor
City and County of Denver
201 West Colfax Avenue, Dept. 705
Denver, Colorado 80202

Dear Mr. O’Brien,

The Office of the Auditor has conducted a performance audit of Contract Procurement Processes.

This memorandum provides a written response for each reportable condition noted in the Auditor’s Report final draft that was sent to us on May 28, 2019. This response complies with Section 20-276 (c) of the Denver Revised Municipal Code (D.R.M.C.).

AUDIT FINDING 1
Citywide Laws and Regulations for Contract Procurement Inadequately Address Conflicts of Interest and Are Not Periodically Reviewed

RECOMMENDATION 1.2
Develop Procedures for Conflicts of Interest (Public Works) – The Department of Public Works should work with the City Attorney’s Office to develop and document a solicitation-level conflict-of-interest disclosure procedure and form, so that selection committee members and employees with influence over the bidding process certify they have disclosed any conflicts of interest relevant to a particular solicitation they are involved with and that they have acknowledged nondisclosure requirements related to the project. The procedure should state who is responsible for reviewing these certifications and include what steps to take when a conflict is identified.

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</thead>
<tbody>
<tr>
<td>Agree</td>
<td>120 days following publication of revised Executive Order 8</td>
<td>Adam Phipps (720) 865-3044</td>
</tr>
</tbody>
</table>

Narrative for Recommendation 1.2

Denver Public Works agrees that once updated Executive Order 8 guidance is formalized, a work group will be assembled to work with the City Attorney’s office to develop a solicitation level conflict-of-interest disclosure form and create and document a procedure for the process.
AUDIT FINDING 2
The Department of Public Works’ Policies and Procedures Allow for Inconsistencies in Contract Procurement

RECOMMENDATION 2.1
Centralize Contract Procurement Process – The Department of Public Works should centralize its contracting processes within its contract administration team to ensure other divisions within the department do not deviate from the centralized team’s procurement procedures and so the team’s expertise is maximized for the benefit of the department.

<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>Agree</td>
<td>120 days</td>
<td>Elizabeth Zollo (720) 913-1774</td>
</tr>
</tbody>
</table>

Narrative for Recommendation 2.1
Denver Public Works agrees to explore centralization of the contracting function, or other means of ensuring City and departmental procurement and contracting policies and procedures are adhered to.

RECOMMENDATION 2.2
Establish Policies for Contracting Authority – The Department of Public Works should establish and document policy to ensure adherence to applicable laws and regulations, as well as Public Works’ internal procedures, when the department procures contracts for any external agency that has its own contract-signing authority, as the department may not otherwise be able to mitigate contract procurement risks.

<table>
<thead>
<tr>
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<th>Target date to complete implementation activities (Generally expected within 60 to 90 days)</th>
<th>Name and phone number of specific point of contact for implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agree</td>
<td>120 days</td>
<td>James Fisher (720) 865-8722</td>
</tr>
</tbody>
</table>

Narrative for Recommendation 2.2
Denver Public Works agrees to document contracting steps where an external agency has its own contract-signing authority.
### RECOMMENDATION 2.3
**Update Policies and Procedures for Required Justifications** – The Department of Public Works should update its policies and procedures to ensure properly approved justifications for noncompetitive procurements and for contracts longer than three years. These procedures should include a documented secondary review that justifications are collected and are reasonable.

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Agree</td>
<td>120 days</td>
<td>Elizabeth Zollo (720) 913-1774</td>
</tr>
</tbody>
</table>

**Narrative for Recommendation 2.3**
Denver Public Works agrees to update its procedures to ensure justifications for noncompetitive procurements and contracts longer than three years are properly authorized, documented, and verified.

### RECOMMENDATION 2.4
**Create Policies and Procedures for On-Call Pools and Single Responses** – The Department of Public Works should create policies and procedures for making selections from all types of on-call pools and for requirements when a solicitation receives a single response. These policies should include a requirement for monitoring by management to ensure adherence to policies and procedures and a requirement for documenting that monitoring.

<table>
<thead>
<tr>
<th>Agree or Disagree with Recommendation</th>
<th>Target date to complete implementation activities (Generally expected within 60 to 90 days)</th>
<th>Name and phone number of specific points of contact for implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agree</td>
<td>180 days</td>
<td>James Fisher (720) 865-8722, Adam Phipps (720) 865-3044, Elizabeth Zollo (720) 913-1774</td>
</tr>
</tbody>
</table>

**Narrative for Recommendation 2.4**
Denver Public Works agrees to create departmental guidance regarding selection and issuance of Work Orders and Task Orders for the various types of on-call pool contracts. Further, Denver Public Works will document a procedure for when an advertised solicitation garners a single response. A monitoring step will be included in procedures.
RECOMMENDATION 2.5
Update Policies and Procedures for Contract Procurement (Public Works) – The Department of Public Works should update its existing contract procurement policies and procedures to ensure all required documentation is adequately approved, reviewed, and retained. Specific procedures that need more detail include but may not be limited to: verifying selection criteria, documenting scoring decisions, and checking debarments and certificates of good standing. The policies and procedures should assign responsibilities for monitoring and should include a requirement for documenting that monitoring.

<table>
<thead>
<tr>
<th>Agree or Disagree with Recommendation</th>
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</thead>
<tbody>
<tr>
<td>Agree</td>
<td>180 days</td>
<td>Elizabeth Zollo (720) 913-1774</td>
</tr>
</tbody>
</table>

Narrative for Recommendation 2.5
Denver Public Works agrees to update guidance documents to ensure documentation is obtained, reviewed and retained, including a monitoring step.

AUDIT FINDING 5
Agencies Do Not Have Guidance to Perform Data Analytics and Ensure Confidentiality of Proposals

RECOMMENDATION 5.1
Analyze Contracts Data (Public Works) – The Department of Public Works should establish and document a process to analyze data and identify and address unusual items in the contract procurement process.

<table>
<thead>
<tr>
<th>Agree or Disagree with Recommendation</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Agree</td>
<td>12/31/2019</td>
<td>James Fisher (720) 865-8722, Brandon Lawrence (720) 913-1760</td>
</tr>
</tbody>
</table>

Narrative for Recommendation 5.1
Denver Public Works agrees to establish and document a process to analyze available data and identify and address unusual items in the contract procurement process with regular frequency. Jaggac reporting capabilities have not yet been disseminated, extent of reporting is unknown.
RECOMMENDATION 5.4
Ensure Confidentiality of Proposals (Public Works) – The Department of Public Works should identify specific risks in the procurement process related to confidentiality of proposals—including, but not limited to, access to proposals prior to solicitation deadlines—and create internal controls within policies and procedures to mitigate these risks. The department should also consider the implications of confidentiality requirements for later stages of the contracting process.

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<tbody>
<tr>
<td>Agree</td>
<td>120 days following publication of revised Executive Order 8</td>
<td>Elizabeth Zollo 720-913-1774</td>
</tr>
</tbody>
</table>

Narrative for Recommendation 5.4
Denver Public Works agrees to identify specific risks in the procurement process related to confidentiality of proposals update procedures to better reflect applicable updated internal controls.

Please contact James Fisher at (720) 865-8722 with any questions.

Sincerely,

James E. Fisher, Esq.
Chief of Staff

cc: Eulois Cleckley, Executive Director, Denver Public Works
Valerie Walling, Deputy Auditor, CPA, CMC®
Dawn Wiseman, Audit Director, CRMA
Cody Schulte, Audit Supervisor, CPA, CIA
Allegre “Happy” Haynes, Executive Director, Department of Parks and Recreation
Robert McDonald, Executive Director, Denver Dept. of Public Health & Environment
Evan Dreyer, Deputy Chief of Staff, Mayor’s Office
June 3, 2019

Auditor Timothy M. O’Brien, CPA
Office of the Auditor
City and County of Denver
201 West Colfax Avenue, Dept. 705
Denver, Colorado 80202

Dear Mr. O’Brien,

The Office of the Auditor has conducted a performance audit of Contract Procurement Processes.

This memorandum provides a written response for each reportable condition noted in the Auditor’s Report final draft that was sent to us on May 28, 2019. This response complies with Section 20-276 (c) of the Denver Revised Municipal Code (D.R.M.C.).

AUDIT FINDING 1
Citywide Laws and Regulations for Contract Procurement Inadequately Address Conflicts of Interest and Are Not Periodically Reviewed

RECOMMENDATION 1.3
Develop Procedures for Conflicts of Interest (Parks) – The Department of Parks and Recreation should work with the City Attorney’s Office to develop and document a solicitation-level conflict-of-interest disclosure procedure and form, so that selection committee members and employees with influence over the bidding process certify they have disclosed any conflicts of interest relevant to a particular solicitation they are involved with and that they have acknowledged nondisclosure requirements related to the project. The procedure should state who is responsible for reviewing these certifications and include what steps to take when a conflict is identified.

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</thead>
<tbody>
<tr>
<td>Agree</td>
<td>120 days after Executive Order 8 revisions are published</td>
<td>Fred Weiss 720-913-0735</td>
</tr>
</tbody>
</table>

Narrative for Recommendation 1.3
Parks and Recreation will develop procedures to address this recommendation after Executive Order 8 revisions are published.
AUDIT FINDING 3
Some Elements of the Department of Parks and Recreation’s Policies and Procedures Are Inadequate or Not Followed

RECOMMENDATION 3.1
Update Policies and Procedures for Contract Procurement (Parks) – The Department of Parks and Recreation should update its policies and procedures to address noncompetitive procurement, documentation of approvals and reference checks, solicitations yielding only one response, protests, and nonresponsive items. The policies and procedures should assign responsibilities for monitoring and should include a requirement for documenting that monitoring. These policies should also clearly define the roles and responsibilities between the departments of Public Works and Parks and Recreation regarding construction and maintenance contracts.

<table>
<thead>
<tr>
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<tr>
<td>Agree</td>
<td>120 days after Executive Order 8 revisions are published</td>
<td>Fred Weiss 720-913-0735</td>
</tr>
</tbody>
</table>

Narrative for Recommendation 3.1
Parks and Recreation will develop procedures to address this recommendation after Executive Order 8 revisions are published.

AUDIT FINDING 5
Agencies Do Not Have Guidance to Perform Data Analytics and Ensure Confidentiality of Proposals

RECOMMENDATION 5.2
Analyze Contracts Data (Parks) – The Department of Parks and Recreation should establish and document a process to analyze data and identify and address unusual items in the contract procurement process.

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<tbody>
<tr>
<td>Agree</td>
<td>December 31, 2019</td>
<td>Fred Weiss 720-913-0735</td>
</tr>
</tbody>
</table>
Narrative for Recommendation 5.2
Parks and Recreation will develop procedures to address this recommendation utilizing information available in Jagger. Our target date is predicated on the reporting functionality of Jagger being developed to the point of being able to provide the relevant information.

RECOMMENDATION 5.5
Ensure Confidentiality of Proposals (Parks) – The Department of Parks and Recreation should identify specific risks in the procurement process related to confidentiality of proposals—including, but not limited to, access to proposals prior to solicitation deadlines—and create internal controls within policies and procedures to mitigate these risks. The department should also consider the implications of confidentiality requirements for later stages of the contracting process.

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<td>Agree</td>
<td>120 days after Executive Order 8 revisions are published</td>
<td>Fred Weiss 720-913-0735</td>
</tr>
</tbody>
</table>

Narrative for Recommendation 5.5
Parks and Recreation will develop procedures to address this recommendation after Executive Order 8 revisions are published.

Please contact Fred Weiss at 720-913-0735 with any questions.

Sincerely,

Allegra “Happy” Haynes
Executive Director

cc: Valerie Walling, Deputy Auditor, CPA, CMC®
    Dawn Wiseman, Audit Director, CRMA
    Cody Schulte, Audit Supervisor, CPA, CIA
    Appropriate cc's
June 3, 2019

Auditor Timothy M. O’Brien, CPA
Office of the Auditor
City and County of Denver
201 West Colfax Avenue, Dept. 705
Denver, Colorado 80202

Dear Mr. O’Brien,

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AUDIT FINDING 1
Citywide Laws and Regulations for Contract Procurement Inadequately Address Conflicts of Interest and Are Not Periodically Reviewed

RECOMMENDATION 1.4
Develop Procedures for Conflicts of Interest (Public Health) – The Department of Public Health and Environment should work with the City Attorney’s Office to develop and document a solicitation-level conflict-of-interest disclosure procedure and form, so that selection committee members and employees with influence over the bidding process certify they have disclosed any conflicts of interest relevant to a particular solicitation they are involved with and that they have acknowledged nondisclosure requirements related to the project. The procedure should state who is responsible for reviewing these certifications and include what steps to take when a conflict is identified.

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<tbody>
<tr>
<td>Agree</td>
<td>Draft - June 30, 2019 Final - 120 days following the publication of Executive Order 8</td>
<td>Laurel Delmonico 720-865-5372</td>
</tr>
</tbody>
</table>

Narrative for Recommendation 1.4
DDPHE agrees with this recommendation and will work with the department of General Services and the City Attorney’s Office to create a solicitation-level conflict of interest form in accordance with updated Executive Order 8, and include the use of this form in our policies and procedures. We will aim to complete a draft of the policies and
procedures by December 31, 2019. We will use an interim form until the Citywide form can be completed. The interim form will be in place by June 30, 2019.

AUDIT FINDING 4
The Department of Public Health and Environment Lacks Comprehensive Policies and Procedures for Its Contract Procurement

RECOMMENDATION 4.1
Establish and Follow Policies and Procedures for Contract Procurement (Public Health) – The Department of Public Health and Environment should complete comprehensive, departmentwide policies and procedures for contract procurement. The policies should include, but not be limited to, guidance for approvals to solicit, analysis of single bid responses, scoring rationale requirements, justifications for noncompetitive selections, and reasonable justification for contracts lasting over three years. The policies should also state who is responsible for implementing, monitoring, and documenting compliance with these policies.

<table>
<thead>
<tr>
<th>Agree or Disagree with Recommendation</th>
<th>Target date to complete implementation activities (Generally expected within 60 to 90 days)</th>
<th>Name and phone number of specific point of contact for implementation</th>
</tr>
</thead>
</table>
| Agree                                 | Draft - December 31, 2019
Final - 120 days following the publication of Executive Order 8 | Laurel Delmonico
720-865-5372 |

Narrative for Recommendation 4.1
While DDPHE currently has several division-level policies and procedures related to procurement and vendor selection, we recognize the need for a holistic department-wide policy and procedure manual. At the time this report was written, DDPHE had already begun to map future state procurement processes, which will serve as the basis for our procedures. DDPHE will establish a working group to create the policy and procedure manual, which will include all aspects recommended in this audit. The working group will complete a draft manual by December 31, 2019. If the XO 8 revision is not complete by then, we will update our policies and procedures once it has been completed.

AUDIT FINDING 5
Agencies Do Not Have Guidance to Perform Data Analytics and Ensure Confidentiality of Proposals

RECOMMENDATION 5.3
Analyze Contracts Data (Public Health) – The Department of Public Health and Environment should establish and document a process to analyze data and identify and address unusual items in the contract procurement process.
TABLE 5.3
Agree or Disagree with Recommendation | Target date to complete implementation activities (Generally expected within 60 to 90 days) | Name and phone number of specific point of contact for implementation
--- | --- | ---
Agree | December 31, 2019 | Laurel Delmonico 720-865-5372

Narrative for Recommendation 5.3
DDPHE will include analysis in the DDPHE policy and procedure manual including sources of data, standard reports and analysis, frequency of analysis, and remediation procedures.

RECOMMENDATION 5.6
Ensure Confidentiality of Proposals (Public Health) – The Department of Public Health and Environment should identify specific risks in the procurement process related to confidentiality of proposals—including, but not limited to, access to proposals prior to solicitation deadlines—and create internal controls within policies and procedures to mitigate these risks. The department should also consider the implications of confidentiality requirements for later stages of the contracting process.

TABLE 5.6
Agree or Disagree with Recommendation | Target date to complete implementation activities (Generally expected within 60 to 90 days) | Name and phone number of specific point of contact for implementation
--- | --- | ---
Agree | Draft - December 31, 2019 Final - 120 days following the publication of Executive Order 8 | Laurel Delmonico 720-865-5372

Narrative for Recommendation 5.6
DDPHE agrees to include confidentiality in the policy and procedure manual. DDPHE has taken the following steps toward ensuring confidentiality independent of this audit: DDPHE stopped using eCivis for procurement in 2018. Additionally, DDPHE has evaluated confidentiality of data and has implemented standard practices to keep proposal data secure and viewable only to selection committee members and contract administrators. If the XO 8 revision is not complete by December 31, 2019, we will update our policies and procedures once it has been completed.

Please contact Laurel Delmonico at 720-865-5372 with any questions.

Sincerely,

Bob McDonald
Executive Director

cc: Valerie Walling, Deputy Auditor, CPA, CMC®
Cody Schulte, Audit Supervisor, CPA, CIA
Dawn Wiseman, Audit Manager, CRMA
Laurel Delmonico, DDPHE Director of Administration
Deanne Durfee, City Attorney’s Office
OBJECTIVE

The objective of the audit was to evaluate the efficiency, effectiveness, and documentation of the City’s contract procurement processes from the time an agency identifies a need for a good or service to the point a vendor is chosen.

SCOPE

We audited three City agencies: the Department of Public Works, the Department of Parks and Recreation, and the Department of Public Health and Environment. We selected these agencies based on the number and types of contracts they procure. For each agency, we obtained existing policies and procedures relating to the use of competitive bids, noncompetitive selections, contract amendments, and on-call contracts. We tested procurement practices for expenditure contracts and contract amendments executed between January 1, 2017, and October 1, 2018. In addition, we evaluated citywide policies and procedures governing the stages of the contract procurement process from the time an agency identifies a need for a good or service to the point a vendor is selected.

We excluded all requirements for preferential treatment related to these stages of the contract procurement process, such as preferences for minority-owned and disadvantaged businesses.

METHODOLOGY

We employed multiple methodologies to conduct our analyses, including:

- Reviewing relevant laws, rules, regulations, policies, procedures, and flowcharts to gain an understanding of the City’s procurement processes
- Interviewing employees of the Department of Public Works, the Department of Parks and Recreation, the Department of Public Health and Environment, the City Attorney’s Office, the Mayor’s Office, and the General Services Department’s Purchasing Division to gain a better understanding of citywide and agency-specific processes
- Reviewing citywide and agency-level policies and procedures for completeness and consistency using leading practices to evaluate whether the City or agency-level policies and procedures provided sufficient guidance for contract procurement
- Assessing risks and internal controls in the contract procurement processes within the departments of Public Works, Parks, and Public Health
- Assessing citywide and agency-level policies and procedures to address the risk of conflicts of interest—including employee and vendor disclosures, the safeguarding of confidential information, and data analytics procedures
- Assessing the three departments’ policies and procedures to ensure they provide an efficient, cost-effective, and equitable process for using vendors from on-call pools
• Reviewing pre-qualification rules to assess their effectiveness

• Selecting a sample of contracts, including contract amendments, in all three departments to test whether they were procured in accordance with policies and procedures and, where these were not available, leading practices. The appendix includes more detail about our sample selection and testing.
APPENDIX

Sampling Scope and Methodology for Testing Controls over Competitive Contracts, Noncompetitive Contracts, and Contract Amendments

This appendix details the sampling methods and other analyses we used during the audit to test the controls over competitively bid contracts, noncompetitive contracts, and contract amendments. Our sampling objective was to test the internal controls over the bidding process when the City is required to enter into a contract with a vendor.

We tested whether the Department of Public Works, the Department of Parks and Recreation, and the Department of Public Health and Environment each follow the requirements set out by the Denver Charter, City ordinance, Executive Order 8, and internal policies and procedures to ensure there is a competitive process, that the selection is made according to regulations, and that the selection is documented.

We also tested to ensure whether, when a noncompetitive selection is used, it contains the appropriate documentation detailing the reason for an exception to the bidding process. Similarly, we also tested contract amendments to verify that they had a reasonable justification when the contract—with or without an amendment—extended beyond three years.

Identifying the Population – Our population of contracts was gathered from the City’s contracts database, called Alfresco. The team extracted data through a direct connection to the system and downloaded all contracts executed between January 1, 2017, through October 1, 2018. This produced a total listing of 4,650 contracts for all contract work types—expenditure contracts, revenue contracts, and general agreements—as depicted in Table 6.

<table>
<thead>
<tr>
<th>Contract Type</th>
<th>Number Executed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditure Contracts</td>
<td>2,744</td>
</tr>
<tr>
<td>Revenue Contracts</td>
<td>1,622</td>
</tr>
<tr>
<td>General Agreements</td>
<td>284</td>
</tr>
<tr>
<td>TOTAL</td>
<td>4,650</td>
</tr>
</tbody>
</table>

TABLE 6. Types of Contracts Executed by City and County of Denver

Source: Auditor’s Office analysis of Alfresco data.

Note: This analysis reflects data downloaded from Alfresco, the City’s contracts database, for contracts and agreements executed by the City between January 1, 2017, through October 1, 2018. A copy of this table appears on page 9.
Identifying the Sampling Frame – Our audit focused on only expenditure contracts for the departments of Public Works, Parks and Recreation, and Public Health and Environment. Expenditure contracts for those three agencies are depicted in Table 7 and make up the total population that was subject to our random selection.

**TABLE 7.** Number of Expenditure Contracts, by Agency Audited

<table>
<thead>
<tr>
<th>Agency</th>
<th>Number of Expenditure Contracts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Public Works</td>
<td>262</td>
</tr>
<tr>
<td>Department of Parks and Recreation</td>
<td>154</td>
</tr>
<tr>
<td>Department of Public Health and Environment</td>
<td>163</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>579</strong></td>
</tr>
</tbody>
</table>

*Source: Auditor’s Office analysis of Alfresco data.*

*Note:* This analysis reflects data downloaded from Alfresco, the City’s contracts database, for expenditure contracts executed by the City between January 1, 2017, through October 1, 2018. A copy of this table appears on page 10.

We then subdivided the population of these three departments' expenditure contracts into three groups in order to apply different attributes to test. As depicted in Table 8, the subpopulations were made up of:

- Competitive contracts, which are procurements that have gone through the competitive process;
- Noncompetitive contracts, which are procurements that meet the requirements for an exception to the competitive process; and
- Amendments to existing contracts.

**TABLE 8.** Expenditure Contract Types, by Agency Audited

<table>
<thead>
<tr>
<th>Agency</th>
<th>Competitive Contracts</th>
<th>Noncompetitive Contracts</th>
<th>Contract Amendments</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Public Works</td>
<td>163</td>
<td>40</td>
<td>59</td>
<td>262</td>
</tr>
<tr>
<td>Department of Parks and Recreation</td>
<td>51</td>
<td>29</td>
<td>74</td>
<td>154</td>
</tr>
<tr>
<td>Department of Public Health and Environment</td>
<td>54</td>
<td>41</td>
<td>68</td>
<td>163</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>268</strong></td>
<td><strong>110</strong></td>
<td><strong>201</strong></td>
<td><strong>579</strong></td>
</tr>
</tbody>
</table>

*Source: Auditor’s Office analysis of Alfresco data.*

*Note:* This analysis reflects data downloaded from Alfresco, the City’s contracts database, for expenditure contracts executed by the departments of Public Works, Parks and Recreation, and Public Health and Environment between January 1, 2017, through October 1, 2018.
Selecting a Random Sample – Using the EZ-Quant statistical sampling tool, we determined the sample sizes for each subpopulation we used for our analysis. This statistical sampling tool uses the subpopulation amount and additional parameters to determine the sample size for each subpopulation. The team used a discovery sampling approach under a 90 percent confidence level and a 4.6 percent critical error rate, which is the maximum rate of exceptions from controls that the audit team was willing to accept.  

A 90 percent confidence level means that, if another random sample were to be selected, 90 percent of the time the results of that sample would match the results identified in this audit.

This method yielded sample sizes of 46 competitive contracts, 41 noncompetitive contracts, and 45 contract amendments, as shown in Table 9.

### TABLE 9. Sample Sizes of Expenditure Contract Types, by Agency Audited

<table>
<thead>
<tr>
<th>Agency</th>
<th>Sample Size of Competitive Contracts</th>
<th>Sample Size of Noncompetitive Contracts</th>
<th>Sample Size of Contract Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Public Works</td>
<td>28</td>
<td>15</td>
<td>13</td>
</tr>
<tr>
<td>Department of Parks and Recreation</td>
<td>9</td>
<td>11</td>
<td>17</td>
</tr>
<tr>
<td>Department of Public Health and Environment</td>
<td>9</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td><strong>TOTAL SAMPLE SIZE</strong></td>
<td><strong>46</strong></td>
<td><strong>41</strong></td>
<td><strong>45</strong></td>
</tr>
</tbody>
</table>

*Source: Auditor’s Office analysis of Alfresco data.*

*Note: This analysis reflects data downloaded from Alfresco, the City’s contracts database, for expenditure contracts executed by the departments of Public Works, Parks and Recreation, and Public Health and Environment between January 1, 2017, through October 1, 2018.*

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To allow for an equitable selection of contracts across the three agencies, we calculated sample sizes that were proportionate to the total population of contracts per agency; those proportions are shown in Figure 9. For example, the total sample size for competitive contracts is 46 items—out of which the Department of Public Works’ 28 contracts are nearly 61 percent.

**FIGURE 9.** Proportion of Competitive and Noncompetitive Contracts and Contract Amendments, by Agency Audited

<table>
<thead>
<tr>
<th>Competitive Contracts</th>
<th>Noncompetitive Contracts</th>
<th>Contract Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Public Works</td>
<td>60.8%</td>
<td>19%</td>
</tr>
<tr>
<td>Department of Parks and Recreation</td>
<td>19%</td>
<td>26.4%</td>
</tr>
<tr>
<td>Department of Public Health and Environment</td>
<td>20.1%</td>
<td>37.3%</td>
</tr>
</tbody>
</table>

Source: Auditor’s Office analysis of Alfresco data.

Note: This analysis reflects data downloaded from Alfresco, the City’s contracts database, for competitive contracts, noncompetitive contracts, and contract amendments executed by the departments of Public Works, Parks and Recreation, and Public Health and Environment between January 1, 2017, through October 1, 2018.

Using the EZ-Quant random number generator, we then randomly selected the items for testing.

**Evaluating Testing Results** – A statistical sample does not provide absolute assurance that the results of the sample represent the total population. Therefore, a range is provided for what the true exception rate is for the entire population. For example, if we found no exceptions in our randomly selected sample of 46 items from a population of 268 competitive contracts, we can conclude with 90 percent confidence that the control is working at least 95.4 percent of the time (100 percent minus 4.6 percent, which was our critical error rate for this sample). If a separate sample were to be selected and evaluated for the same requirement, we would expect those results to match the initial results 90 percent of the time.

However, if we found four exceptions in our sample of 46 randomly selected items, then we could conclude with 90 percent confidence that the control is not working between 3.3 percent of the time and 17.9 percent of the time across the entire population, with our best estimate being that exceptions occur 8.7 percent of the time.
In some situations, we found that an attribute we selected did not apply to the whole sample. For example, only informal bids require the solicitation of at least three vendors and hard bids do not require a selection committee or evaluation sheets. For the attributes where the sample size changed, we could not extrapolate results to the whole population.

**Analysis of Competitive Contracts**

The audit team sought to test key features that should be part of the competitive contract process and the selection of winning vendors. For this purpose, we tested key controls to ensure proper bidding methods were used and that there is transparency in the selection process.

The key controls we tested included these general areas:

- Whether approval was obtained to initiate contracting and bidding procedures
- Whether there was formal disclosure of pertinent information for vendors to bid on opportunities
- Whether the selection process was competitive, fair, transparent, and free of bias

We tested a sample of 46 competitive contracts and found the following exceptions during our analysis:

- For testing whether an approval to solicit existed, we identified 13 instances out of 46, or 28 percent of our sample, when we could not find evidence of approvals. The 13 instances included one contract from Public Works, nine from Parks, and three from Public Health. Statistically projecting to the population of competitively bid contracts for the three agencies, we estimate this occurs between 18.2 percent and 40.1 percent of the time, with our best estimate being that 28.3 percent of all competitive contracts in our scope lack an approval to solicit.

- For testing whether contract initiation forms were complete, we identified four instances, or 8.7 percent of our sample of 46, when this process was not documented or documentation could not be located. These four instances included three competitive contracts from Public Health and one from Public Works. Statistically projecting to the population of competitively bid contracts for the three agencies, we estimate that between 3.3 percent and 17.9 percent of the time, contract initiation forms are incomplete or documentation is not retained—with our best estimate being that this happens 8.7 percent of the time for all competitive contracts in our scope.

  Of the other 42 forms in our sample, nine—all from Parks—were in an electronic format and not signed, which increases the risk that they could be inappropriately adjusted.

- We identified four instances out of 46, or 8.7 percent of our sample, when a request for proposals or bid solicitation document could not be located. This included three contracts from Public Health and one from Public Works. Statistically projecting to the population of competitively bid contracts for the three agencies under audit, we estimate that a solicitation document may not be located between 3.3 percent and 17.9 percent of the time, with our best estimate being that an RFP or bid solicitation document may not be located 8.7 percent of the time for all competitive contracts in our scope.
The audit team identified one out of 44 formal solicitations, or 2.3 percent of our sample, when a solicitation was not posted on a public platform as required. In this identified case, the contract should have been classified in Alfresco as a noncompetitive contract. It was previously procured by the Finance Department as a competitive contract, and then it was transferred to the Department of Public Health and Environment and amended to last another year. When that happened, it was classified in Alfresco as a new competitive contract but no competitive process was performed. We found there was a reasonable justification for this noncompetitive procurement, but it was not documented and the contract procurement method was misclassified.

Multiple responses to a solicitation ensure a competitive price can be obtained by the City, and agencies are expected to have contacted in writing at least three responsive bidders if the formal bidding process is not followed. Out of 46 competitive contracts, only two were procured via an informal bidding process. Out of those two, in one of those situations, the agency contacted less than three responsive bidders.

In three instances out of the 44 formally bid solicitations, only one response was received, and there was no documentation of additional steps performed to determine whether the prices submitted were fair and reasonable and what were the factors causing only one proposal.

At a minimum, a selection committee should be made up of three individuals who commit to providing an objective evaluation and are competent in the areas they will be evaluating. We identified two instances, or 4.3 percent of our sample, when a selection committee was made up of fewer than three members. Both instances occurred within Public Health. Statistically projecting to the population of competitively bid contracts for the three agencies, we estimate a selection committee might have fewer than three members between 0.8 percent and 12.5 percent of the time, with our best estimate being that this occurred about 4.3 percent of the time for all competitive contracts in our scope.

We identified one instance out of 15 when a selection committee did not follow its approved criteria. Only Public Works has a process to approve changes to standard selection criteria for requests for qualifications and requests for proposals. Therefore, we could test only 15 items out of the 46 competitive contracts sampled.

Selection committee members are given selection checklists when evaluating bids. For testing whether selection committee members completed their selection checklists, we found four instances, or 12.9 percent of a sample of 31, when the checklists were not completed. Note that, in Public Works, hard bid competitive procurements do not require a committee evaluation; therefore, only 31 out of the 46 competitive contracts sampled required completed scoring sheets.

The audit team also tested the selection checklists to ensure every submitted bid was included in the evaluation checklist. We did not identify any discrepancies during this analysis.
• We tested whether individual selection checklists could be authenticated, such as by a signature or by identifying the last person who edited the evaluation in an Excel spreadsheet. The audit team identified 16 instances out of 31, or 51.6 percent, when the score sheets could not be authenticated. Note that in Public Works hard bid competitive procurements do not require a committee evaluation; therefore, only 31 out of 46 competitive contracts required completed score sheets.

• The audit team verified whether the winning bidder identified in the score sheets is consistent with the contracted vendor in the Alfresco database. There were no exceptions out of the 46 contracts sampled.

• The audit team verified whether the final vendor selection letter was signed by the executive director of the agency. The audit team identified one exception out of 46, involving a Public Health contract. Statistically projecting to the population of competitively bid contracts for the three agencies, we estimate that between 0 percent and 9.4 percent of the time, an executive director does not sign the final vendor selection letter—with our best estimate being that this exception occurred 2.2 percent of the time for all competitive contracts in our scope.

• To test whether conflict-of-interest disclosures were prepared and addressed, the audit team created a list of selection committee members and other City employees who have influence over the contracts that we selected for our testing. We requested gift disclosure forms for these employees and discovered the departments do not have a process to ensure all these forms are collected, as discussed in Finding 1. Because the rules for the annual gift disclosure form for City employees require that they fill out the form only in the event an employee has a gift to report, we could not determine if the forms were missing for that reason. Therefore, we could not complete our test and determine whether individuals who were part of a selection committee for awarding a contract had any gifts to disclose. We also discovered the agencies we audited did not have procedures to review these forms and to address situations when gifts are reported.

Analysis of Noncompetitive Contracts

There are several reasons why a procurement may be exempt from the competitive bid process. In many of these situations, the justification for the exception must be documented and then signed by the head of the City agency making the purchase and, if necessary, by a purchasing representative who may oversee the procurement at the request of the initiating authority.

For our subpopulation of noncompetitive contracts, we assessed:

• Whether a reasonable justification existed when it was required (primarily when an agency said the good or service could be provided by only a single vendor)
• Whether, when a justification was required, it was signed by the head of the agency authorizing the exemption to the competitive process
• Whether political disclosure forms were submitted by the vendor and stored by the City’s Clerk and Recorder’s Office for review

We tested 41 items in our sample population of noncompetitive contracts and found a number of
exceptions during our analysis. The team analyzed supporting documentation to ensure justifications and authorized signatures were obtained to meet requirements set by City ordinance and executive orders.

- All exceptions to the competitive bidding process require a reasonable justification. We evaluated this sample to ensure all items requiring a justification included one. Our analysis found four exceptions, or 9.7 percent of our sample, when a reasonable justification was not provided or could not be located. These instances included three Public Works contracts and one Public Health contract. Of these items, one was unreasonable and three were missing. Statistically projecting to the population of noncompetitive contracts for the three agencies, we estimate that between 4 percent and 19.4 percent of the time, a reasonable justification is not provided or is not retained—with our best estimate being that this occurred 9.7 percent of the time for all noncompetitive contracts in our scope.

- Of the 38 justifications we were able to review in our sample, we identified three exceptions, or 7.9 percent of the 38, when a justification for the noncompetitive process was not signed by the head of the agency as required. This included two Public Works contracts and one Public Health contract.

- For noncompetitive contracts, a vendor is required to disclose any political contributions on a form to be stored by the Clerk and Recorder’s Office. We examined all exceptions to the competitive process and identified 36 out of 41 noncompetitive contracts, or 87.8 percent of our sample, that should have included this vendor political disclosure form and did not. This included 13 Public Health contracts, 11 Parks contracts, and 12 Public Works contracts. Statistically projecting to the population of noncompetitive contracts for the three agencies under audit, we estimate that between 77.8 percent and 95.5 percent of the time, a vendor political disclosure form is not provided to the Clerk and Recorder’s Office as required. Our best estimate is that this occurred 87.8 percent of the time for all noncompetitive contracts in our scope.

**Analysis of Contract Amendments**

An amendment to a contract is required whenever a provision of the contract needs to be changed. The City’s Executive Order 8 requires a justification for amendments extending the contract duration beyond three years. Justifications for original contracts beyond three years are also required. Therefore, we tested whether such justifications were prepared when necessary.

For our subpopulation of contract amendments, we tested 45 items and found the following exceptions.

- Within our sample, 17 contracts required a justification for a longer term. We identified six instances, or 35.2 percent of the 17, when reasonable justifications for contract terms beyond three years were not prepared or retained. This includes situations when the original contracts or contracts with amendments were longer than three years. These identified exceptions included four contracts from Public Works and two contracts from Parks.

- The remaining 11 contracts out of the 17 had reasonable and properly approved justifications.
The 

Office of the Auditor

The 

Auditor of the City and County of Denver is independently elected by the citizens of Denver. He is responsible for examining and evaluating the operations of City agencies and contractors for the purpose of ensuring the proper and efficient use of City resources. He also provides other audit services and information to City Council, the Mayor, and the public to improve all aspects of Denver’s government.

The Audit Committee is chaired by the Auditor and consists of seven members. The Audit Committee assists the Auditor in his oversight responsibilities regarding the integrity of the City’s finances and operations, including the reliability of the City’s financial statements. The Audit Committee is structured in a manner that ensures the independent oversight of City operations, thereby enhancing citizen confidence and avoiding any appearance of a conflict of interest.

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