

*workforce requirements for legal services contracts, and Section 17-5-160, Human Rights Department to provide notification of hiring; Detroit-resident hiring plans.*

**IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT THAT:**

**Section 1.** Chapter 17 of the 2019 Detroit City Code, *Finance*, Article V, *Purchasing and Supplies*, be amended by amending Section 17-5-1, Sections 17-5-11 through 17-5-13, by adding Sections 17-5-31 through 17-5-37, by amending Section 17-5-53, Sections 17-5-57 through 17-5-58, Sections 17-5-152 through 17-5-153 and by adding Sections 17-5-158 through 17-5-160, to read as follows:

**CHAPTER 17. FINANCE**

**ARTICLE V. PURCHASING AND SUPPLIES**

**DIVISION 1. GOODS AND SERVICES**

**SUBDIVISION A. GENERALLY**

**Sec. 17-5-1. Definitions.**

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Alternative paper* means paper with environmental qualities that meet or exceed United States Environmental Protection Agency standards.

*Biodegradable* means capable of being broken down, especially into innocuous products, by the action of living things such as microorganisms.

*Certification* means the designation given to a firm using standard review procedures where determined by the Human Rights Department that the firm applying for such designation

meets or exceeds certain specified requirements for that category of business as determined by this article.

*Certification process* means the standard review process used to confer upon a firm the designation of certification as defined in this section.

*City site* means a location within the corporate limits of the City or property owned by the City that is outside the corporate limits of the City.

Construction means the construction, erection, reconstruction, alteration, conversion, demolition, repair, moving, or equipping of buildings or structures.

Construction contract means any City contract that provides for the construction, erection, reconstruction, alteration, conversion, demolition, repair, moving, or equipping of buildings or structures.

Construction workforce development business (C-WDB) means a construction contractor, that participates in a Registered Apprenticeship Program, and is registered with the United States Department of Labor Office of Apprenticeship, or by any State Apprenticeship Agency recognized by the Office of Apprenticeship, such registration shall be verified by:

- (1) Providing a Certificate of Registration of Apprenticeship Program from the Office of Apprenticeship with the United States Department of Labor for a federally certified program or
- (2) Providing a Certificate of Apprenticeship from the State Department of Labor and Economic Opportunity for a state certified program.

Construction workforce investment business (C-WIB) means a construction contractor, that provides health insurance and retirement benefits to the employees working on the proposed construction contract, such benefits may be verified by submission of:

- (1) A copy of the relevant sections of a collective bargaining agreement;
- (2) A copy of the plan documents for a pension;
- (3) A copy of the insurance contracts for health insurance; or
- (4) Any other documentation deemed appropriate by the Office of Contracting and Procurement.

Corporate accountability clearance means an administrative clearance obtained by the Office of Contracting and Procurement which verifies a construction contractor's compliance with the following requirements:

- (1) The contractor and its employees have the required licenses, registrations and certificates required to perform the work;
- (2) The contractor has not had any licenses, registrations, or certificates required for the performance of the contract revoked in the past five years; and
- (3) The contractor has not been disbarred or suspended by any federal, state or local governmental agency or authority in the past three years.

*Cooperative purchases* means purchases made through a cooperative purchases resource.

*Cooperative purchases resource* means an arrangement through which purchases may be made of goods or services that are available under open contracts issued to local, state, or federal governmental entities acting on a cooperative basis, including, but not limited to, those designated as Michigan Delivering Extended Agreements Locally (MiDEAL), American

*Recycled oil* means used oil that has been prepared for reuse as a petroleum product by refining, reclaiming, reprocessing or other means, provided, that the preparation or use is operationally safe, environmentally sound, and complies with federal, state, and local laws and regulations.

*Recycled content paper* means a paper product with no less than:

- (1) Fifty percent of its fiber weight consisting of secondary waste materials; or
- (2) Thirty percent of its fiber weight consisting of post-consumer waste.

*Retirement benefits* means a monthly payment to employees to allow them to subsist without working which includes a pension, Individual Retirement Arrangement (IRA), a 401k plan, or an Employee Stock Ownership Plan (ESOP).

*Retreaded tires* means tires that use an existing casing for the purpose of vulcanizing new tread to such casing and that meet all performance and quality standards in the Federal Motor Vehicle Safety Standards determined by the United States Department of Transportation.

*Secondary waste materials* means fragments of products or finished products of a manufacturing process that has converted a virgin resource into a commodity of real economic value, including post-consumer waste, but does not mean excess virgin resources of the manufacturing process, including fibrous waste generated during the manufacturing process such as fibers recovered from waste water or trimmings of paper-machine rolls, mill broke, wood slabs, chips, sawdust, or other wood residue from a manufacturing process.

*Small business concern (SBC)* means a business which:

- (1) Has been in existence and operating for at least one year prior to the date of application for certification as a small business concern;

- (2) Does not meet the definition of a micro business concern as defined in this division; and
- (3) Is one of the following:
  - a. A manufacturing business which, for the three fiscal years preceding the date of application for certification, has provided full-time employment to not more than 500 persons; or
  - b. A general construction business which, for the three fiscal years preceding the date of application for certification, has average annual gross receipts of not more than \$28,000,000.00; or
  - c. A specialty construction business whose average annual gross receipts have not exceeded \$12,000,000.00 in the three fiscal years preceding the date of application for certification; or
  - d. A wholesale business which, for the three fiscal year preceding the date of application for certification, has provided full-time employment to not more than 100 persons; or
  - e. A retail business which, for the three fiscal years preceding the date of application for certification, has average annual gross receipts of not more than \$6,000,000.00; or
  - f. A service business, other than professional, which for the three fiscal years preceding the date of application for certification, has average annual gross receipts of not more than \$6,000,000.00; or

- g. A professional services business, which for the three fiscal years preceding the date of application for certification, has had average annual gross receipts of not more than \$6,000,000.00.

A business which is an affiliate or subsidiary of an entity that is not eligible for certification as a small business concern shall not be certified as a small business concern.

Target reporting data means data collected by the Purchasing Director on City contracts to perform a service in the City of Detroit, which includes, but is not limited to the following:

- (1) The number of Detroit residents assigned to work on the contract awarded; and
- (2) The number of non-Detroit residents assigned to work on the contract awarded.

*Used oil* means a petroleum-based or synthetic oil, which through use, storage or handling has become unsuitable for its original purpose due to the presence of physical or chemical impurities or loss of original properties.

*Virgin oil* means oil that has been refined and formulated from crude oil, synthetic oil, or any blend of synthetic oil, and that has not been used or contaminated with physical or chemical impurities.

*Volatile organic compounds* means organic compounds characterized by a tendency to readily evaporate into the air, contributing to both indoor and outdoor air pollution and the creation of photochemical smog.

Workforce Compliant means a contractor that meets the threshold workforce target requirements and demonstrates compliance with requirements of the Detroit resident hiring plan.

Workforce Non-Compliant Contractor means a contractor that is enrolled in a Detroit-resident hiring plan with the Human Rights Department that fails to meet the threshold

workforce target requirements or adhere to the required provisions of the Detroit resident hiring plan.

Workforce safety clearance means an administrative clearance provided by the Office of Contracting and Procurement, which verifies a construction contractor's compliance with the following requirements:

(1) All employees handling or interacting with hazardous materials have been appropriately trained, which shall be verified by:

a. Providing a certificate of completion in hazardous materials awareness training; or

b. Providing any other documentation from the training entity that verifies participation and completion in the requisite awareness training program compliant with state and federal guidelines.

(2) All employees providing craft labor have at a minimum completed the OSHA 10-hour construction training course for safety established by the U.S. Department of Labor, Occupational Safety and Health Administration.

**SUBDIVISION B. PURCHASING OF CITY GOODS AND SERVICES AND TARGET  
WORKFORCE REQUIREMENTS, DEVELOPMENT DATA, OUTREACH AND  
RECRUITMENT**

**PART 1. PURCHASING OF CITY GOODS AND SERVICES**

**Sec. 17-5-11. Manner of purchasing.**

(a) Unless otherwise provided for in this article or by state or federal law, all goods and services that are purchased by the City, and its departments and agencies, shall be made in accordance with this article.

(b) Prior to initiating the bidding process for any contract subject to the requirements of Section 17-5-12 of this Code, the Purchasing Director, or their designee shall be responsible for:

(1) Attempting to contact businesses located in the City capable of performing the required services by email, telephone, social media and procurement outreach.

(2) Providing all businesses that are contacted under Subsection (b)(1) of this section with the following:

a. Information on upcoming bid opportunities;

b. Information on how to become a City vendor;

c. A referral to the Human Rights Department for information on how to access Detroit Opportunity Equalization credits;

d. A referral to the Detroit Economic Growth Corporation for business development; and

e. A referral to the Detroit Economic Solutions Corporation for workforce development support.

(c) When soliciting a bid and awarding a contract, the Purchasing Director shall award the contract to a bidder, which offers the requested goods or services at the lowest price after application of the following three-step process:



- (1) Equalization percentage credits as provided for in Sections [17-5-12](#) and [17-5-13](#) of this Code; and
- (2) The preference for environmentally-preferred goods or services as provided for in [Section 17-5-14](#) of this Code; and
- (3) The requirement that consideration be given to the price offered through a cooperative purchases resource as provided for in [Section 17-5-16](#) of this Code.

**Sec. 17-5-12. Solicitation of bids, comparison of equalization credits in bids, and application of equalization credits for bids, for major purchases;—limited bidding; Documentation to be made available; Prohibitions against unapproved assignments or subcontractors; Required clearances for major purchases; Required clearances for construction projects; Prohibitions related to construction workforce development and investment businesses; Exceptions.**

(a) *Solicitation of bids.* Where the purchase entails a major expenditure, the Purchasing Director shall provide for the procurement of competitive bids as follows:

- (1) Prepare the invitation for bids, describing the City's requirements clearly, accurately and completely, avoiding unnecessarily restrictive specifications which might unduly limit the number of bidders. The invitation shall include:
  - a. A notification to all bidders that the City has a preference for environmentally-preferred goods and services and will purchase them where they are price competitive, available, and substantiated according to accepted federal and commercial standards; and

- b. A notification to all bidders that prices bid will be compared to prices available to the City from applicable cooperative purchases resources.
  - c. A notification to all bidders that employment verification may be required prior to receiving a notice to proceed.
- (2) Publicize the invitation for bids by advertising for bids one or more times both in the newspaper designated to print the official business of the City and in a centralized location on the City's official website. Where appropriate, the Purchasing Director shall include advertisements in newspapers, trade journals, association postings, websites, and any other appropriate media sources. In addition, the Purchasing Director may send copies of such advertisement to persons and firms likely to be interested therein. Such advertisement shall accurately and clearly describe or refer to the subject matter of the proposed purchase and may also refer the bidder to specifications on file in the Office of Contracting and Procurement. Such advertisement shall specify the time and place of submitting bids and such other information from the specifications as the Purchasing Director shall deem advisable in the interest of the City. After publication of one advertisement, specifications shall not be changed without the publication of a new advertisement calling attention to such change. A reasonable time shall be allowed to enable prospective bidders to prepare and submit bids before the time set for public opening of bids.
- (3) Provide notification of bids in accordance with the requirements identified in Section 12-10-12 of this Code.

- (4) Received written bids submitted by prospective contractors.
- (b) *Comparison of equalization credits.*
- (1) *Detroit-based business and Detroit-resident business.* As the first step in comparing bids, the bid of any Detroit-based business or small Detroit-resident business shall be deemed a better bid than the bid of any competing firm which is not a Detroit-based business or Detroit-resident business whenever the bid of such competing firm shall be equal to or higher than the bid of the Detroit-based business or Detroit-resident business, after the appropriate equalization percentage credit from the following equalization allowance table—has been applied to the bid of the Detroit-based firm;—

Equalization Allowance Table	
Contract Amount	Equalization Percentage
Up to \$10,000.00	5%
\$10,000.01 to \$100,000.00	4%
\$100,000.01 to \$500,000.00	3%
\$500,000.01 and over	2%

~~If the bidder qualifies as both a Detroit-based business and a Detroit-resident business, the equalization factor in the preceding following table shall be doubled. If the bidder has qualified as a Detroit-based business by virtue of being a Detroit-headquartered business, as defined in [Section 17-5-1](#) of this Code, it shall receive the equalization factor in the preceding following table plus an additional percent, provided, that an affiliate, a subsidiary, a limited-liability corporation, or other business structure shall not receive the additional three percent where the Human Rights Department determine that another related office outside the City has a larger presence than the Detroit office.~~

- (2) *Joint ventures, mentor ventures, and Detroit-based small and micro businesses.* In comparing bids, the bid of any joint venture, mentor venture, Detroit-based small business, or Detroit-based micro business shall be deemed a better bid than the bid of any competing firm, which is not a joint venture, mentor venture, Detroit-based small business, or Detroit-based micro business whenever the bid of such competing firm shall be equal to or higher than the bid of the joint venture, mentor venture, Detroit-based small business or Detroit-based micro business, after the appropriate equalization percentage credit from the following equalization allowance table has been applied to the bid of the Detroit-based firm:

- ~~(3) Construction workforce development business, and construction workforce investment businesses. In comparing bids, the bid of any Construction workforce development business, or Construction workforce investment business shall be deemed a better bid than the bid of any competing firm, which is not a~~

Construction workforce development business or Construction workforce investment business, whenever the bid of such competing firm shall be equal to or higher than the bid of the Construction workforce development business or Construction workforce investment business, after the appropriate equalization percent credits from the following equalization allowance table has been applied to the bid of the Construction workforce development or Construction workforce investment business. The bid of any Construction workforce development business shall be deemed a better bid than the bid of a Construction workforce investment business, whenever the bid of a Construction workforce investment business shall be equal to the bid of a Construction workforce development business, after the appropriate equalization percentage credits from the following equalization allowance table has been applied to the bid of the Construction workforce business.

Equalization Allowance Table	
<u>Detroit headquartered business</u>	<u>6%</u>
<u>Detroit-based business</u>	<u>2%</u>
<u>Detroit-resident business</u>	<u>6%</u>
<u>Construction workforce development</u>	<u>5%</u>
<u>Construction workforce investment</u>	<u>5%</u>
Detroit-based small business	1%
Detroit-based micro business concern	2%
Joint venture	2%
Mentor venture	<del>1%</del> <u>6%</u>

(c) *Application of equalization credits.*

(1) For purposes of evaluating or scoring bids, a bidder shall be entitled to receive the equalization percentage credit for each category for which it qualifies under Section 17-5-12 through Section 17-5-14. The bidder that makes the lowest bid, as evaluated or scored, shall be deemed the lowest equalized bidder. If the lowest

equalized bid is evaluated or scored below the lowest responsible bid submitted, the lowest equalized bidder shall be awarded the contract, provided that, the contract awarded to such bidder shall not exceed, more than twelve percent above the lowest responsible bid submitted, or \$100,000.00, whichever is less. The firm that makes the lowest bid, as evaluated, shall be deemed the lowest bidder.

- (2) In the application of these equalization percentage credits, a joint venture shall not also be considered a mentor venture and a mentor venture shall not also be considered a joint venture. Unless certified before the deadline for submitting a bid, no bidder or firm shall receive an equalization credit as a Detroit-based business, small business or micro business concern. A joint venture or mentor venture shall not receive an equalization credit unless the Detroit-based business in the venture has been certified as such before the deadline for submitting a bid. A Construction workforce development business or a Construction workforce investment business shall only receive an equalization credit for high-impact construction contracts.
- (3) If a bidder claims an equalization credit as a Detroit-resident business, Detroit-headquartered business, Detroit-based business, Construction workforce development business, Construction workforce investment business, Detroit small business, Detroit micro business concern, joint venture, or mentor venture it shall submit documentation of its eligibility with its bid. ~~The Office of Contracting and Procurement or the contracting department~~ Human Rights Department shall determine whether the bidder ~~qualifies~~ qualifies as a

Detroit-resident business, Detroit-headquartered business, Detroit-based business, Construction workforce development business, Construction workforce investment business, Detroit small business, Detroit micro business concern, joint venture, or mentor venture after the bid opening and shall certify such businesses annually consistent with a fee schedule approved by City Council via resolution. The disclosure of any personal identification records collected by the Human Rights Department for purposes of certification or verification under this Chapter is prohibited.

(4) After applying any equalization percentage credit that is contained in this section, the Purchasing Director shall apply Sections [17-5-14](#) through [17-5-16](#) of this Code. Where Sections [17-5-14](#) through [17-5-16](#) of this Code do not apply, the contract shall be awarded to the lowest responsible bidder.

(5) All bidders receiving equalization credits under this section, shall be posted on the Human Rights Department's website.

(d) *Limited bidding permitted in certain circumstances.* On the Purchasing Director's own initiative or at the request of the contracting department, the Purchasing Director may limit the bidding for a contract to Detroit-based businesses, Detroit-based small businesses, or Detroit-based micro businesses, provided, that there are at least three firms certified or registered by the Human Rights Department which would be eligible to bid for the contract. The equalization factors in [Section 17-5-12](#) of this Code shall not apply to the solicitation of bids under this subsection. In determining whether to so limit the bidding, the Purchasing Director should make commercially reasonable efforts to maximize the utilization of Detroit-based



businesses, Detroit-based small businesses, or Detroit-based micro businesses. As used in this subsection only, "should" means a strong recommendation, but does not mandate the actions described.

(e) *Documentation to be made available.* Any bidder who claims to be entitled to an equalization percentage credit shall agree to make the records that were necessary to establish eligibility available to the City.

(f) *Prohibition against unapproved assignments or subcontracts.* A Detroit-resident business, a Detroit-based business, or a mentor venture or joint venture with a Detroit-resident business or Detroit-based business may not assign or subcontract its City contracts to a non-Detroit-based business or a non-Detroit resident business without the approval of such assignment or subcontract by the Purchasing Director.

(g) *Required clearances for major purchases.* Any contractor awarded a City contract under this section must receive an employee income clearance from the City of Detroit Treasury Department in accordance with the requirements of Section 17-5-1 of this Code, prior to City Council's consideration.

(h) *Required clearances for construction projects.* Any construction contractor awarded a City construction contract under this section must receive a corporate accountability clearance and applicable workforce safety clearance from the Office of Contracting and Procurement in accordance with the requirements of Section 17-5-1 of this Code, prior to consideration of City Council's approval.

(i) Prohibitions related to construction workforce development and investment businesses. A construction workforce development business or a construction workforce investment business may not:

(1) Assign or subcontract its City contract to a business without the approval of such assignment from the Purchasing Director;

(2) Assign or subcontract its City contract to a business that does not meet the criteria of a Construction workforce development business or Construction workforce investment business as defined by Section 17-5-1 of this Code; or

(3) Fail to maintain the requisite qualifications of a Construction workforce development business or Construction workforce investment business through the awarding and completion of the construction project or the certification period, whichever is longer.

(j) Exemptions. The requirements of this section shall not be applicable where any one of the following conditions exists:

(1) Public exigencies require the immediate delivery of the articles or performance of the service;

(2) The Purchasing Director certifies that only one source of supply is available;

(3) The services to be performed are professional in nature; or

(4) The item to be acquired is rare or unique.

**Sec. 17-5-13. Solicitation of bids, comparison of equalization credits in bids, and application of equalization credits for bids, for non-major purchases; ~~exceptions~~; Required**

**clearances;—Required clearances for construction projects; Prohibitions related to construction workforce development and investment businesses.**

(a) *Solicitation of bids.* Where the purchase of goods or services entails an expenditure which is not major, as defined in [Section 17-5-1](#) of this Code, the Purchasing Director is authorized to award the contact subject to the following conditions:

- (1) The practice of competitive bidding is required but formal advertising, which includes advertising in both the newspaper designated to print the official business of the City and in a centralized location on the City's website, is required only for contracts over \$10,000.00. An equalization percentage credit shall be allowed as provided for in [Section 17-5-12](#) of this Code whenever there is full and free competitive bidding, provided, that the Purchasing Director may limit bidding to Detroit-based businesses and in that event no equalization percentage credit shall be allowed for Detroit-based small business concerns or Detroit-based micro business concerns.
- (2) In soliciting bids, the Purchasing Director shall affirmatively seek out Detroit-based businesses, Detroit-based micro business concerns, Detroit-based small businesses, Detroit-headquartered businesses, and Detroit-resident businesses as well as Detroit-based resources available through cooperative purchases resources.
- (3) The Purchasing Director must make a determination that the prospective contractor is responsible. The Purchasing Director should utilize all available information from within the Office of Contracting and Procurement and other

City departments, from the prospective contractor, and from banks and other financial companies, in order to ascertain whether the prospective contractor is responsible under the guidelines set forth under "lowest responsible bidder" as defined in [Section 17-5-1](#) of this Code.

(4) The Purchasing Director must provide a notification to all bidders that employment verification may be required prior to receiving a notice to proceed.

(b) *Application of equalization credits.* After applying any equalization credit that is contained in this section, the Purchasing Director shall apply Sections [17-5-14](#) through [17-5-16](#) of this Code. Where Sections [17-5-14](#) through [17-5-16](#) of this Code do not apply, the contract shall be awarded to the lowest responsible bidder.

(c) *Prohibition against unapproved assignments or subcontracts.* A Detroit-resident business, a Detroit-based business, or a mentor venture or joint venture with a Detroit-resident business or Detroit-based business may not assign or subcontract its City contracts to a non-Detroit-based business or a non-Detroit resident business without the approval of such assignment or subcontract by the Purchasing Director.

(d) *Required clearances for non-major purchases.* Any contractor awarded a City contract under this section must receive an employee income clearance from the City of Detroit Treasury Department in accordance with the requirements of Section 17-5-1 of this Code, prior to City Council's consideration.

(e) *Required clearances for construction projects.* Any construction contractor awarded a City construction contract under this section must receive a corporate accountability clearance and applicable workforce safety clearance from the Office of Contracting and

Procurement in accordance with the requirements of Section 17-5-1 of this Code, prior to City Council's consideration.

(f) Prohibitions related to construction workforce development and investment businesses. A construction workforce development business or a construction workforce investment business may not:

- (1) Assign or subcontract its City contract to a business without the approval of such assignment from the Purchasing Director;
- (2) Assign or subcontract its City contract to a business that does not meet the criteria of a Construction workforce development business or Construction workforce investment business as defined by Section 17-5-1 of this Code; or
- (3) Fail to maintain the requisite qualifications of a Construction workforce development business or Construction workforce investment business through the awarding and completion of the construction project or the certification period, whichever is longer.

~~Secs. 17-5-18—17-5-50. Reserved.~~ REPEALED.

~~Secs. 17-5-18 – 17-5-30. Reserved.~~

**PART 2. TARGET WORKFORCE REQUIREMENTS, TARGET REPORTING DATA,  
OUTREACH AND RECRUITMENT**

**Sec. 17-5-31. Target workforce requirement for non-professional service contract; verification; Detroit-resident hiring plan; evaluation; compliance status reported on resolutions; exemptions; effective date.**