



Rashi Kesarwani  
Councilmember District 1

## **REVISED AGENDA MATERIAL**

**Meeting Date:** April 27, 2026

**Item Number:** #17 - Agenda and Rules Policy Committee

**Item Description:** Amendment to Berkeley Municipal Code Chapter 7.18 to Explicitly Require Competitive Procurement for Services to Promote Accountability and Transparency; and Short-Term Referral to Extend Recycling Services Contracts for Two Years Until an Appropriate Request for Proposal Process can be Established

**Submitted by:** Rashi Kesarwani

This item is being resubmitted to the Agenda and Rules Committee with the amended language inserted into the correct ordinance template to allow Council to adopt a first reading.

In addition, the short-term referral to extend recycling services contracts for two years has been removed, and the ordinance amendment language has been changed to address the City Attorney Office's concerns.



Rashi Kesarwani  
Councilmember, District 1

CONSENT CALENDAR  
May 12, 2026

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author) and Mayor Adena Ishii (Co-Sponsor)

SUBJECT: Amendment to Berkeley Municipal Code Chapter 7.18 to Explicitly Require Competitive Procurement for Services to Promote Accountability and Transparency and Refer Development of Regulations to City Manager

**RECOMMENDATION**

Adopt an ordinance amending Berkeley Municipal Code (BMC) Chapter 7.18, Expenditure Limitations, to require procurement through competitive solicitation for all city contracts for professional services and other services greater than \$100,000.

Refer to the City Manager to promulgate any further regulations that may be needed related to the requirement for competitive solicitation except for emergencies and when market research justifies the business case for a sole-source procurement, in alignment with the existing purchasing manual.

**CURRENT SITUATION AND ITS EFFECTS**

***City Auditor Recommends Competitive Procurement for Service Contracts.***

The City Auditor's report, *City Contracts: Outdated Process Led to Non-Competitive Contracts* (released Feb. 19, 2026) found that in fiscal year 2021-22, Berkeley executed two large recycling contracts with the Ecology Center and Community Conservation Centers for nearly \$85 million over ten years without using a competitive procurement process.<sup>1</sup> The Auditor's report also found that the City Council authorized noncompetitive contracts for community-based organizations and amended service contracts that started below the threshold for Council approval of \$50,000 that increased by an average of \$218,026 per contract without competition.

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<sup>1</sup> City Auditor Jenny Wong: *City Contracts: Outdated Process Led to Non-Competitive Contracts*, February 19, 2026: [https://berkeleyca.gov/sites/default/files/2026-02/City\\_Contracts\\_-\\_Outdated\\_Process\\_Led\\_to\\_Non-Competitive\\_Contracts.pdf](https://berkeleyca.gov/sites/default/files/2026-02/City_Contracts_-_Outdated_Process_Led_to_Non-Competitive_Contracts.pdf) p. 8.

Recommendation 1.2 in the City Auditor's report recommends that Berkeley Municipal Code Chapter 7.18 be amended to explicitly require competition for service contracts.

***City Charter Only Requires Competitive Procurement for the Purchase of Supplies, Equipment or Materials, Not Services.*** Pursuing competitive procurement is considered a best practice in contracting to ensure openness, fairness, transparency, and competition in the award and use of public funds. However, neither the Berkeley Municipal Code (BMC) nor the City Charter explicitly requires competitive procurement for professional services and other service contracts, such as recycling services. City Charter Section 67 only explicitly requires competitive solicitation for the purchase of supplies, equipment or materials to the "lowest responsible bidder." Updating the BMC to require competitive procurement for all service contracts that exceed \$100,000 would ensure that large service contracts would be subject to competitive procurement, as those for construction, equipment, supplies and materials.

***In the Case of Services (Including Professional Services), Competitive Procurement Should Yield A Balanced Consideration of Quality, Experience, and Cost.*** Competitive procurement is the process of acquiring goods, services, or public works by soliciting bids, proposals, or quotes from multiple competing vendors. The primary goal is to ensure that public funds are spent efficiently and transparently, obtaining the "best value"—which is a balance of quality, experience, and cost—while preventing favoritism or corruption. Characteristics of a competitive procurement include the following:

- Openness: The opportunity is publicly advertised (often via a Request for Proposals or Invitation for Bids) so that any qualified vendor can participate.
- Fairness: All bidders are treated equally, receiving the same information and being evaluated against the same predetermined criteria.
- Transparency: The selection process is documented and subject to audit, ensuring the public can see why a specific vendor was chosen.
- Competition: By forcing vendors to compete, the procurement process can drive down costs and encourage innovation or higher-quality service delivery.

Common methods for conducting a competitive procurement include the following:

- Invitation for Bids: Used when requirements are very specific (e.g., office supplies). The contract is typically awarded to the lowest responsive and responsible bidder.
- Request for Proposals: Used for complex projects (e.g., policy analysis or IT systems) where the "how" is as important as the price. Evaluation includes technical expertise, methodology, and cost.
- Request for Qualifications: Focuses strictly on the vendor's experience and "bench strength" before negotiating costs, often used for architectural or engineering services.

***Recommended Amendment to BMC Section 7.18.010 Requires Competitive Procurement for Service Contracts Exceeding \$100,000.*** The amended language below raises the threshold for Council approval to \$100,000 to better reflect costs for services and to explicitly require competitive procurement for service contracts that exceed \$100,000:

Except as otherwise provided in this Title, expenditures pursuant to Article XI, Sections 67 and 67.5 of the Charter of the City of Berkeley, for which exceed the initial amount exceeds of \$1050,000, inclusive only of professional services, other services, supplies, equipment, or materials (excluding leases and real estate agreements), shall require Council approval and shall be procured through competitive solicitation except in the case of emergencies pursuant to Article XI, Section 67.4. The requirement specified in Article XI, Section 67 of the Charter to select the "lowest responsible bidder" only for supplies, equipment, or materials contracts remains. Professional services and other services contracts shall be based on demonstrated competence and qualifications for the types of services to be performed, at fair and reasonable prices to the City. This requirement for professional and other services contracts to be selected via competitive procurement applies to all Charter Officers. Pursuant to Article XVI Section 113, the City Attorney retains the authority to enter into contracts without Council approval after competitive procurement.

## **BACKGROUND**

***Other Cities Require Competitive Procurement for Services.*** The proposed amendment to BMC Chapter 7.18 brings the City of Berkeley in line with neighboring jurisdictions that already require competition for service contracts. San Francisco's Municipal Code Section 21.1 states: "All City contracts for Commodities and/or Services shall be procured through competitive solicitation, except as otherwise authorized in this Code."<sup>2</sup> Similarly, the Oakland Municipal Code notes: "The City Administrator or the City Administrator's designee shall conduct a request for proposal ("RFP") or request for qualifications ("RFQ") process for the award of contracts that exceed fifty thousand dollars (\$50,000.00) and are exempt from bidding under Subsection 2.04.050.1.1. ...The RFP or RFQ requirement applies, but is not limited to, contracts for professional, technical or specialized services."<sup>3</sup>

## **RATIONALE FOR RECOMMENDATION**

As the City Auditor notes in her recent report, "competition among contractors helps ensure that the City is accountable for public funds spent on contracts and can get the best value and best fit for Berkeley residents. Open and fair competition for contracts promotes ethical and inclusive purchasing practices."<sup>4</sup> While no evidence of misconduct was found during the audit, contracting corruption cases do exist and promote a lack of trust in local government. A competitive process can guard against waste and fraud and discourage favoritism for specific contractors. Competitive

<sup>2</sup> San Francisco Municipal Code Chapter 21.1:

[https://codelibrary.amlegal.com/codes/san\\_francisco/latest/sf\\_admin/0-0-0-13403](https://codelibrary.amlegal.com/codes/san_francisco/latest/sf_admin/0-0-0-13403)

<sup>3</sup> Oakland Municipal Code Section 2.04.051:

[https://library.municode.com/ca/oakland/codes/code\\_of\\_ordinances?nodeId=TIT2ADPE\\_CH2.04PUS\\_Y\\_ARTIBICOPU\\_2.04.040COPR](https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=TIT2ADPE_CH2.04PUS_Y_ARTIBICOPU_2.04.040COPR)

<sup>4</sup> City Auditor Jenny Wong: City Contracts: Outdated Process Led to Non-Competitive Contracts, February 19, 2026: [https://berkeleyca.gov/sites/default/files/2026-02/City\\_Contracts\\_-\\_Outdated\\_Process\\_Led\\_to\\_Non-Competitive\\_Contracts.pdf](https://berkeleyca.gov/sites/default/files/2026-02/City_Contracts_-_Outdated_Process_Led_to_Non-Competitive_Contracts.pdf) p.2

processes is a good government best practice that highlights transparency and inclusivity while saving taxpayers' money.

### **FISCAL IMPACT**

Staff time to amend BMC Chapter 7.18 as well as to establish an RFP process for recycling services and future RFPs for services, as needed.

### **ENVIRONMENTAL SUSTAINABILITY**

Competition among contractors can help the city procure services for the best fit at the most reasonable price for recycling services and other environmentally sustainable services rendered to the city.

### **CONTACT PERSON**

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(510) 981-7110

### Attachments

- 1) BMC Chapter 7.18 tracked changes
- 2) City Auditor February 19, 2026 Report "City Contracts: Outdated Process Led to Non-Competitive Contracts"

ORDINANCE NO. X,XXX-N.S.

AMENDING BERKELEY MUNICIPAL CODE SECTION 7.18.010 EXPENDITURES  
PURSUANT TO CHARTER ARTICLE XI, SECTIONS 67 AND 67.5

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 7.18.010.A is amended to read as follows:

A. Except as otherwise provided in this Title, expenditures pursuant to Article XI, Sections 67 and 67.5 of the Charter of the City of Berkeley, for which ~~exceed~~ the initial amount ~~exceeds of \$1050,000, inclusive of professional services, other services, supplies, equipment, or materials (excluding leases and real estate agreements), ~~contracts,~~~~ shall require Council approval and shall be procured through competitive solicitation except in the case of emergencies pursuant to Article XI, Section 67.4. The requirement specified in Article XI, Section 67 of the Charter to select the “lowest responsible bidder” only for supplies, equipment, or materials contracts remains. Professional services and other services contracts shall be based on demonstrated competence and qualifications for the types of services to be performed, at fair and reasonable prices to the City. This requirement for professional and other services contracts to be selected via competitive procurement applies to all Charter Officers. Pursuant to Article XVI Section 113, the City Attorney retains the authority to enter into contracts without Council approval after competitive procurement.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.