

MA 5800 PA190000014

UNIVERSAL SERVICE AGREEMENT

This UNIVERSAL SERVICE AGREEMENT (the "Agreement") is entered into and shall be binding upon the parties as of the last date executed below, and effective as of December 1, 2018 (the "Effective Date") by and between TALX Corporation (a provider of Equifax Workforce Solutions), a Missouri corporation ("EWS"), and City of Austin ("Client"), a home-rule municipality incorporated by the State of Texas. The parties agree as follows:

1.0 CONTRACT SERVICES

By entering into this Agreement, Client hereby authorizes EWS to provide the employment or payroll related services (the "Services") as described in each applicable schedule, or schedule set, and any exhibits attached thereto (the "Schedule(s)"). The parties may enter into one or more Schedule(s), each Schedule corresponding to a service or group of services provided by EWS, and such schedules, whether attached hereto or entered into after the execution of this Agreement, shall be a part of this Agreement. The terms of this Agreement shall apply to each Service, except as the parties may otherwise provide in the Schedule(s).

2.0 TERM

The term for each Service is set forth in the applicable Schedule. A Schedule may expire or be terminated without affecting the other Schedules. This Agreement shall remain in effect as long as there is an outstanding schedule with a term then in effect.

3.0 EWS OBLIGATIONS

EWS agrees that the Service (i) will be provided in compliance with laws and regulations applicable to EWS's performance thereof, and (ii) will not infringe trademarks, patents or other intellectual property rights of others. EWS MAKES NO WARRANTIES AS TO THE SERVICE OR THE DATA, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, AND/OR FITNESS FOR A PARTICULAR PURPOSE EVEN IF EWS KNOWS OF SUCH PURPOSE.

4.0 CONFIDENTIALITY

The parties agree that the following will be treated as "Confidential Information": (i) all employment and income data ("Data") provided by or on behalf of Client to EWS; (ii) all information provided by EWS to Client pertaining to the Services; (iii) all information which is labeled as such in writing and prominently marked as "Confidential," "Proprietary" or words of similar meaning by either party; or (iv) business information of a party which a reasonable person would understand under the circumstances to be confidential. Any Confidential Information acquired or received by either party (the "Recipient") in the course of this Agreement will not be disclosed or transferred to any person or entity other than to employees of a party and, as to EWS, for the purpose of performing its obligations under this Agreement, unless the Confidential Information is required to be disclosed by law. In case of disclosure compelled by law, the Recipient will furnish only that portion of the Confidential Information that it is advised by counsel that it is legally required to furnish. Confidential Information received under this Agreement will be treated with the same degree of care and security as each party uses with respect to its own Confidential Information, but not less than a reasonable degree of care. The parties agree to use Confidential Information only for the purpose of performance of this Agreement and to make no copies except as necessary for performance of this Agreement.

"Confidential Information" does not include information which (i) is or becomes generally available to the public other than as a result of disclosure by the Recipient, (ii) was known by the Recipient at the time of disclosure of the information without any obligation of confidence, and that knowledge is evidenced by reasonable proof, (iii) was or becomes available from a source other than the owner if the source was not legally bound to maintain the confidentiality of the information, or (iv) the Recipient independently develops without use of or reference to the Confidential Information. Each party acknowledges that unauthorized disclosure or use of the Confidential Information by a party may irreparably damage the other party in such a way that adequate compensation could not be obtained from damages in an action at law. Accordingly, the actual or threatened unauthorized disclosure or use of any Confidential Information shall give the owner the right to seek injunctive relief restraining such unauthorized disclosure or use, in addition to any other remedy otherwise available (including reasonable attorneys' fees). Each party hereby waives the posting of a bond with respect to any action for injunctive relief.

Upon Client's written request at any time during the Term of this Agreement (including termination or completion of the Services hereunder), EWS will purge, destroy, or otherwise render inaccessible, Data housed in the EWS production database(s), provided that EWS may retain archival copies of Data for audit and dispute resolution purposes and EWS may retain copies of Data on encrypted back-up media in which such Data is co-resident with other employment and income data. EWS shall remain under its contractual obligation of confidentiality and security to Client during such retention and such obligations shall survive termination of the Agreement.

This Section shall survive the termination of this Agreement.

5.0 DATA SECURITY AND PRIVACY

EWS shall maintain an information security program that includes appropriate administrative, technical and physical safeguards reasonably designed to: 1) ensure the security and confidentiality of Data; 2) protect against any anticipated threats or hazards to the security or integrity of such Data; 3) protect against unauthorized access to or use of such Data that could result in substantial harm or inconvenience to Client; and 4) dispose of such Data in a secure manner.

To comply with the safeguard obligations generally described above, EWS has (a) designated an employee to coordinate its information security program, (b) identified reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of Data that could result in the unauthorized disclosure, misuse, alteration, destruction, or other compromise of such Data, and assessed the sufficiency of any safeguards in place to control these risks, and (c) designed and implemented information safeguards (including encryption of Data at rest and during transmission), to control the risks identified through the risk assessment, and regularly tests or otherwise monitors the effectiveness of safeguards' key controls, systems and procedures.

EWS shall notify Client in writing as soon as possible and without unreasonable delay, after EWS has either actual or constructive knowledge of a breach which affects Data (an "Incident"). Notification may be delayed as required by law enforcement to prevent any impediment(s) to its investigation of the Incident. EWS shall have actual or constructive knowledge of an Incident if EWS actually knows there has been an Incident or if EWS has reasonable basis in facts or circumstances, whether acts or omissions, for its belief that an Incident has occurred. EWS shall cooperate with law enforcement in accordance with applicable law provided however, that such cooperation shall not result in or cause an undue delay to remediation of the Incident. EWS shall promptly take appropriate action to mitigate such risk or potential problem at EWS's expense. In the event of an Incident, EWS shall, at its sole cost and expense, fully restore the Data and institute appropriate measures to prevent any recurrence of the problem as soon as is commercially practicable.

6.0 DATA QUALITY AND DATA TRANSMISSION

Client acknowledges that the ability of EWS to provide accurate information is dependent upon receipt of accurate Data from Client. Client shall provide current and accurate Data necessary for EWS to provide the Services. Client agrees to provide such Data to EWS in the EWS format within a mutually agreeable timeframe and to promptly correct and update Data. Client further agrees to test and validate the accuracy of the Data on a mutually agreeable frequency using paper-based or electronic Data validation reports provided by EWS. Both parties agree to work together to identify and resolve all identified historical and ongoing Data errors within two (2) of Client's pay periods. Client agrees that any action required of EWS to correct the Data for Client may result in additional fees, as provided in each applicable Schedule attached hereto. Furthermore, Client agrees to transfer Data to EWS using one of the approved secure shipping methods provided in Attachment 1.

7.0 PROPRIETARY RIGHTS

Neither party's ownership rights, including but not limited to, any intellectual property rights in or used by EWS to perform the Services nor any intellectual property rights in or to Client's Data, shall be transferred pursuant to this Agreement. This Section shall survive termination of this Agreement.

8.0 INDEMNIFICATION/LIMITATION OF LIABILITY

- 8.1 To the extent allowable by the applicable law, each party agrees to indemnify, defend and hold harmless the other party and its affiliates, and their directors, officers, appointed or

elected officials, agents, representatives, employees, successors and assigns (each, an "Indemnified Party"), from and against any and all third party claims, demands, liabilities, suits, damages, expenses and costs (including reasonable attorneys', experts' and investigators' fees and expenses) incurred by the Indemnified Party arising from or related in whole or in part to the indemnifying party's, or its affiliates', or its directors', officers' or employees' (i) breach of Section 4.0 or Section 6.0 of this Agreement, (ii) infringement on the intellectual property rights of third parties and/or (iii) intentional wrongful act or omission, provided that (a) the party seeking indemnity promptly notifies the indemnifying party of any claim for indemnity and cooperates fully in the defense of the claim, and (b) the party providing indemnity shall select counsel to defend any such claim.

- 8.2 IN NO EVENT SHALL DAMAGES BY EITHER PARTY HEREUNDER EXCEED THE SUM OF TWENTY- FIVE THOUSAND DOLLARS (\$25,000). THIS LIMITATION ON LIABILITY SHALL NOT APPLY TO ANY THIRD PARTY CLAIM FOR WHICH EITHER PARTY HAS AN OBLIGATION OF INDEMNITY
- 8.3 ANY OTHER TERM OR PROVISION OF THIS AGREEMENT TO THE CONTRARY NOTWITHSTANDING, IN NO EVENT SHALL EITHER PARTY, OR ITS AFFILIATES, THEIR DIRECTORS, OFFICERS OR EMPLOYEES, BE LIABLE FOR LOSS OF PROFITS OR FOR INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THE PERFORMANCE OF THIS AGREEMENT, EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9.0 MISCELLANEOUS

- 9.1 **Entire Agreement.** This Agreement, which includes all schedules attached hereto and/or entered into after the execution hereof, comprises the entire Agreement between the parties, which supersedes all prior proposals, purchase orders, understandings and agreements with respect to the subject matter hereof.
- 9.2 **Force Majeure.** Neither party shall be responsible for any failure or delay in the performance of any obligations (excepting obligations to pay money) to the extent that failure is caused by acts of God, acts of terror, flood, fire, labor disputes, acts or omissions of the other party, non-delivery or delays in delivery by any other supplier of goods or services deliverable under this Agreement, or other causes beyond such party's reasonable control.
- 9.3 **Severability.** If any provision of this Agreement is held to be invalid or unenforceable under applicable law in any jurisdiction, the validity or enforceability of the remaining provisions thereof shall be unaffected as to such jurisdiction and such holding shall not affect the validity or enforceability of such provision in any other jurisdiction. To the extent that any provision of this Agreement is held to be invalid or unenforceable because it is overbroad, that provision shall not be void but rather shall be limited only to the extent required by applicable law and enforced as so limited.
- 9.4 **Jurisdiction.** This Agreement is made under and shall be governed by the laws of the State of Texas, without regard to conflicts of laws principles which would apply the law of any other jurisdiction.
- 9.5 **Waiver of Jury Trial.** EACH PARTY AGREES TO WAIVE AND HEREBY WAIVES THE RIGHT TO TRIAL BY JURY OF ANY ACTION, SUIT, PROCEEDING, DISPUTE, CLAIM, OR CONTROVERSY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SERVICES, EXCEPT TO THE EXTENT PROHIBITED BY APPLICABLE LAW
- 9.6 **Dispute Resolution.** In the event of any dispute between the parties arising out of this Agreement (a "Dispute") which cannot be readily resolved, in good faith, within thirty (30) calendar days, the parties will each escalate the matter to senior management who will meet in person or by telephone within fifteen (15) business days of receipt of notice of the Dispute by either party, to attempt to resolve the Dispute. Except where clearly prevented by the area in Dispute, both parties shall continue performing their obligations under this Agreement while the Dispute is being resolved, and until the Dispute is resolved, or until this Agreement is terminated as provided herein. The time frame for a party to cure any breach of the terms of this Agreement shall not be tolled by the pendency of any Dispute resolution procedures. The parties agree that they will cooperate at all times in good faith.

- 9.7 **Assignment/Modification.** Neither party may assign this Agreement or any right or obligation under this Agreement without the express written consent of the other party, which consent shall not be unreasonably withheld or denied. In the event assignment is necessitated by business reorganization, either party may assign this Agreement, provided that they provide the other party with written notice. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their permitted successors and assigns. Except as provided in each applicable Schedule hereto, this Agreement may be amended or modified only by the written and signed consent of the parties.
- 9.8 **Notices.** Every notice required under this Agreement shall be in writing and effective three (3) days after being mailed first class postage prepaid, or upon delivery by an overnight or other courier or delivery service, in either case addressed as follows:

To Client:	To EWS:
City of Austin	TALX Corporation
	11432 Lackland Road
	St. Louis, MO 63146
	Attn: President

Either Party may change its notice address with written notice to the other party.

- 9.9 **Counterparts/Execution by Facsimile.** For the convenience of the parties, copies of this Agreement, including Schedules hereto, may be executed in two or more counterparts and signature pages exchanged by facsimile or scanned copies via e-mail. The parties intend that counterpart copies signed and exchanged as provided in the preceding sentence shall be fully binding as an original handwritten executed copy hereof and all of such copies together shall constitute one instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

City of Austin

By:

Name:

Title:

Date:

Elisa Folco
Elisa Folco
Proc Specialist IV
12/13/2018

TALX Corporation,
 provider of Equifax Workforce Solutions

By:

Name:

Title:

Date:

Javad Ra'ed
Javad Ra'ed
 VP Strategic Accounts
 12/13/2018 | 15:29:30 EST

Attachment 1**Security Requirements when Client Sends Employment and Income Data to EWS**

The following table outlines the acceptable options for the secure transfer of employment and income Data, to EWS. Client agrees to use one of the approved secure delivery or transmission methods provided below. The EWS preferred method of receiving Data is Secure File Transfer Protocol (SFTP) with PGP encryption.

	Transfer Option	Description	For Added Protection
1a	SFTP	Secures credentials and information in the file during transmission using the SSH protocol.	PGP desktop software and use of the EWS PGP encryption key adds extra protection to the Data file itself.
1b	FTPS	Secures credentials and information in the file during transmission using SSL/TLS protocols.	PGP desktop software and use of the EWS PGP encryption key adds extra protection to the Data file itself.
2	Encrypted Email Attachment	Secures information in email attachment only.	PGP desktop software and use of the EWS PGP encryption key encrypts the Data file.
3	CD/DVD	Allows for sending data files using encryption software with additional password protection.	PGP desktop software and use of the EWS PGP encryption key encrypts the Data file.
4	Secure Email (Voltage, TLS)	Secures information in the body of the email and attachments.	Client to confirm presence of TLS with their internal email service team.
5	Unencrypted Media	Secured transport service approved by EWS for unencrypted media and documents.	<ol style="list-style-type: none"> 1. USPS Certified Mail 2. USPS Overnight delivery 3. FedEx Overnight or 2-day delivery 4. UPS Overnight or 2-day delivery

**SCHEDULE A – EMPLOYMENT VERIFICATIONS
SERVICE PROVIDER, TERM AND FEES FOR SERVICES**

CLIENT NAME: City of Austin

EFFECTIVE DATE: December 1,
2018

The Employment Verifications service (the "Service") is a service owned and operated by TALX Corporation (a provider of Equifax Workforce Solutions), a Missouri corporation ("EWS"), which provides subscribing employers with an automated method of providing employment and income verifications to authorized third parties. Client authorizes EWS to provide the Service on behalf of the Client. EWS shall provide the Service in accordance with the Universal Service Agreement ("Agreement"), this Schedule A and Schedule B (which are part of the Agreement) utilizing the Data supplied by Client. All capitalized terms used herein and not otherwise defined shall have the meaning set forth in the Agreement.

- Fair Credit Reporting Act ("FCRA") Obligations.** By signing below, or otherwise accepting these terms, Client acknowledges receipt of this Schedule A, Exhibit 1 to this Schedule A, Schedule B and Exhibit 1 to Schedule B, "Notice to Furnisher". Client agrees that it shall comply with all of the obligations of a furnisher set forth in such Notice to Furnisher. In the event that an employee notifies EWS of an error in any Data, and EWS or Client concludes that the Data is incorrect, Client shall correct the Data as required. If, after completing an investigation and acknowledging that the Data is incorrect, Client does not correct the Data EWS may as required under FCRA: (i) correct the Data on behalf of Client, and/or (ii) block the Data from being accessed by verifiers.
- Term.** This Schedule shall be for an initial term of three (3) years from the Effective Date hereof. This Schedule shall automatically renew for successive two (2) year terms unless either party provides the other with written notice of termination at least sixty (60) days prior to the end of the then current term.
- Termination.** Either party may terminate this Schedule if the other party has materially breached the Agreement, provided that the party claiming breach must give the other party written notice and at least thirty (30) days in which to cure the breach before terminating the Schedule. In order to facilitate Services that are in process of being completed, in the event of termination of this Schedule, the parties agree that, at Client's choosing, EWS shall continue providing the Services under the terms of this Schedule for a period of six (6) months after the termination of this Schedule (the "Transition Period").

Client Purchase Orders. If the use of a Purchase Order ("PO") or similar ordering document is required by Client, the following information must be provided as part of the Agreement. Failure to include this information reflects Client's agreement that a PO shall not be required by Client. Client shall provide notice of any PO changes no less than ninety (90) days prior to the expiration of the current PO. No additional terms and conditions shall be included in the PO unless expressly agreed to in writing by the Parties. If there is a conflict between language in the PO and the Agreement, the Agreement shall control.

PO Number: _____

PO effective dates (does not impact the Effective Date(s) or Term(s) specified in the Agreement): from _____ to _____

Dollar limit, if applicable, of initial PO (does not limit or otherwise impact any minimum ordering obligations or purchase commitments specified in the Agreement): \$ _____

- Data:** Client acknowledges that the ability of EWS to provide accurate information is dependent upon accurate Data from Client. Client agrees to maintain its Data in an accurate, complete and current manner, to provide EWS with Data on employees of Client, and to notify EWS in advance of any and all changes or modifications in format of the Client's computer interface and/or the Data.

Schedule A and Schedule B shall be binding on the parties upon the date last executed below.

City of Austin

By: _____

Name: _____

Title: _____

Date: _____

TALX Corporation,
provider of Equifax Workforce Solutions

By: _____

Name: _____

Title: _____

Date: _____

SCHEDULE A – EMPLOYMENT VERIFICATIONS
EXHIBIT 1 - FEES

FEES: Fees for the Service provided under this Schedule include:

Total number of active employees under contract: 15,000

Set-up and Conversion Fees (invoiced upon execution of this Schedule)

- Set-up fee (Initial conversion, minimum \$250, maximum \$6,500) No charge

Monthly Fees

- Data Security, Compliance and Storage fee No Charge
- Client access calls to place and/or remove employee information holds No charge
- Periodic file updates No charge
- Electronic management reports No charge
- Employee file transmissions
 - ☒ Electronic Files No charge
 - ☐ Tape/Disk/CD-ROM (includes one return shipment of media per month) No Charge

☒ Yes ☐ No **Client Fees for Social Services Verifications** (includes postage)

- Manual verifications No charge
- Electronic verifications No charge

☒ Yes ☐ No **Immigration Verification Service**

- Manual verifications No charge
- Electronic verifications No charge

☒ Yes ☐ No **Workers' Compensation Verification Service**

- Electronic verifications No charge

☒ Yes ☐ No **Employer as Member Verifier Program**

- Upon successful Live-implementation date, Client is entitled to certain discounts as an Employer Member Verifier. Contracting will be completed prior to Live-implementation date under a separate Agreement. All employment verifications transacted by Client, for pre-employment screening purposes, will be at a 25% discount of standard verification of employment fees.

Optional Services

- ☐ Yes ☐ No **Format conversion** (one-time fee per custom non-standard file format)
- Convert custom non-standard file format into the EWS standard format No charge
-

PEPY SERVICES:

Verification Service Fees. No charge

Omitted No charge

Additional Services

☒ Yes ☐ No **Immigration Verification Service**

- Manual verifications No charge
- Electronic verifications No charge

☒ Yes ☐ No **Workers' Compensation Verification Service**

- Electronic verifications No charge

☒ Yes ☐ No **Employer as Member Verifier Program**

- Upon successful Live-implementation date, Client is entitled to certain discounts as an Employer Member Verifier. Contracting will be completed prior to Live-implementation date under a separate Agreement. All employment verifications transacted by Client, for pre-employment screening purposes, will be at a 25% discount of standard verification of employment fees.
-

No charge

SCHEDULE B – EMPLOYMENT VERIFICATIONS
SERVICE DESCRIPTION OVERVIEW

Parties to Verifications.

EWS is authorized by Client to provide employment and income verification of Client's employees. The Service is designed to assist (i) Client, (ii) employees of Client, and (iii) commercial, private, non-profit and governmental entities ("Verifiers") who wish to verify an employee's employment and/or income.

Client Interests.

Client provides Data to EWS on a regular basis and EWS provides employment and/or income verifications to Verifiers. For a Manual Verification, EWS, when requested by Verifiers and as Client's sole agent, will request employment verifications via phone, fax or automated request as agreed upon by the parties, and Client will provide Data to EWS upon request.

EWS does not guarantee the accuracy of Data provided by Client. EWS will assure due diligence is taken to protect Client Data in accordance with good industry practices.

EWS may use Client's name in routine communications EWS undertakes to Verifiers, to inform Verifiers of participation by clients in the Service in order to serve clients more efficiently and to reduce calls to clients from Verifiers.

Employee Interests.

Employees of Client may need verification of employment and/or income to qualify for home loans, automobile loans, chattel loans, social services programs, confirm immigration status or obtain worker's compensation payments. The Employment Verifications service provides the necessary verification on a timely basis.

Verifier Interests.

Verifiers may obtain different amounts of information and in different manners dependent on the nature of the Verifier and the nature of the relationship with EWS. Verifiers may be commercial verifiers such as mortgage lenders, pre-employment screeners, automobile lenders, property managers, parties to consumer lending and others; social service agencies seeking to qualify an employee for social service assistance; child support agencies providing support for dependent children; immigration officials needing confirmation of employment; insurers; law enforcement agencies; or other Verifiers with a need to verify employment or income.

EWS will serve the interests of Client, employees of Client and Verifiers (i) by providing verifications to relieve the employer of the burden of employment and income verification obligations as often as practicable; (ii) by providing verifications where the employee has applied for a benefit (such as a job application, qualification for social services assistance or a loan application) or has obtained a benefit and the Verifier is seeking to determine whether the employee is qualified to receive the benefit or is seeking to enforce obligations undertaken by the employee in connection with the benefit; (iii) by providing verifications where the employee is obligated by Federal, state or local law to provide the verification information to the Verifier; and (iv) by providing analytics, modeling and/or demographic studies that will not include any information that individually, or collectively, could be used to specifically identify either Client or Client's employees.

Fair Credit Reporting Act.

EWS is a Consumer Reporting Agency ("CRA"), as defined by the FCRA. As such, EWS complies with the FCRA in providing the Service. EWS's FCRA compliance enhances the protections available to Client's employees, with respect to the privacy and accuracy of the Data. Client acknowledges that EWS has the responsibility to maintain Data accuracy as required under the FCRA, and grants EWS the authority necessary to fulfill this responsibility.

Modification of Service Description

EWS reserves the right to modify the Service from time to time. If the modification shall be a substantial change from this Service Description Overview, EWS shall provide written notice of the change to Client. A substantial change shall be a change which is inconsistent with this Service Description Overview. A change that does not alter functionality of the Service, such as a change for upgraded security of Data, is not a substantial change. Client may terminate the Service by written notice to EWS within thirty (30) days after notice of a substantial change to the Service Description Overview. Such termination shall be effective ninety (90) days after notice is provided unless Client provides for an earlier or later effective date of termination in the notice of termination. Absence of such termination shall constitute Client's agreement to the modified Service Description Overview.

Exhibit 1

All furnishers of consumer reports must comply with all applicable regulations, including regulations promulgated after this notice was first prescribed in 2004. Information about applicable regulations currently in effect can be found at the Consumer Financial Protection Bureau's website, www.consumerfinance.gov/learnmore.

NOTICE TO FURNISHERS OF INFORMATION: OBLIGATIONS OF FURNISHER UNDER THE FCRA

The federal Fair Credit Reporting Act (FCRA), 15 U.S.C 1681-1681y, imposes responsibilities on all persons who furnish information to consumer reporting agencies (CRAs). These responsibilities are found in Section 623 of the FCRA, 15 U.S.C 1681s-2. State law may impose additional requirements on furnisher. All furnishers of information to CRAs should become familiar with the applicable laws and may want to consult with their counsel to ensure that they are in compliance. The text of the FCRA is available at the website of the Consumer Financial Protection Bureau: www.consumerfinance.gov/learnmore. A list of the sections of the FCRA cross-referenced to the U.S. Code is at the end of this document.

Section 623 imposes the following duties upon furnishers:

Accuracy Guidelines

The FCRA requires furnishers to comply with federal guidelines and regulations dealing with the accuracy of information provided to CRAs by furnishers. Federal regulations and guidelines are available at www.consumerfinance.gov/learnmore. *Section 623(e)*.

General Prohibition on Reporting Inaccurate Information

The FCRA prohibits information furnishers from providing information to a CRA that they know or have reasonable cause to believe is inaccurate. However, the furnisher is not subject to this general prohibition if it clearly and conspicuously specifies an address to which consumers may write to notify the furnisher that certain information is inaccurate. *Sections 623(a)(1)(A) and (a)(1)(C)*.

Duty to Correct and Update Information

If at any time a person who regularly and in the ordinary course of business furnishes information to one or more CRAs determines that the information provided is not complete or accurate, the furnisher must promptly provide complete and accurate information to the CRA. In addition, the furnisher must notify all CRAs that received the information of any corrections, and must thereafter report only the complete and accurate information. *Section 623(a)(2)*.

Duties After Notice of Dispute from Consumer

If a consumer notifies a furnisher, at an address specified for the furnisher for such notices, that specific information is inaccurate, and the information is, in fact, inaccurate, the furnisher must thereafter report the correct information to CRAs. *Section 623(a)(1)(B)*.

If a consumer notifies a furnisher that the consumer disputes the completeness or accuracy of any information reported by the furnisher, the furnisher may not subsequently report that information to a CRA without providing notice of the dispute. *Section 623(a)(3)*.

Furnishers must comply with federal regulations that identify when an information furnisher must investigate a dispute made directly to the furnisher by a consumer. Under these regulations, furnishers must complete an investigation within 30 days (or 45 days, if the consumer later provides relevant additional information) unless the dispute is frivolous or irrelevant or comes from a "credit repair organization." Federal regulations are available at www.consumerfinance.gov/learnmore. *Section 623(a)(8)*.

Duties After Notice of Dispute from Consumer Reporting Agency

If a CRA notifies a furnisher that a consumer disputes the completeness or accuracy of information provided by the furnisher, the furnisher has a duty to follow certain procedures. The furnisher must:

- Conduct an investigation and review all relevant information provided by the CRA, including information given to the CRA by the consumer. *Sections 623(b)(1)(A) and (b)(1)(B)*.
- Report the results to the CRA that referred the dispute, and, if the investigation establishes that the information was, in fact, incomplete or inaccurate, report the results to all CRAs to which the furnisher provided the information that compile and maintain files on a nationwide basis. *Section 623(b)(1)(C) and (b)(1)(D)*.
- Complete the above steps within 30 days from the date the CRA receives the dispute (or 45 days, if the consumer later provides relevant additional information to the CRA). *Section 623(b)(2)*.
- Promptly modify or delete the information, or block its reporting. *Section 623(b)(1)(E)*.

Duty to Report Voluntary Closing of Credit Accounts

If a consumer voluntarily closes a credit account, any person who regularly and in the ordinary course of business furnished information to one or more CRAs must report this fact when it provides information to CRAs for the time period in which the account was closed. *Section 623(a)(4)*.

Duty to Report Dates of Delinquencies

If a furnisher reports information concerning a delinquent account placed for collection, charged to profit or loss, or subject to any similar action, the furnisher must, within 90 days after reporting the information, provide the CRA with the month and the year of the commencement of the delinquency that immediately preceded the action, so that the agency will know how long to keep the information in the consumer's file. *Section 623(a)(5)*.

Any person, such as a debt collector, that has acquired or is responsible for collecting delinquent accounts and that reports information to CRAs may comply with the requirements of Section 623(a)(5) (until there is a consumer dispute) by reporting the same delinquency date previously reported by the creditor. If the creditor did not report this date, they may comply with the FCRA by establishing reasonable procedures to obtain and report delinquency dates, or, if a delinquency date cannot be reasonably obtained, by following reasonable procedures to ensure that the date reported precedes the date when the account was placed for collection, charged to profit or loss, or subjected to any similar action. *Section 623(a)(5)*.

Duties of Financial Institutions When Reporting Negative Information

Financial institutions that furnish information to "nationwide" consumer reporting agencies, as defined in Section 603(p) must notify consumers in writing if they may furnish or have furnished negative information to a CRA. *Section 623(a)(7)*. The Consumer Financial Protection Bureau has prescribed model disclosures, 12 CFR Part 1022, App. B.

Duties When Furnishing Medical Information

A furnisher whose primary business is providing medical services, products, or devices (and such furnisher's agents or assignees) is a medical information furnisher for the purposes of the FCRA and must notify all CRAs to which it reports of this fact. *Section 623(a)(9)*. This notice will enable CRAs to comply with their duties under Section 604(g) when reporting medical information.

Duties When ID Theft Occurs

All furnishers must have in place reasonable procedures to respond to notifications from CRAs that information furnished is the result of identity theft, and to prevent refurnishing the information in the future. A furnisher may not furnish information that a consumer has identified as resulting from identity theft unless the furnisher subsequently knows or is informed by the consumer that the information is correct. *Section 623 (a)(6)*. If a furnisher learns that it has furnished inaccurate information due to identity theft, it must notify each CRA of the correct information and must thereafter report only complete and accurate information. *Section 623(a)(2)*. When any furnisher of information is notified pursuant to the procedures set forth in Section 605B that a debt has resulted from identity theft, the furnisher may not sell, transfer, or place for collection the debt except in certain limited circumstances. *Section 615(f)*.

The Consumer Financial Protection Bureau website, www.consumerfinance.gov/learnmore, has more information about the FCRA.

Section 602	15 U.S.C. 1681	Section 615	15 U.S.C. 1681m
Section 603	15 U.S.C. 1681a	Section 616	15 U.S.C. 1681n
Section 604	15 U.S.C. 1681b	Section 617	15 U.S.C. 1681o
Section 605	15 U.S.C. 1681c	Section 618	15 U.S.C. 1681p
Section 605A	15 U.S.C. 1681cA	Section 619	15 U.S.C. 1681q
Section 605B	15 U.S.C. 1681cB	Section 620	15 U.S.C. 1681r
Section 606	15 U.S.C. 1681d	Section 621	15 U.S.C. 1681s
Section 607	15 U.S.C. 1681e	Section 622	15 U.S.C. 1681s-1
Section 608	15 U.S.C. 1681f	Section 623	15 U.S.C. 1681s-2
Section 609	15 U.S.C. 1681g	Section 624	15 U.S.C. 1681t
Section 610	15 U.S.C. 1681h	Section 625	15 U.S.C. 1681u
Section 611	15 U.S.C. 1681i	Section 626	15 U.S.C. 1681v
Section 612	15 U.S.C. 1681j	Section 627	15 U.S.C. 1681w
Section 613	15 U.S.C. 1681k	Section 628	15 U.S.C. 1681x
Section 614	15 U.S.C. 1681l	Section 629	15 U.S.C. 1681y



City of Austin FSD Purchasing Office

Certificate of Exemption

DATE: 11/05/2018 DEPT: Human Resources
TO: Purchasing Officer or Designee FROM: Shannon Flett
BUYER: Elisa Folco PHONE: (512) 974-3307

Chapter 252 of the Local Government Code requires that municipalities comply with the procedures established for competitive sealed bids or proposals before entering into a contract requiring an expenditure of \$50,000 or more, unless the expenditure falls within an exemption listed in Section 252.022.

Senate Bill 7 amended Chapter 252 of the Local Government Code to exempt from the requirements of such Chapter expenditures made by a municipally owned electric utility for any purchases made by the municipally owned electric utility in accordance with procurement procedures adopted by a resolution of its governing body that sets out the public purpose to be achieved by those procedures. The Austin City Council has adopted Resolution No. 040610-02 to establish circumstances which could give rise to a finding of critical business need for Austin Energy.

This Certification of Exemption is executed and filed with the Purchasing Office as follows:

1. The undersigned is authorized to submit this certification.
2. The undersigned certifies that the following exemption is applicable to this purchase. (Please check which exemption you are certifying)
 - ☐ a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality
 - ☐ a procurement necessary to preserve or protect the public health or safety of municipality's residents
 - ☐ a procurement necessary because of unforeseen damage to public machinery, equipment, or other property
 - ☒ a procurement for personal, professional, or planning services
 - ☐ a procurement for work that is performed and paid for by the day as the work progresses
 - ☐ a purchase of land or right-of- way
 - ☒ a procurement of items available from only one source, including: items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies; films, manuscripts, or books; gas, water, and other utility services; captive replacement parts or components for equipment; books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits
 - ☐ a purchase of rare books, papers, and other library materials for a public library
 - ☐ paving, drainage, street widening and other public improvements, or related matters, if at least one- third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements
 - ☐ a public improvement project, already in progress, authorized by voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes as authorized by the voters

- ☐ a payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212
- ☐ personal property sold: at an auction by a state licensed auctioneer; at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or under an interlocal contract for
 - cooperative purchasing administered by a regional planning commission established under Chapter 391
 - ☐ services performed by blind or severely disabled persons
 - ☐ goods purchased by a municipality for subsequent retail sale by the municipality
 - ☐ electricity
 - ☐ advertising, other than legal notices
 - ☐ Critical Business Need (Austin Energy Only)

3. The following facts as detailed below support an exemption according to Section 252.022 of the Local Government Code for this purchase. Please verify the steps taken to confirm these facts. If you are citing the following exemptions, please provide the additional information requested below. A more detailed explanation of these exemptions is attached.


- **Preserve and Protect the Public Health and Safety** – Describe how this purchase will preserve and protect the public safety of residents.
- **Sole Source** – Describe what patents, copyrights, secret processes, or natural monopolies exist. Attach a letter from vendor supporting the sole source. The letter must be on company letterhead and be signed by an authorized person in company management.
- **Personal Services** – Describe those services to be performed personally by the individual contracted to perform them.
- **Professional Services** – Describe what mainly mental or intellectual rather than physical or manual and/or disciplines requiring special knowledge or attainment and a high order of learning, skill, and intelligence are required to perform this service.
- **Planning Services** – Describe the services primarily intended to guide governmental policy to ensure the orderly and coordinated development of the state or of municipal, county, metropolitan, or regional land areas.
- **Critical Business Need** – Describe the procurement necessary to protect the competitive interests or position of Austin Energy.

4. Please attach any documentation that supports this exemption.
5. Please provide any evaluation conducted to support the recommendation. Include the efforts taken to ensure the selected vendor is responsible and will provide the best value to the City (Ex: evaluation of other firms, knowledge of market, etc).

Talx Corporation(a provider of Equifax Workforce Solutions) has agreements with governmental agencies (Municipal, county, State and Federal) servicing over 250,000 credentialed verifiers. The City of Dallas , Fort Worth, and Houston are all clients of Equifax Work Force Solutions.


6. Because the above facts and documentation support the requested exemption, the City of Austin intends to contract with Talx Corporation which will cost approximately \$ 0.00 (Provide estimate and/or breakdown of cost).

Recommended
Certification



Originator 11/5/18
Date

Approved
Certification



Department Director or designee 11-5-18
Date


Assistant City Manager / General Manager Date
or designee (if applicable)

Purchasing Review
(if applicable)



Buyer 11/6/18
Date Manager Initials JTB 11/7/18

Exemption Authorized
(if applicable)



Purchasing Officer or designee 11/7/18
Date

02/26/2013