

NOTICE OF RULE ADOPTION

OCC RECEIVED AT
APR 26 11:04 PM
ADOPTION DATE: April 26, 2019

By: James Scarboro
Purchasing Officer

The Purchasing Office has adopted the proposed rule to implement the receipt of electronic solicitation responses, in accordance with §252.0415, Texas Local Government Code. Notice of the proposed rule and request for public comment was published on March 21, 2019. The adoption of a rule may be appealed to the City Manager in accordance with Section 1-2-10 of the City Code, as explained below. This notice is issued under Chapter 1-2 of the City Code.

TEXT OF THE ADOPTED RULE

A copy of the complete adopted rule is attached hereto. This document along with the complete adopted rules are also available online at the City's financial services website, Austin Finance Online, at: <https://www.austintexas.gov/financeonline/finance/>. Hardcopies of the adopted rules may be purchased at either of the following City of Austin Locations.

Purchasing Office, located at 124 W. 8th Street, 3rd Floor, Austin, Texas 78701

Office of the City Clerk, located at 301 W. 2nd Street, Austin Texas, 78701

EFFECTIVE DATE OF THE ADOPTED RULE

The rule adopted by this notice is effective on April 26, 2019.

SUMMARY OF COMMENTS

No comments were received on the proposed rule.

AUTHORITY FOR ADOPTION OF RULE

The authority and procedure for adoption of these rules is set forth in Austin City Code Chapter 1-2 and §252.0415, Texas Local Government Code.

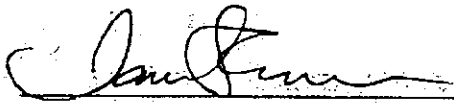
APPEAL OF ADOPTED RULE TO CITY MANAGER

A person may appeal the adoption of a rule to the City Manager. AN APPEAL MUST BE FILED WITH THE CITY CLERK NOT LATER THAN THE 30TH DAY AFTER THE DATE THIS NOTICE OF RULE ADOPTION IS POSTED. THE POSTING DATE IS NOTED ON THE FIRST PAGE OF THIS NOTICE. If the 30th day is a Saturday, Sunday, or official city holiday, an appeal may be filed on the next day which is not a Saturday, Sunday, or official city holiday. An adopted rule may be appealed by filing a written statement with the city clerk. A person who appeals a rule must (1) provide the person's name, mailing address, and telephone number; (2) identify the rule being appealed; and (3) include a statement of specific reasons why the rule should be modified or withdrawn. Notice that an appeal was filed will be posted by the city clerk. A copy of the appeal will be provided to the City Council. An adopted rule will not be enforced pending the City Manager's decision. The City Manager may affirm, modify, or withdraw an adopted rule. If the City Manager does not act on an appeal on or before the 60th day after the date the notice of rule adoption is posted, the rule is withdrawn. Notice of the City Manager's decision on an appeal will be posted by the city clerk and provided to the City Council. On or before the 16th day after the city clerk posts notice of the City Manager's decision, the City Manager may reconsider the decision on an appeal. Not later than the 31st day after giving written notice of an intent to reconsider, the City Manager shall make a decision.


CERTIFICATION BY THE CITY ATTORNEY

By signing this notice, the City Attorney certifies that the proposed rules have been reviewed by the City Attorney and are within the authority of the Purchasing Officer to adopt.

REVIEWED AND APPROVED:


James Scarboro
Purchasing Officer

4/23/2019
Date


Anne L. Morgan
City Attorney

4/24/19
Date

ELECTRONIC SOLICITATION RESPONSES RULES

SECTION 1 – RULES; ELECTRONIC SOLICITATION RESPONSES.

Pursuant to Austin City Code, Sec. 1-2-1, the following rules are promulgated to further implement §252.0415, Texas Local Government Code.

SECTION 2 – APPLICABILITY AND EXEMPTIONS.

- (A) These rules are applicable to all City of Austin Solicitations, except as provided in subsection (B).
- (B) Solicitations subject to external regulations, e.g., federal or state grants, etc., that exclude the receipt of Electronic Responses are exempt from this process. The Purchasing Officer may also exempt a Solicitation from these rules, on a case-by-case basis, as appropriate for the City.

SECTION 3 – DEFINITIONS AND EXAMPLES.

The following terms, as used in these rules, have the meanings identified below:

- (1) ELECTRONIC SOLICITATION RESPONSE, ELECTRONIC RESPONSE or RESPONSE means a written offer or submission in reply to a Solicitation, that is submitted into the City's online financial system as identified in the Solicitation.
- (2) PURCHASING OFFICER means the City employee authorized to carry out the purchasing and procurement functions and authority of the City. The Purchasing Officer may further delegate in writing some or all of the Purchasing Officer's duties and responsibilities under these rules.
- (3) RESPONDENT means a person or entity that submits a Response to a City Solicitation through the City's online financial system.
- (3) SOLICITATION means a document that provides notice of an opportunity to compete to conduct business with the City or an opportunity to respond to a City request, including without limitation:
 - (a) a request for quotations (also called invitation for quotes);
 - (b) an invitation for bids;
 - (c) a request for proposals;
 - (d) a request for qualifications (also called request for qualifications statements);
 - (e) a notice of funding availability; and
 - (f) any other competitive or non-competitive Solicitation process for which the Purchasing Officer, in the Purchasing Officer's sole discretion, affirmatively determines these rules should apply.
- (5) STATUTE means §252.0415, Texas Local Government Code.

SECTION 3 – ELECTRONIC SOLICITATION RESPONSES AUTHORIZED

- (A) In accordance with the Statute, as further promulgated in these rules, the receipt of Electronic Responses to Solicitations is authorized.
- (B) The Purchasing Officer or delegate may determine which Solicitations will allow electronic Responses based on the business and operational needs of the City.
- (C) The Purchasing Officer or delegate may limit responses to Electronic Responses only so long as the Solicitation includes a notice that only Electronic Responses will be received.

SECTION 4 – IDENTIFICATION, SECURITY AND CONFIDENTIALITY OF ELECTRONIC RESPONSES

In accordance with the Statute, the Purchasing Officer will maintain the City's online financial system for receiving Responses that ensures the identification, security, and confidentiality of Electronic Responses and to ensure that these Responses remain effectively unopened until the Solicitation's due date and time.

- (1) Identification. The City's online financial system will assign a unique and auditable identification number to each Response. To create a Response, all Respondents will have to login to the City's online financial system and register as a vendor. The database record for each Response will include links to the Respondent's identity and the Solicitation's identity.
- (2) Security. Respondents will access the City's online financial system through a secure internet connection. Once created, the City's online financial system will save all versions of the Response, including all drafts, submitted and withdrawn versions, to a separate and encrypted data location.
- (3) Confidentiality. After the Response is created in the City's online financial system, it can only be accessed by the Respondent until the Solicitation's due date and time.
- (4) Opening. Upon the Solicitation's due date and time, the City's online financial system will automatically decrypt the submitted Responses and move them to a separate data location that is only accessible to City staff authorized by the Purchasing Officer. Upon the Solicitation's opening date and time, City's online financial system will automatically display the names of the Respondents, and depending on the Solicitation type, the pricing information for each Response on the Solicitation's internet page.