

**CITY OF AUSTIN
PURCHASING OFFICE
SUPPLEMENTAL PURCHASE PROVISIONS**

The following Supplemental Purchasing Provisions apply to this solicitation:

1. EXPLANATIONS OR CLARIFICATIONS:

All requests for explanations or clarifications must be submitted in writing to Laura.Williamson2@austintexas.gov by 5PM on January 29, 2018. Questions not submitted to the email address above or after the deadline will not be addressed. Questions and Answers will be available at the following link: www.austintexas.gov/article/immigration-legal-services

2. INSURANCE: Insurance is required for this solicitation.

Grantee shall have, and shall require all Subgrantees of every tier providing services under this Agreement to have, Standard Insurance meeting the General Requirements as set forth below and sufficient to cover the needs of Grantee and/or Subgrantee pursuant to applicable generally accepted business standards. Depending on services provided by Grantee and/or Subgrantee(s), Supplemental Insurance Requirements or Alternate Insurance Options shall be imposed as follows:

I. General Requirements Applicable to All Grantee's Insurance.

The following requirements (A-J) apply to the **Grantee and to Subgrantee(s) of every tier** performing services or activities pursuant to the terms of this Agreement. Grantee acknowledges and agrees to the following concerning insurance requirements applicable to Grantee and Grantee's Subgrantee(s):

- A. The minimum types and limits of insurance indicated below shall be maintained throughout the duration of the Agreement.
- B. Insurance shall be written by companies licensed in the State of Texas with an A.M. Best rating of B+ VII or higher.
- C. Prior to commencing work under this Agreement, the required insurance shall be in force as evidenced by a Certificate of Insurance issued by the writing agent or carrier. A copy of the Certificate of Insurance shall be forwarded to the Austin Public Health Department upon request. Execution of this Agreement will not occur until such evidence of insurance has been provided and accepted by the City.
- D. Certificates of Insurance shall include the endorsements outlined below and shall be submitted to the Austin Public Health Department. The Certificate(s) shall show all endorsements by number.
- E. Insurance required under this Agreement which names City of Austin as Additional Insured shall be considered primary for all claims.
- F. Insurance limits shown below may be written as primary or structured using primary and excess or umbrella coverage that follows the form of the primary policy.
- G. City shall be entitled, upon its request and without expense, to receive certified copies of policies and endorsements.
- H. City reserves the right to review insurance requirements during any term of the Agreement and to require that Grantee make reasonable adjustments when the scope of services has been expanded.
- I. Grantee shall not allow any insurance to be cancelled or lapse during any term of this Agreement. Grantee shall not permit the minimum limits of coverage to erode or otherwise be reduced. Grantee shall be responsible for all premiums, deductibles and self-insured retention. All deductibles and self-insured retention shall be shown on the

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Certificates of Insurance.

- J. Insurance coverages specified in this Agreement are not intended and will not be interpreted to limit the responsibility or liability of the Grantee or Subgrantee(s).
- K. The City will accept endorsements providing equivalent coverage if the insurance carrier does not use the specific endorsements indicated below.

II. Specific Requirements

The following requirements (II.A - II.D, inclusive) apply to the **Grantee and to Subgrantee(s) of every tier** performing services or activities pursuant to the terms of this Agreement. Grantee acknowledges and agrees to the following concerning insurance requirements applicable to Grantee and Grantee's Subgrantee(s):

A. Workers' Compensation and Employers' Liability Insurance

- 1. Coverage shall be consistent with statutory benefits outlined in the Texas Workers' Compensation Act.
- 2. Employers' Liability limits are
 - \$100,000 bodily injury each accident
 - \$100,000 bodily injury by disease
 - \$500,000 policy limit
- 3. Policies under this Section shall apply to State of Texas and include the following endorsements in favor of City of Austin:
 - a. Waiver of Subrogation (Form 420304)
 - b. Thirty (30) day Notice of Cancellation (Form 420601)

B. Commercial General Liability Insurance

- 1. Minimum limits:
 - \$500,000* combined single limit per occurrence for coverage A and B.

*Supplemental Insurance Requirement
If eldercare, childcare, or housing for clients is provided, the required limits shall be: \$ 1,000,000 per occurrence

- 2. The Policy shall contain or be endorsed as follows:
 - a. Blanket Contractual liability for this Agreement
 - b. Products and Completed Operations
 - c. Independent Contractor Coverage
- 3. The Policy shall also include the following endorsements or endorsements providing equivalent coverage in favor of City of Austin:
 - a. Waiver of Subrogation (Form CG 2404)
 - b. Thirty (30) day Notice of Cancellation (Form CG 0205)
 - c. City of Austin named as Additional Insured (Form CG 2010)
- 4. If care of a child is provided outside the presence of a legal guardian or parent, the Grantee shall provide coverage for sexual abuse and molestation for a minimum limit of \$500,000 per occurrence.

C. The policy shall be endorsed to cover injury to a child while the child is in

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the care of the Grantee or Subgrantee.

D. Business Automobile Liability Insurance

1. Minimum limits:

\$500,000 combined single limit per occurrence

- a. If any form of transportation for clients is provided, coverage for all owned, non-owned, and hired vehicles shall be maintained with a combined single limit of \$1,000,000 per occurrence.
- b. If no transportation services of any type are provided, and use of a motor vehicle is strictly limited to travel to and from work or work sites, evidence of Personal Auto Policy coverage with limits of: \$100,000/\$300,000/\$100,000 may be provided in lieu of Business Automobile Liability Insurance.

2. The Policy shall also include the following endorsements or endorsements providing equivalent coverage in favor of City of Austin:

- a. Waiver of Subrogation (Form CA 0444)
- b. Thirty (30) day Notice of Cancellation (Form CA 0244)
- c. City of Austin named as Additional Insured (Form CA 2048)

E. Professional Liability Insurance

Coverage shall be provided with a minimum limit of \$500,000 per claim to cover negligent acts, errors, or omissions arising out of Professional Services under this Agreement.

F. Blanket Crime Policy Insurance

A Blanket Crime Policy shall be required with limits equal to or greater than the sum of all Agreement Funds allocated by the City. Acceptance of alternative limits shall be approved by Risk Management.

G. Directors and Officers Insurance

Directors and Officers Insurance with a minimum of not less than \$1,000,000 per claim shall be in place for protection from claims arising out of negligent acts, errors or omissions for directors and officers while acting in their capacities as such. If coverage is underwritten on a claims-made basis, the retroactive date shall be coincident with or prior to the date of the Agreement and the certificate of insurance shall state that the coverage is claims made and the retroactive date. The coverage shall be continuous for the duration of the Agreement and for not less than twenty-four (24) months following the end of the Agreement. Coverage, including renewals, shall have the same retroactive date as the original policy applicable to the Agreement or evidence of prior acts or an extended reporting period acceptable to the City may be provided. The Grantee shall, on at least an annual basis, provide the City with a certificate of insurance as evidence of such insurance.

H. Property Insurance

If the Agreement provides funding for the purchase of property or equipment the Grantee shall provide evidence of all risk property insurance for a value equivalent to the replacement cost of the property or equipment.

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III. Endorsements:

The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.

3. TERM OF AGREEMENT:

- A. The Agreement shall be in effect for an initial term of 12 months and may be extended thereafter for up to 4 additional 12 month periods, subject to Council approval of funding in future City budgets and subject to approval of the Grantee and Austin Public Health.
- B. Upon expiration of the initial term or period of extension, the Grantee agrees to hold over under the terms and conditions of this agreement for such a period of time as is reasonably necessary to re-solicit and/or complete the project (not to exceed 180 days unless mutually agreed on in writing).
- C. Upon written notice to the Grantee from the City's Purchasing Officer or his designee and acceptance of the Grantee, the term of this agreement shall be extended on the same terms and conditions for an additional period as indicated in paragraph A above.
- D. Prices are firm and fixed for the first 12 months. Thereafter, price changes are subject to the Economic Price Adjustment provisions of this agreement.

4. ALLOWABLE AND UNALLOWABLE COSTS.

The City shall make the final determination of whether a cost is allowable or unallowable under this agreement.

- A. Reimbursement Only. Expenses and/or expenditures shall be considered reimbursable only if incurred during the Program Period and directly and specifically in the performance of the activities approved. Applicant agrees that, unless otherwise specifically provided, payment by the City is made on a reimbursement basis only; Applicant must have incurred and paid costs prior to those costs being invoiced and considered allowable and subject to payment by the City.
- B. To be allowable, a cost must meet all of the following general criteria:
 - Be reasonable for the performance of the activity under the Agreement..
 - Conform to any limitations or exclusions set forth in this Agreement.
 - Be consistent with policies and procedures that apply uniformly to both government-financed and other activities of the organization.
 - Be determined and accounted in accordance with generally accepted accounting principles (GAAP).
 - Be adequately documented.
- C. The City's prior written authorization is required in order for the following to be considered allowable costs. Inclusion in the budget constitutes "written authorization".
 - Alteration, construction, or relocation of facilities

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- Cash payments, including cash equivalent gift cards such as Visa, MasterCard and American Express
 - Equipment and other capital expenditures.
 - Interest, other than mortgage interest as part of a pre-approved budget under this Agreement
 - Organization costs (costs in connection with the establishment or reorganization of an organization)
 - Purchases of tangible, nonexpendable property, including fax machines, stereo systems, cameras, video recorder/players, microcomputers, software, printers, microscopes, oscilloscopes, centrifuges, balances and incubator, or any other item having a useful life of more than one year and an acquisition cost, including freight, of over five thousand dollars (\$5,000)
 - Selling and marketing
 - Travel/training outside Travis County
- D. The following types of expenses are specifically **not allowable** with City funds:
- Alcoholic beverages
 - Bad debts
 - Compensation of trustees, directors, officers, or advisory board members, other than those acting in an executive capacity
 - Contingency provisions (funds). (Self-insurance reserves and pension funds are allowable.)
 - Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringement
 - Deferred costs
 - Donations and contributions including donated goods or space
 - Entertainment costs, other than expenses related to client incentives
 - Fines and penalties (including late fees)
 - Fundraising and development costs
 - Goods or services for officers' or employees' personal use
 - Housing and personal living expenses for organization's officers or employees
 - Idle facilities and idle capacity
 - Litigation-related expenses (including personnel costs) in action(s) naming the City as a Defendant
 - Lobbying or other expenses related to political activity
 - Losses on other agreements or casualty losses
 - Public relations costs, except reasonable, pre-approved advertising costs related directly to services provided under this Agreement
 - Taxes, other than payroll and other personnel-related levies
 - Travel outside of the United States of America

5. RECYCLED PRODUCTS:

- A. The City prefers that Offerors offer products that contain recycled materials. When a recycled product is offered by the Offeror, the Offeror must state in their Offer the percentage of the product that is recycled and must include a list of the recycled materials that are contained in the product.

B. The recycled content of paper products offered to the City shall be in accordance
Section 0400 Supplemental Purchasing Provisions

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with the Federal Environmental Protection Agency's Recycled Product Procurement Guidelines. These guidelines are available at <https://www.epa.gov>.

- 6. INTERLOCAL PURCHASING AGREEMENTS:** (applicable to competitively procured goods/services contracts).
- A. The City has entered into Interlocal Purchasing Agreements with other governmental entities, pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. The Grantee agrees to offer the same prices and terms and conditions to other eligible governmental agencies that have an interlocal agreement with the City.
 - B. The City does not accept any responsibility or liability for the purchases by other governmental agencies through an interlocal cooperative agreement.
- 7. OWNERSHIP AND USE OF DELIVERABLES:** The City shall own all rights, titles, and interests throughout the world in and to the Deliverables.
- A. **Patents:** As to any patentable subject matter contained in the Deliverables, the Grantee agrees to disclose such patentable subject matter to the City. Further, if requested by the City, the Grantee agrees to assign and, if necessary, cause each of its employees to assign the entire right, title, and interest to specific inventions under such patentable subject matter to the City and to execute, acknowledge, and deliver and, if necessary, cause each of its employees to execute, acknowledge, and deliver an assignment of letters patent, in a form to be reasonably approved by the City, to the City upon request by the City.
 - B. **Copyrights:** As to any Deliverable containing copyrighted subject matter, the Grantee agrees that upon their creation, such Deliverables shall be considered as work made-for-hire by the Grantee for the City and the City shall own all copyrights in and to such Deliverables, provided however, that nothing in this Paragraph 36 shall negate the City's sole or joint ownership of any such Deliverables arising by virtue of the City's sole or joint authorship of such Deliverables. Should by operation of law, such Deliverables not be considered work made-for-hire, the Grantee hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of Austin) all worldwide right, title, and interest in and to such Deliverables. With respect to such work made-for-hire, the Grantee agrees to execute, acknowledge and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-for-hire agreement, in a form to be reasonably approved by the City, to the City upon delivery of such Deliverables to the City or at such other time as the City may request.
 - C. **Additional Assignments:** The Grantee further agrees to, and if applicable, cause each of its employees to execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns, and nominees, the sole and exclusive right, title, and interest in and to the Deliverables, The Grantee's obligations to execute acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this Paragraph 36 A., B., and C. shall continue after the termination of this agreement with respect to such Deliverables. In the event the City should not seek

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to obtain copyright protection, mask work registration or patent protection for any of the Deliverables, but should arise to keep the same secret, the Grantee agrees to treat the same as Confidential Information under the terms of Paragraph above