

**AUSTIN ECONOMIC DEVELOPMENT CORPORATION**

**REQUEST FOR PROPOSAL FOR  
BANKING SERVICES**

**I. INTRODUCTION**

The Austin Economic Development Corporation ("AEDC") was formed by the City of Austin (the "City") to carry out certain governmental purposes of the City including the acquisition and preservation of cultural spaces within the City, the management of economic development projects and the support of development of affordable housing, including the development of workforce housing. The AEDC is seeking proposals from one or more eligible and qualified financial institutions ("Banks") to serve as the bank depository and to provide the depository services described herein. The services provided will be in accordance with this Request for Proposals ("RFP") and in a depository services agreement, to be entered into between AEDC and the selected Bank(s). This RFP presents AEDC's cash management goals, specifies required qualifications for the Banks, the banking services required, the method and terms of compensation, submission instructions and the contract award provision.

Management of cash and deposits of AEDC must be performed in accordance with state law. The contract period will be for three (3) years beginning August 1, 2021 and ending July 31, 2024, with two optional one (1) year extension periods. In addition, either party upon ninety (90) days written notice may cancel this contract. The depository services contract term must also provide for an extension period not to exceed 90-days for the transition to a new Bank at the end of the contract term.

**II. SCHEDULE**

March 26, 2021	Initial distribution of RFP
April 14, 2021	Deadline for submission of questions
April 16, 2021	Estimated AEDC response to questions
April 23, 2021	PROPOSAL SUBMISSION DEADLINE
May 21, 2021*	Anticipated date for approval/award by AEDC

\*date subject to change

**III. MINIMUM QUALIFICATIONS**

By responding to this RFP, each respondent acknowledges and understands that the requirements of the Public Funds Collateral Act, codified as Chapter 2257 of the Texas Government Code, as amended and attached hereto as Exhibit A (the "Act") shall apply. Without limiting the foregoing, each Bank acknowledges that the following minimum qualifications shall apply:

- A. The Bank must be a Federal or Texas Chartered Bank that has its main office or a branch office in the State of Texas.
- B. The Bank must have an office or branch physically located within the Corporate City limits of Austin.

- C. The Bank must be a member of the Federal Reserve System and must be federally insured.
- D. The Bank must be a direct member of the National Automated Clearing House Association (NACHA).
- E. All deposits in respect of the depository services must be secured by eligible collateral in an amount not less than the amount of the deposit, increased by any accrued interest and reduced to the extent federally insured. Such collateral must be in place five (5) days before services commence.
- F. All collateral will be maintained in a custodian approved by AEDC and meeting the requirements of the Act. The custodian must hold in trust the securities to secure the deposit of public funds of the public entity in the depository pledging the securities
- G. The Bank must have sufficient organization, facilities, equipment, and personnel to provide prompt and efficient service to AEDC.
- H. The Bank must assign a senior level Bank management person as liaison with AEDC. If a new person is assigned as point of contact for AEDC, AEDC shall be notified within 24 hours of the change.

#### **IV SCOPE OF SERVICES**

The Scope of Services being sought is described in Exhibit C attached hereto (the "Scope of Services Addendum"). The Services shall include depository services for multiple depository accounts as described below. AEDC reserves the right to add or remove accounts as necessary to meet its needs.

- A. *Operating Account.* AEDC will require a general purpose operating account. The operating account will be used for third party deposits. Online payment processing services is preferred. Online image access and online access to previous day transaction detail is required. ACH debit blocks and "post no checks" services are required. Remote check deposit services are preferred, and otherwise check deposits will be made at the bank branch or via armored car.
- B. *Disbursement Account.* AEDC will require a general purpose disbursement account. The disbursement account will be used for vendor and other third-party disbursements (other than payroll). This account will require checking services and online payee positive pay. Positive pay decisions should also be made via internet. Online image access, paid item inquiry and stop payments are required. Online access to previous day transaction detail is required. ACH debit blocks are required. The Disbursement Account will be a zero-balance account.
- C. *Payroll Account.* AEDC will require a payroll account with customary direct deposit payroll capabilities. This account requires payee positive-pay, to be transmitted by file transmission, as well as the occasional online manual entry. Positive pay decisions should be made via internet. Online image access, paid item inquiry and stop payments are required. This account also requires full reconciliation, CD-ROM imaging as well as an electronic file of cleared items. Online access to previous day transaction detail is required. ACH debit blocks are required. Stale date control service is requested. The Payroll Account will be a zero-balance account.
- D. *Special Purpose Accounts.* AEDC will from time to time require special purpose funds and accounts from time to time, in addition to those listed above. These accounts may be established for the benefit of other public entities whose affairs will be managed by AEDC. The capabilities and service of these special purpose accounts shall be agreed upon between AEDC and the Bank at the time they are established.

## V. PROPOSAL CONTENTS

Proposals should be indexed and organized in a manner consistent with the sub-sections identified in this Section V. Proposals should be concise and straightforward, and should fully address each request for information contained in this RFP. Emphasis should be on completeness and clarity of content with sufficient detail to allow for accurate evaluation and comparative analysis.

- A. *Cover Letter*. All proposals must be accompanied by a cover letter, signed by an individual authorized to bind the proposing entity.
- B. *Respondent Questionnaire*. Complete and return the Respondent Questionnaire attached hereto as Exhibit B. Attach any relevant supporting information or documentation as needed.
- C. *Overview of Qualifications*. Submit a brief and general description of the respondent's overall qualifications and experience in providing depository banking services to political subdivisions and governmental entities in Texas, and the administration of public funds. Such narrative description may specifically address any unique capabilities offered by the respondent in connection with the Scope of Services described herein. The respondent should also include a general discussion of the respondent's philosophy, policies, procedures and safeguards for continued compliance with the insurance, collateralization and custodial requirements under the Act. This section should also include a description of the respondent's branch locations and business presence in the City of Austin and the State of Texas, including locations conveniently located to AEDC (301 W. Second St., Austin, Texas 78701).
- D. *Scope of Services Addendum*. Complete and return the Scope of Services Addendum attached hereto as Exhibit C. Attach any relevant supporting information or documentation as needed.
- E. *Summary of Fees and Charges*. Submit a summary of the current fees and charges of the respondent in connection with the Services to be provided. Such summary should include any and all applicable fees and charges relating to the Services, including but not limited to applicable servicing fees, account analysis fees, deposit slip order fees, wire transfer fees, ACH fees, custodial fees, stop payment fees, and overdraft fees.
- F. *Depository and Collateral Agreements*. Submit the respondent's proposed form of depository agreement and collateral agreement. Such forms should be generally suitable for the provision of banking services to governmental entities in compliance with the Act, and should generally reflect the scope of services described herein.

Describe the Bank's transaction history retention practice. Specify how long transactions are available for retrieval online and offline.

## VI. PROPOSAL INSTRUCTIONS, TERMS AND CONDITIONS

- A. *Questions and Addendums*. Inquiries and questions concerning the contract terms and conditions contained within this RFP must be received via email by 5:00 pm Austin, Texas time on April 14, 2021 to David Colligan, Acting Chief Operating Officer, Austin Economic Development Corporation, [David.Colligan@austintexas.gov](mailto:David.Colligan@austintexas.gov) (the "Designated Representative").

Respondents shall not contact other AEDC personnel with any questions or clarifications concerning this RFP. Contact with AEDC personnel other than above regarding this RFP may be grounds for disqualification.

- B. *Contents and Submission.* Proposals should be indexed and organized in a manner consistent with the sub-sections identified in Section V. Proposals should be concise and straightforward, and should fully address each request for information contained in this RFP. Proposals should be submitted by email to the Designated Representative on or before the deadline for submission at the email address specified in item A above. **Proposals are to be properly identified on the email subject line and are due by 3:00 pm Austin, Texas time, on April 23, 2021.**

At its sole discretion, AEDC may or may not conduct further inquiries or negotiations with respondents prior to making a selection. Therefore, proposals should contain the respondent's most favorable terms and conditions, since the selection and award may be made without further discussion.

C. *Terms and Conditions.*

1. All proposals shall become the property of AEDC. Information in proposals may be subject to applicable open records and public information disclosure laws.
2. By submitting a proposal, the respondent represents that it has thoroughly examined and become familiar with the work required under the RFP and that it is capable of providing and performing quality work to achieve AEDC objectives.
3. AEDC shall not in any event be liable for any fees, costs or expenses incurred by respondents in the preparation of their proposal.
4. Each respondent must submit its proposal in accordance with all requirements of this RFP and compliance must be stated in the proposal. Deviations, clarifications, and/or exceptions should be clearly identified.
5. Respondents judged most responsible and responsive to AEDC's requirements may be asked to give a presentation of their proposal including an on-site demonstration to AEDC staff. Selected respondents should be prepared to make their presentation within five business days after notification and be prepared to discuss all aspects of their proposal in detail, including technical detail questions regarding the proposal.
6. AEDC reserves the following rights with respect to the solicitation, review and selection process set forth in this RFP:
  - a. Modify or cancel the selection process or schedule at any time;
  - b. Waive any irregularities, defects, procedural requirements, technical insufficiencies or informalities in any submissions in AEDC's interest;
  - c. Reject any proposal which AEDC determines to be incomplete, conditional, or ambiguous;
  - d. Seek clarification or additional information or supporting documentation from respondents;
  - e. Make subjective judgments, which may be based upon publicly available information, or any other information obtained independently with respect to any respondent or participant; and

- f. Contact any person or entity to seek references for respondents at any time during the selection process, including the period of time beginning on the date of initial publication of this RFP until the date of approval/award by AEDC.
- g. AEDC reserves the right to seek clarification from any respondent concerning any item contained in its proposal prior to selection. Such clarification may be provided by telephone conference or personal meeting with or in writing to AEDC at its sole discretion
- h. AEDC reserves the right to negotiate modifications with any respondent as necessary to serve the best interest of AEDC in a manner generally consistent with the overall goals and requirements of this RFP.
- i. AEDC reserves the right to award its total requirement in respect of the depositary services to a single respondent or to apportion those requirements among two or more respondents as AEDC may deem to be in its best interests.

## **VII. EVALUATION CRITERIA**

Responses to this RFP will be reviewed and evaluated by AEDC staff. Evaluation will take the following criteria into consideration. AEDC will select the respondent whose services and capabilities are deemed to provide the best overall value to AEDC in AEDC's sole discretion.

- Completeness of response to all required items.
- Ability to meet current and projected service requirements over the term of banking agreement.
- Overall cost (although costs are important, pricing is not the sole factor in the evaluation of proposals).
- Reliability and quality of customer services.
- Experience and governmental knowledge of the respondent.
- Financial strength
- Quality and efficiency of the respondent's internet cash management services.
- Ability to provide sufficient collateral for deposits.
- Securities clearance and safekeeping procedures.

\* \* \*

**EXHIBIT A**  
**PUBLIC FUNDS COLLATERAL ACT**

*(appears on immediately following page)*

GOVERNMENT CODE

TITLE 10. GENERAL GOVERNMENT

SUBTITLE F. STATE AND LOCAL CONTRACTS AND FUND MANAGEMENT

CHAPTER 2257. COLLATERAL FOR PUBLIC FUNDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2257.001. SHORT TITLE. This chapter may be cited as the Public Funds Collateral Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.002. DEFINITIONS. In this chapter:

(1) "Bank holding company" has the meaning assigned by Section 31.002(a), Finance Code.

(2) "Control" has the meaning assigned by Section 31.002(a), Finance Code.

(3) "Deposit of public funds" means public funds of a public entity that:

(A) the comptroller does not manage under Chapter 404; and

(B) are held as a demand or time deposit by a depository institution expressly authorized by law to accept a public entity's demand or time deposit.

(4) "Eligible security" means:

(A) a surety bond;

(B) an investment security;

(C) an ownership or beneficial interest in an investment security, other than an option contract to purchase or sell an investment security;

(D) a fixed-rate collateralized mortgage obligation that has an expected weighted average life of 10 years or less and does not constitute a high-risk mortgage security;

(E) a floating-rate collateralized mortgage obligation that does not constitute a high-risk mortgage security; or

(F) a letter of credit issued by a federal home loan bank.

(5) "Investment security" means:

(A) an obligation that in the opinion of the attorney general of the United States is a general obligation of the United States and

backed by its full faith and credit;

(B) a general or special obligation issued by a public agency that is payable from taxes, revenues, or a combination of taxes and revenues; or

(C) a security in which a public entity may invest under Subchapter A, Chapter 2256.

(6) "Permitted institution" means:

(A) a Federal Reserve Bank;

(B) a clearing corporation, as defined by Section 8.102, Business & Commerce Code;

(C) a bank eligible to be a custodian under Section 2257.041;

or

(D) a state or nationally chartered bank that is controlled by a bank holding company that controls a bank eligible to be a custodian under Section 2257.041.

(7) "Public agency" means a state or a political or governmental entity, agency, instrumentality, or subdivision of a state, including a municipality, an institution of higher education, as defined by Section 61.003, Education Code, a junior college, a district created under Article XVI, Section 59, of the Texas Constitution, and a public hospital.

(8) "Public entity" means a public agency in this state, but does not include an institution of higher education, as defined by Section 61.003, Education Code.

(9) "State agency" means a public entity that:

(A) has authority that is not limited to a geographic portion of the state; and

(B) was created by the constitution or a statute.

(10) "Trust receipt" means evidence of receipt, identification, and recording, including:

(A) a physical controlled trust receipt; or

(B) a written or electronically transmitted advice of transaction.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.48(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 914, Sec. 5, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 254, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 891, Sec. 3.22(4), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.70, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 7.63, eff. Sept. 1, 1999.

Amended by:



Acts 2011, 82nd Leg., R.S., Ch. 783 (H.B. 2103), Sec. 1, eff. June 17, 2011.

Sec. 2257.0025. HIGH-RISK MORTGAGE SECURITY. (a) For purposes of this chapter, a fixed-rate collateralized mortgage obligation is a high-risk mortgage security if the security:

(1) has an average life sensitivity with a weighted average life that:

(A) extends by more than four years, assuming an immediate and sustained parallel shift in the yield curve of plus 300 basis points; or

(B) shortens by more than six years, assuming an immediate and sustained parallel shift in the yield curve of minus 300 basis points; and

(2) is price sensitive; that is, the estimated change in the price of the mortgage derivative product is more than 17 percent, because of an immediate and sustained parallel shift in the yield curve of plus or minus 300 basis points.

(b) For purposes of this chapter, a floating-rate collateralized mortgage obligation is a high-risk mortgage security if the security:

(1) bears an interest rate that is equal to the contractual cap on the instrument; or

(2) is price sensitive; that is, the estimated change in the price of the mortgage derivative product is more than 17 percent, because of an immediate and sustained parallel shift in the yield curve of plus or minus 300 basis points.

Added by Acts 1997, 75th Leg., ch. 254, Sec. 2, eff. Sept. 1, 1997.

Sec. 2257.003. CHAPTER NOT APPLICABLE TO DEFERRED COMPENSATION PLANS. This chapter does not apply to funds that a public entity maintains or administers under a deferred compensation plan, the federal income tax treatment of which is governed by Section 401(k) or 457 of the Internal Revenue Code of 1986 (26 U.S.C. Sections 401(k) and 457).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.004. CONFLICT WITH OTHER LAW. This chapter prevails over any other law relating to security for a deposit of public funds to the extent of any conflict.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.005. CONTRACT GOVERNS LEGAL ACTION. A legal action brought by or against a public entity that arises out of or in connection with the duties of a depository, custodian, or permitted institution under this chapter must be brought and maintained as provided by the contract with the public entity.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

#### SUBCHAPTER B. DEPOSITORY; SECURITY FOR DEPOSIT OF PUBLIC FUNDS

Sec. 2257.021. COLLATERAL REQUIRED. A deposit of public funds shall be secured by eligible security to the extent and in the manner required by this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.022. AMOUNT OF COLLATERAL. (a) Except as provided by Subsection (b), the total value of eligible security to secure a deposit of public funds must be in an amount not less than the amount of the deposit of public funds:

- (1) increased by the amount of any accrued interest; and
- (2) reduced to the extent that the United States or an instrumentality of the United States insures the deposit.

(b) The total value of eligible security described by Section [45.201\(4\)\(D\)](#), Education Code, to secure a deposit of public funds of a school district must be in an amount not less than 110 percent of the amount of the deposit as determined under Subsection (a). The total market value of the eligible security must be reported at least once each month to the school district.

(c) The value of a surety bond is its face value.

(d) The value of an investment security is its market value.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 2003, 78th Leg., ch. 201, Sec. 46, eff. Sept. 1, 2003.

Sec. 2257.023. COLLATERAL POLICY. (a) In accordance with a written policy approved by the governing body of the public entity, a public entity shall determine if an investment security is eligible to secure deposits of public funds.

(b) The written policy may include:

- (1) the security of the institution that obtains or holds an investment security;
- (2) the substitution or release of an investment security; and
- (3) the method by which an investment security used to secure a deposit of public funds is valued.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.024. CONTRACT FOR SECURING DEPOSIT OF PUBLIC FUNDS. (a) A public entity may contract with a bank that has its main office or a branch office in this state to secure a deposit of public funds.

(b) The contract may contain a term or condition relating to an investment security used as security for a deposit of public funds, including a term or condition relating to the:

- (1) possession of the collateral;
- (2) substitution or release of an investment security;
- (3) ownership of the investment securities of the bank used to secure a deposit of public funds; and
- (4) method by which an investment security used to secure a deposit of public funds is valued.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 344, Sec. 5.006, eff. Sept. 1, 1999.

Sec. 2257.025. RECORDS OF DEPOSITORY. (a) A public entity's depository shall maintain a separate, accurate, and complete record relating to a pledged investment security, a deposit of public funds, and a transaction related to a pledged investment security.

(b) The comptroller or the public entity may examine and verify at any reasonable time a pledged investment security or a record a depository maintains under this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.16, eff. Sept. 1, 1997.

Sec. 2257.026. CHANGE IN AMOUNT OR ACTIVITY OF DEPOSITS OF PUBLIC FUNDS. A public entity shall inform the depository for the public entity's deposit of public funds of a significant change in the amount or activity of those deposits within a reasonable time before the change occurs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

## SUBCHAPTER C. CUSTODIAN; PERMITTED INSTITUTION

Sec. 2257.041. DEPOSIT OF SECURITIES WITH CUSTODIAN. (a) In addition to other authority granted by law, a depository for a public entity other than a state agency may deposit with a custodian a security pledged to secure a deposit of public funds.

(b) At the request of the public entity, a depository for a public entity other than a state agency shall deposit with a custodian a security pledged to secure a deposit of public funds.

(c) A depository for a state agency shall deposit with a custodian a security pledged to secure a deposit of public funds. The custodian and the state agency shall agree in writing on the terms and conditions for securing a deposit of public funds.

(d) A custodian must be approved by the public entity and be:

(1) a state or national bank that:

- (A) is designated by the comptroller as a state depository;
- (B) has its main office or a branch office in this state; and
- (C) has a capital stock and permanent surplus of \$5 million

or more;

(2) the Texas Treasury Safekeeping Trust Company;

(3) a Federal Reserve Bank or a branch of a Federal Reserve Bank;

(4) a federal home loan bank; or

(5) a financial institution authorized to exercise fiduciary powers that is designated by the comptroller as a custodian pursuant to Section [404.031](#)(e).

(e) A custodian holds in trust the securities to secure the deposit of public funds of the public entity in the depository pledging the securities.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 1010, Sec. 1, eff. June 17, 1995;

Acts 1997, 75th Leg., ch. 891, Sec. 3.17, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 344, Sec. 5.007, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. [638](#)), Sec. 3, eff. September 1, 2009.

Sec. 2257.042. DEPOSIT OF SECURITIES WITH PERMITTED INSTITUTION. (a) A custodian may deposit with a permitted institution an investment security

the custodian holds under Section [2257.041](#).

(b) If a deposit is made under Subsection (a):

(1) the permitted institution shall hold the investment security to secure funds the public entity deposits in the depository that pledges the investment security;

(2) the trust receipt the custodian issues under Section [2257.045](#) shall show that the custodian has deposited the security in a permitted institution; and

(3) the permitted institution, on receipt of the investment security, shall immediately issue to the custodian an advice of transaction or other document that is evidence that the custodian deposited the security in the permitted institution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.043. DEPOSITORY AS CUSTODIAN OR PERMITTED INSTITUTION. (a) A public entity other than a state agency may prohibit a depository or an entity of which the depository is a branch from being the custodian of or permitted institution for a security the depository pledges to secure a deposit of public funds.

(b) A depository or an entity of which the depository is a branch may not be the custodian of or permitted institution for a security the depository pledges to secure a deposit of public funds by a state agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.044. CUSTODIAN AS BAILEE. (a) A custodian under this chapter or a custodian of a security pledged to an institution of higher education, as defined by Section [61.003](#), Education Code, whether acting alone or through a permitted institution, is for all purposes the bailee or agent of the public entity or institution depositing the public funds with the depository.

(b) To the extent of any conflict, Subsection (a) prevails over Chapter [8](#) or [9](#), Business & Commerce Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.045. RECEIPT OF SECURITY BY CUSTODIAN. (a) On receipt of an investment security, a custodian shall immediately identify on its books and records, by book entry or another method, the pledge of the security to the public entity.

(b) For a deposit of public funds under Subchapter F, the custodian shall issue and deliver to the comptroller a trust receipt for the pledged security.

(c) For any other deposit of public funds under this chapter, at the written direction of the appropriate public entity officer, the custodian shall:

(1) issue and deliver to the appropriate public entity officer a trust receipt for the pledged security; or

(2) issue and deliver a trust receipt for the pledged security to the public entity's depository and instruct the depository to deliver the trust receipt to the public entity officer immediately.

(d) The custodian shall issue and deliver the trust receipt as soon as practicable on the same business day on which the investment security is received.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 434 (S.B. 581), Sec. 1, eff. June 14, 2013.

Sec. 2257.046. BOOKS AND RECORDS OF CUSTODIAN; INSPECTION. (a) A public entity's custodian shall maintain a separate, accurate, and complete record relating to each pledged investment security and each transaction relating to a pledged investment security.

(b) The comptroller or the public entity may examine and verify at any reasonable time a pledged investment security or a record a custodian maintains under this section. The public entity or its agent may inspect at any time an investment security evidenced by a trust receipt.

(c) The public entity's custodian shall file a collateral report with the comptroller in the manner and on the dates prescribed by the comptroller.

(d) At the request of the appropriate public entity officer, the public entity's custodian shall provide a current list of all pledged investment securities. The list must include, for each pledged investment security:

(1) the name of the public entity;

(2) the date the security was pledged to secure the public entity's deposit;

(3) the Committee on Uniform Security Identification Procedures (CUSIP) number of the security;

(4) the face value and maturity date of the security; and

(5) the confirmation number on the trust receipt issued by the custodian.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.18, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 434 (S.B. 581), Sec. 2, eff. June 14, 2013.

Sec. 2257.047. BOOKS AND RECORDS OF PERMITTED INSTITUTION. (a) A permitted institution may apply book entry procedures when an investment security held by a custodian is deposited under Section 2257.042.

(b) A permitted institution's records must at all times state the name of the custodian that deposits an investment security in the permitted institution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.048. ATTACHMENT AND PERFECTION OF SECURITY INTEREST. (a) A security interest that arises out of a depository's pledge of a security to secure a deposit of public funds by a public entity or an institution of higher education, as defined by Section 61.003, Education Code, is created, attaches, and is perfected for all purposes under state law from the time that the custodian identifies the pledge of the security on the custodian's books and records and issues the trust receipt.

(b) A security interest in a pledged security remains perfected in the hands of a subsequent custodian or permitted institution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

#### SUBCHAPTER D. AUDITS AND EXAMINATIONS; PENALTIES

Sec. 2257.061. AUDITS AND EXAMINATIONS. As part of an audit or regulatory examination of a public entity's depository or custodian, the auditor or examiner shall:

(1) examine and verify pledged investment securities and records maintained under Section 2257.025 or 2257.046; and

(2) report any significant or material noncompliance with this chapter to the comptroller.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.

Sec. 2257.062. PENALTIES. (a) The comptroller may revoke a depository's designation as a state depository for one year if, after notice and a hearing, the comptroller makes a written finding that the depository, while acting as either a depository or a custodian:

(1) did not maintain reasonable compliance with this chapter;  
and

(2) failed to remedy a violation of this chapter within a reasonable time after receiving written notice of the violation.

(b) The comptroller may permanently revoke a depository's designation as a state depository if the comptroller makes a written finding that the depository:

(1) has not maintained reasonable compliance with this chapter;  
and

(2) has acted in bad faith by not remedying a violation of this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.

Sec. 2257.063. MITIGATING CIRCUMSTANCES. (a) The comptroller shall consider the total circumstances relating to the performance of a depository or custodian when the comptroller makes a finding required by Section [2257.062](#), including the extent to which the noncompliance is minor, isolated, temporary, or nonrecurrent.

(b) The comptroller may not find that a depository or custodian did not maintain reasonable compliance with this chapter if the noncompliance results from the public entity's failure to comply with Section [2257.026](#).

(c) This section does not relieve a depository or custodian of the obligation to secure a deposit of public funds with eligible security in the amount and manner required by this chapter within a reasonable time after the public entity deposits the deposit of public funds with the depository.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.



Sec. 2257.064. REINSTATEMENT. The comptroller may reinstate a depository's designation as a state depository if:

- (1) the comptroller determines that the depository has remedied all violations of this chapter; and
- (2) the depository assures the comptroller to the comptroller's satisfaction that the depository will maintain reasonable compliance with this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.

#### SUBCHAPTER E. EXEMPT INSTITUTIONS

Sec. 2257.081. DEFINITION. In this subchapter, "exempt institution" means:

- (1) a public retirement system, as defined by Section 802.001;
- or
- (2) the permanent school fund, as described by Section 43.001, Education Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 165, Sec. 6.31, eff. Sept. 1, 1997.

Sec. 2257.082. FUNDS OF EXEMPT INSTITUTION. An exempt institution is not required to have its funds fully insured or collateralized at all times if:

- (1) the funds are held by:
  - (A) a custodian of the institution's assets under a trust agreement; or
  - (B) a person in connection with a transaction related to an investment; and
- (2) the governing body of the institution, in exercising its fiduciary responsibility, determines that the institution is adequately protected by using a trust agreement, special deposit, surety bond, substantial deposit insurance, or other method an exempt institution commonly uses to protect itself from liability.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.083. INVESTMENT; SELECTION OF DEPOSITORY. This chapter does not:

(1) prohibit an exempt institution from prudently investing in a certificate of deposit; or

(2) restrict the selection of a depository by the governing body of an exempt institution in accordance with its fiduciary duty.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

#### SUBCHAPTER F. POOLED COLLATERAL TO SECURE

##### DEPOSITS OF CERTAIN PUBLIC FUNDS

Sec. 2257.101. DEFINITION. In this subchapter, "participating institution" means a financial institution that holds one or more deposits of public funds and that participates in the pooled collateral program under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.102. POOLED COLLATERAL PROGRAM. (a) As an alternative to collateralization under Subchapter B, the comptroller by rule shall establish a program for centralized pooled collateralization of deposits of public funds and for monitoring collateral maintained by participating institutions. The rules must provide that deposits of public funds of a county are not eligible for collateralization under the program. The comptroller shall provide for a separate collateral pool for any single participating institution's deposits of public funds.

(b) Under the pooled collateral program, the collateral of a participating institution pledged for a public deposit may not be combined with, cross-collateralized with, aggregated with, or pledged to another participating institution's collateral pools for pledging purposes.

(c) A participating institution may pledge its pooled securities to more than one participating depositor under contract with that participating institution.

(d) The pooled collateral program must provide for:

(1) participation in the program by a participating institution and each affected public entity to be voluntary;

(2) uniform procedures for processing all collateral transactions that are subject to an approved security agreement described by Section [2257.103](#); and

(3) the pledging of a participating institution's collateral securities using a single custodial account instead of an account for each depositor of public funds.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.103. PARTICIPATION IN POOLED COLLATERAL PROGRAM. A financial institution may participate in the pooled collateral program only if:

(1) the institution has entered into a binding collateral security agreement with a public agency for a deposit of public funds and the agreement permits the institution's participation in the program;

(2) the comptroller has approved the institution's participation in the program; and

(3) the comptroller has approved or provided the collateral security agreement form used.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.104. COLLATERAL REQUIRED; CUSTODIAN TRUSTEE. (a) Each participating institution shall secure its deposits of public funds with eligible securities the total value of which equals at least 102 percent of the amount of the deposits of public funds covered by a security agreement described by Section 2257.103 and deposited with the participating institution, reduced to the extent that the United States or an instrumentality of the United States insures the deposits. For purposes of determining whether collateral is sufficient to secure a deposit of public funds, Section 2257.022(b) does not apply to a deposit of public funds held by the participating institution and collateralized under this subchapter.

(b) A participating institution shall provide for the collateral securities to be held by a custodian trustee, on behalf of the participating institution, in trust for the benefit of the pooled collateral program. A custodian trustee must qualify as a custodian under Section 2257.041.

(c) The comptroller by rule shall regulate a custodian trustee under the pooled collateral program in the manner provided by Subchapter C to the extent practicable. The rules must ensure that a custodian trustee depository does not own, is not owned by, and is independent of the financial institution or institutions for which it holds the securities in

trust, except that the rules must allow the following to be a custodian trustee:

- (1) a federal reserve bank;
  - (2) a banker's bank, as defined by Section 34.105, Finance Code;
- and
- (3) a federal home loan bank.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.105. MONITORING COLLATERAL. (a) Each participating institution shall file the following reports with the comptroller electronically and as prescribed by rules of the comptroller:

- (1) a daily report of the aggregate ledger balance of deposits of public agencies participating in the pooled collateral program that are held by the institution, with each public entity's funds held itemized;

- (2) a weekly summary report of the total market value of securities held by a custodian trustee on behalf of the participating institution;

- (3) a monthly report listing the collateral securities held by a custodian trustee on behalf of the participating institution, together with the value of the securities; and

- (4) as applicable, a participating institution's annual report that includes the participating institution's financial statements.

(b) The comptroller shall provide the participating institution an acknowledgment of each report received.

(c) The comptroller shall provide a daily report of the market value of the securities held in each pool.

(d) The comptroller shall post each report on the comptroller's Internet website.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.106. ANNUAL ASSESSMENT. (a) Once each state fiscal year, the comptroller shall impose against each participating institution an assessment in an amount sufficient to pay the costs of administering this subchapter. The amount of an assessment must be based on factors that include the number of public entity accounts a participating institution maintains, the number of transactions a participating institution conducts, and the aggregate average weekly deposit amounts during that state fiscal

year of each participating institution's deposits of public funds collateralized under this subchapter. The comptroller by rule shall establish the formula for determining the amount of the assessments imposed under this subsection.

(b) The comptroller shall provide to each participating institution a notice of the amount of the assessment against the institution.

(c) A participating institution shall remit to the comptroller the amount assessed against it under this section not later than the 45th day after the date the institution receives the notice under Subsection (b).

(d) Money remitted to the comptroller under this section may be appropriated only for the purposes of administering this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.107. PENALTY FOR REPORTING VIOLATION. The comptroller may impose an administrative penalty against a participating institution that does not timely file a report required by Section 2257.105.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.108. NOTICE OF COLLATERAL VIOLATION; ADMINISTRATIVE PENALTY. (a) The comptroller may issue a notice to a participating institution that the institution appears to be in violation of collateral requirements under Section 2257.104 and rules of the comptroller.

(b) The comptroller may impose an administrative penalty against a participating institution that does not maintain collateral in an amount and in the manner required by Section 2257.104 and rules of the comptroller if the participating institution has not remedied the violation before the third business day after the date a notice is issued under Subsection (a).

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.109. PENALTY FOR FAILURE TO PAY ASSESSMENT. The comptroller may impose an administrative penalty against a participating institution that does not pay an assessment against it in the time provided by Section 2257.106(c).

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.110. PENALTY AMOUNT; PENALTIES NOT EXCLUSIVE. (a) The comptroller by rule shall adopt a formula for determining the amount of a penalty under this subchapter. For each violation and for each day of a continuing violation, a penalty must be at least \$100 per day and not more than \$1,000 per day. The penalty must be based on factors that include:

- (1) the aggregate average weekly deposit amounts during the state fiscal year of the institution's deposits of public funds;
- (2) the number of violations by the institution during the state fiscal year;
- (3) the number of days of a continuing violation; and
- (4) the average asset base of the institution as reported on the institution's year-end report of condition.

(b) The penalties provided by Sections 2257.107-2257.109 are in addition to those provided by Subchapter D or other law.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.111. PENALTY PROCEEDING CONTESTED CASE. A proceeding to impose a penalty under Section 2257.107, 2257.108, or 2257.109 is a contested case under Chapter 2001.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.112. SUIT TO COLLECT PENALTY. The attorney general may sue to collect a penalty imposed under Section 2257.107, 2257.108, or 2257.109.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.113. ENFORCEMENT STAYED PENDING REVIEW. Enforcement of a penalty imposed under Section 2257.107, 2257.108, or 2257.109 may be stayed during the time the order is under judicial review if the participating institution pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. A participating institution that cannot afford to pay the penalty or file the

bond may stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the comptroller to contest the affidavit as provided by those rules.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.114. USE OF COLLECTED PENALTIES. Money collected as penalties under this subchapter may be appropriated only for the purposes of administering this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

**EXHIBIT B**  
**RESPONDENT QUESTIONNAIRE**

1. Provide the Bank's full legal name and titles of its principal officers.
2. Provide the Bank's Federal Employer ID Number.
3. How is the Bank chartered?
4. The Bank must have a main office or a branch office in the State of Texas. Please identify the Bank's main office location(s) in Texas and branch location(s) within the Corporate City Limits of Austin.
5. Indicate the number of years in business under the present business name.
6. Provide a statement regarding any recent or foreseen mergers or acquisitions.
7. Does the Bank have any significant problems noted by regulatory agencies in the past 36 months? If yes, please explain.
8. If multiple locations exist locally, indicate the branch location that will handle the processing of AEDC's transactions.
9. If a branch will handle processing of AEDC's transactions, please indicate which services will be provided from the branch location and which will be provided by the main Bank.
10. Indicate the Bank's capital to assets ratio for the last five (5) years.
11. Attach copies of the Bank's most recent FDIC (UPBR) call reports.
12. Provide a brief biography and professional qualifications of the Bank Representative who will be AEDC's primary contact.



**EXHIBIT C**  
**SCOPE OF SERVICES ADDENDUM**

For each of the services listed below, provide a brief response confirming the respondent's ability to provide the services. Responses may also include a brief discussion of the respondent's unique qualifications or capabilities with respect to such services.

**REQUIRED SERVICES.** These services are mandatory and must be provided to AEDC by the selected respondent. The only exceptions are acceptable alternatives or non-material deviations. AEDC retains the option in the case of certain services to elect not to use them, in AEDCs sole discretion. The Bank should provide the specific fees and charges for each service.

1. *Depository Account Services.* The Bank shall be required to establish and maintain the accounts described in Section V of this RFP. Please confirm the Bank's ability to provide such account services, and provide any helpful description of the Bank's capabilities or offerings with respect to such services. Discuss any limitations or qualifications.
2. *Online Banking Services.* AEDC requires a secure web based reporting system whereby authorized employees will have direct access to AEDC's accounts. Online services should include balance and detail reporting, image inquiry, transaction inquiry, deposit history, transfer options (including the ability to process EFT (wire/ach) payments online), and other online web applications that can provide added convenience and cost savings. Respond below with a description of the respondents online banking capabilities, and discuss any limitations or qualifications. Responses should also detail the Bank's current or planned use of cloud computing.
3. *Insured Accounts and Collateralization of Deposits.* As required by the Act, the Bank must agree to obtain and maintain acceptable collateral at all times sufficient to cover at least 105 percent of all anticipated time and demand deposits and interest thereon above the FDIC insured limit amount. Such collateral must be marked to market at least once per month. Securities used to pledge against time and demand deposits must be held with a qualified independent custodian in accordance with the Act, or in a Treasury Direct account, in the name of the AEDC with the Federal Reserve Bank. AEDC must have a first and prior lien on all collateral pledged to AEDC, and control of the collateral will be shared jointly between the Bank and the custodian. Substitution of collateral will be subject to approval by AEDC, not to be unduly withheld. Substitutions of collateral will be requested in writing and new collateral must be received before the existing collateral is released.

The Depository Bank shall provide at least monthly reports valuing the approved securities, showing the current market value plus accrued interest through the date of valuation. Whenever it is determined by AEDC that collected funds on deposit are not fully covered by the approved securities, the Bank shall immediately deposit and pledge additional approved securities in an amount sufficient to restore collateral to the required level. Online access to daily collateral reports is desired.

Respond below with a discussion of the Bank's experience in providing collateralization services to Texas governmental entities in accordance with the Act. If an independent third party custodian is to be utilized, please identify the custodian and describe their qualifications.

4. *Safekeeping.* A tri-party safekeeping or depository pledge agreement, to be entered into by AEDC, the Bank, and the custodian, shall define AEDCs rights to collateral in case of default, bankruptcy, or closing of the Bank and shall establish a perfected security interest in the pledged securities in favor of AEDC. The safekeeping agreement will require the custodian to:

- A. Upon receipt of a pledged security, immediately identify on its books and records, by book entry or another method, the pledge of the security to AEDC;
  - B. Upon receipt of a pledged security, promptly issue and deliver to AEDC a trust receipt identifying and evidencing receipt of the pledged security;
  - C. Hold all pledged securities in an account naming AEDC as the customer;
  - D. As of the last business day of each calendar month, the custodian shall provide or make available on-line directly to AEDC a report of all securities pledged to AEDC. For each security pledged, the report must include the complete security description including coupon rate, maturity date, par amount, and current market value. The total par and market value amounts of all securities pledged to AEDC should also be reported. This report must be provided no later than five (5) business days following the last business day of each month.; and
  - E. Prohibit the release of any pledged securities without the written approval of AEDC.
5. *Wire Transfer Services.* A standard wire transfer agreement will be executed with the Bank. This proposal should include a copy of your standard transfer procedures and wire transfer agreement. AEDC requires adequate security provisions and procedures.
6. *General ACH Services and Direct Deposits.* AEDC receives payments using ACH services. In addition, AEDC may utilize ACH services for its accounts payables functions. Describe in detail the capabilities, requirements and deadlines for ACH transactions, including wire cutoff times, the deadline by when funds will be received by payees as well as other receiving banks and capabilities for same day and next-day settlement.
7. *Fraud Prevention Services.* AEDC requires that its depository bank must provide positive pay services. The proposal must describe in detail the Bank's policy, procedures, and deadlines for the positive pay services that will be provided to AEDC to protect all form of payment disbursements and withdrawals from its accounts at the Bank. Proposals should also include a description of other fraud-prevention services offered by the bank such as ACH debit blocks, ACH debit filter, post no checks services, etc.
8. *Standard Disbursing Services.* Standard disbursing services for all accounts are required to include the payment of all checks upon presentation. Discuss any limitations or qualifications.
9. *Standard Deposit Services.* The Bank must guarantee immediate credit on all incoming wire transfers and U.S. Treasury checks upon receipt and all other checks based on the bank's published availability schedule. The Bank should specify in their proposal their deposit requirements and commercial and retail deposit locations, including night deposit services and procedures.
10. *Overdraft Provisions.* AEDC does not intend to have an overdraft position on any of its bank accounts. In the event a check or checks are presented for payment on any AEDC account with insufficient funds available for payment, AEDC will require the bank to honor AEDC's check and immediately notify AEDC of the overdraft situation. Informal and/or formal procedures for handling overdrafts on the AEDC's aggregate account balances. Any agreement required by applicants to be executed in connection with a formal overdraft facility should be submitted with the application response.
11. *Stop Payment Services.* Describe the Bank's policy, procedures, and deadlines for stop payment services including automated and manual types.

12. *Reporting and Account Analysis.* Monthly account analysis reports must be provided by the Bank on a timely basis for each account and on a total account basis. A sample account analysis format must be provided as part of the proposal. Samples of monthly statements should also be provided. The monthly statements are to be received within ten business days of the month-end.
13. *Banking Supplies.* The proposal must clearly identify and describe the types of, quantity, and frequency of banking supplies that will be made available for AEDC's use and indicate the cost (or state that such are provided at no cost to AEDC) such as deposit bags, deposit slips, etc.

**OPTIONAL SERVICES.** The following is a list of services that AEDC may wish to use depending on the cost, quality and availability of the services offered. If there is a cost for these services, it must be specified in the proposal. In addition, any other services that the Bank may wish to offer to AEDC may be included with the submitted proposal package. Submission of Optional Services information is not required, but the final selection may be based on these services.

14. *Lockbox Services.* AEDC may choose to utilize lockbox services for certain revenue collections. Describe the service including the lockbox location and a full description of the service.
15. *Remote Deposit Services.* Describe the policy, procedures, and deadlines for the Bank's remote deposit services including type of equipment and software to be used.
16. *Merchant Card Processing Services.* Describe any merchant card processing services that the bank offers including PCI compliance, clients site and merchant processor connectivity, rates, type of equipment and software to be used.
17. *Payroll Services.* Describe any payroll services that the bank offers including payroll processing, employment tax calculations and payments, payroll forms, HR capabilities, and related automated services and capabilities. Indicate whether such services are provided directly by the bank or through a third-party provider.