

2012-2013 Contracting Requirements For the Cultural Arts Division Funding Programs

The 2012-2013 requirements for cultural services agreements detail the responsibilities and contractual obligations of each contractor with the City of Austin. You are responsible for all information provided here. Please read carefully.

You are also expected to be familiar with and responsible for all the terms of your contract or sponsorship agreement. Please contact the cultural arts division at 512-974-7700 immediately if there is any obligation to the City of Austin that you will be unable to meet.

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Believing an investment in the Arts is an investment in Austin's future

Updated September, 2012

I. PRE-CONTRACT REQUIREMENTS

The following documents can be found on our website at www.austincreates.com and should be e-mailed as follows: Core Programs A through C, Cultural Expansion Program and Community Initiatives: Jesus Pantel, 974-9315, jesus.pantel@austintexas.gov; Core Programs D through Z: Barbara Sparks, 974-7854, barbara.sparks@austintexas.gov or delivered to the Cultural Arts Division Office, 201 East Second Street, Austin, Texas 78701 **no later than Friday, November 16, 2012, by 5:00 p.m.** (Please Note: Signed documents cannot be sent electronically.)

All Awardees Must Submit:

- Revised narrative(s) (for staff review and approval)
- Revised budget(s) (for staff review and approval)
- Budget Itemization(s) (for staff review and approval)
- *Certificate of Insurance (for staff review and approval)
- **W-9 and Company Profile Form (If not registered as a City Vendor)

Sponsoring Organizations (In addition to the above) Must Submit:

- Signed Sponsorship Agreements—One per sponsored project.
 - Please Note: This document serves as the contract between the Sponsoring Organization and the Sponsored Individual/Organization. As such, the Sponsoring Organization should retain the original and place a copy in the contract. This document should not be forwarded to CAD staff prior to the initiation of the contract.
 - Sponsors are responsible for obtaining and forwarding to CAD staff all pre-contract documentation for themselves and each individual/organization they sponsor. A cultural contract will not be initiated until all pre-contract materials for the sponsor and each sponsored individual/organization have been submitted, reviewed and approved by CAD staff.

CERTIFICATE OF INSURANCE ACCESSIBILITY ASSESSMENT W-9 AND COMPANY PROFILE FORM

*Certificate of Insurance (D/N apply to Cultural Expansion Program)

- All contractor's and sponsored projects are required to provide proof of insurance as is assessed by Risk Management. **Core Programs:** An Insurance Information Form must be completed and forwarded along with the narrative, budget and itemization to Risk Management at carol.vance@austintexas.gov or faxed to 974-3411. Copy your contract administrator on all correspondence. **Community Initiatives:** An Insurance Assessment form (attached to your award notification e-mail) must be completed and forwarded as is instructed in the notification of award e-mail.
- Insurance costs are the responsibility of the contractor. Both Contractor and Sponsored Organization/Individual are required to carry insurance throughout the contract/project period. Event insurance is allowable in some cases. Contact your Contract Administrator for further information

W-9 and Company Profile Form

- These forms are required for new vendors or registered vendors legally changing name and address.
- Contact your Contract Administrator or our website (www.austincreates.com) for further information.

ACCESSIBILITY ASSESSMENT

- All contractor's and sponsored projects must complete and submit an Accessibility Assessment form. **Core Programs:** Submit by e-mail (delores.gonzalez@austintexas.gov) or fax (512-974-3296) to Dolores Gonzales, City of Austin Accessibility Assessment. **Community Initiatives Program:** Complete the "Reaching Out to Customers with Disabilities Arts Contractors Quiz" (attached to your award notification e-mail) and forward as is instructed in the award notification e-mail.

II. CONTRACT MATERIALS

All Cultural Services Agreements must be completed and signed by **December 7, 2012** for Cultural Expansion and Core Programs. **(D/N apply to Community Initiatives Program)**

Upon submittal, review and approval of all pre-contract materials a contract will be forwarded via e-mail to the applicant awarded cultural funding. This e-mail will contain:

1. Contract Execution Instructions
2. The Contract
3. *Attachment A—Narrative(s)
4. *Attachment B—Budget(s) and Budget Itemization(s)
5. Attachment C or C1—Mandatory Publicity Statement
6. Attachment D—Insurance Assessment(s)
7. Attachment E— Sponsorship Agreement(s), If applicable—see page two.

Assimilate, as per the contract execution instructions, two sets of the contract and return to the Cultural Arts Division with an original signature of an authorized official on each contract set.

*Please note: The following will only be attached to the contract correspondence if submitted via e-mail to your Contract Compliance Administrator: Narrative(s), Budget(s) and Budget Itemization(s)

ALL PROGRAMS:

CAD staff will review the contract and forward to the Authorized EGRSO Representative. Upon authorization the contract will be forwarded to the contractor via U.S. and/or e-mail. (Note: The **Community Initiatives** application serves a dual purpose as both application and contract.)

- **Applicants must submit a Revised Budget Form,** Budget Itemization and a revised Narrative Form providing only name(s), location(s) and date(s) of proposed public programming without a reduction in scope. Necessary budget changes will be treated as contract changes and will require written justification for the changes.
- Cultural Contracts Program **does not** fund (See Application Guidelines for additional bullet points):
 - Debt reduction
 - Underwriting
 - Purchase of computer software/hardware
 - Work already completed
 - Capital expenditures (permanent equipment)
 - Social functions parties and/or receptions (including food and beverages)
 - Fellowships at professional training schools (this does not include local art school scholar-ships for non-professional art students)
 - Benefits or organizational fundraising
 - Trusts or endowment funds
 - Activities taking place outside the City of Austin or its ETJ or that primarily serve non-Austin residents
- The City will not enter into unexecuted contracts in the event of an unanticipated reduction in the collection of the Hotel/Motel Bed Taxes, and hence, of Cultural Arts available funds.
- Payments will **not** be processed until signed agreements, including Sponsorship Agreements, are on file.
- Sponsoring Organizations must have a paid Executive Director as well as an annual operating budget of at least \$50,000, and are responsible for collecting and verifying the revised narratives, budgets and sponsorship agreements of each of their sponsored projects and submitting these documents to the Cultural Contracts Office **under one cover** by the deadline date.
- **Sponsored groups/organizations must be incorporated in the State of Texas as a nonprofit organization. They are otherwise considered an individual artist.**
- A sponsor may charge up to 10% of the sponsored organization/individuals funding award for administrative services.
- **Revised narratives that do not explicitly state the names, locations and dates of programming/events/operations funded through the Cultural Contracts Program will not be accepted.**
- Once a contract is signed, sponsored projects cannot change their sponsor unless extenuating circumstances apply.

II. CONTRACT MATERIALS (Cont.)

Ineligible Project Costs including but not limited to the following:

- * Costs associated with the start-up of a new organization +
- * Direct project costs incurred more than 60 Days prior to the contract starting date +
- * Fund-raising expenses +
- * Consultants who are members of an applicant's staff or board +
- * Payments to students +
- * Contract management costs, application preparation costs or writing fees, sponsorship fees, or any other contract or application preparation and management fee. They may be used, however, as match, if within the 60 day rule (see bullet point two above).
- * Operating costs not associated with the project +
- * Purchase of awards, cash prizes, scholarships, contributions or donations +
- * Food or beverages +
- * Entertainment, reception or hospitality functions
- * Existing deficits, fines, contingencies,
- * Out of state/Intra state travel – *Note: Out of state/ Intra-state travel may be allowed on a case by case basis, however travel activity must be essential to the project and you must have prior written approval from CAD staff. Research travel is not allowed.*
- * Property Taxes or any other tax with the exception of retail sales or payroll tax +
- * Audits unless required per cultural funding contract +
- * Membership fees +
- * Internal programs at colleges or universities +
- * Curriculum development or curricular activities +
- * Scholarly or academic research, tuition, and activities which generate academic credit or formal study toward an academic or professional degree +

+ Ineligible activities may not be included in the project(s) budget as expenses or match.

Contact Cultural Arts Division Staff if further clarification is needed.

III. REPORTING REQUIREMENTS

- Please use current year reporting forms; previous year's forms will not be accepted.
 - Contractor must notify the Cultural Arts Division Office of any changes in project or budget scope
 - Contractor must notify the Cultural Arts Division Office of any change in contact information, i.e., phone number, email, mailing address and/or contact person. Changes in mailing address or legal name require completion of a company profile and W-9 form and/or updates via the City of Austin's Purchasing Departments on-line registration site at https://www.austintexas.gov/financeonline/vendor_connection/index.cfm)
 - Failure to submit and have approved the required final report materials will result in your current contract being rescinded. Any outstanding payments will be forfeited with current contracts and you may be asked to refund monies previously received associated with the funded activity. Further, your organization as well as any sponsored organization/individual artist may not be eligible for further funding or to request funds from the Cultural Arts Funding Programs in the future.
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FINAL REPORT

Due within 30 days of the completion of the project narrative/activities funded by Cultural Contracts (rounded to the end of the month to which the final narrative project/activities fall).

A complete final report includes:

- Pertinent publicity / programs / critical reviews or other information to document the event took place, including proper credit to the City of Austin, Texas as well as Texas Commission on the Arts if so designated in Attachment "C" or "C1" of your contract; and,
- Completed program description, budget and budget itemization that corresponds to **revised narrative** and **budget** in contract;
- Project Data (Audience/Participant Demographics) and/or Activity Information;
- Receipts documenting the expenditure of **ALL** City and matching funds equal to minimum required level (sponsorship and insurance fees incurred by a sponsored project(s) are the only expenditures that do not have to be verified by receipts);
- Final Report must have an original signature of the authorizing official and sponsored project if applicable.

REPORT FINANCIAL REQUIREMENTS

- Final Reports for all contractors must have the original signature of that organization's authorized agent. Final Reports for Sponsored Projects must have the **original** signature of the authorized agent of the Sponsoring Organization and of the Sponsored Project. **Copies will not be accepted.**
- Significant changes in programming or budget (varying 20% of total amount funded) require prior approval from Cultural Contracts staff. This applies to the funding award only (cash column)—not the match or in-kind funds;
- If funded in more than one Cultural Funding Program, receipts may not be duplicated between those programs;
- Match requirements are set at a 1:1 match (one-half match for Cultural Expansion). Matching funds and in-kind resources must pertain to the contract year and approved project to which they are being applied. Up to fifty percent (50%) (25% for Cultural Expansion) of the City award from documented in-kind donations is permitted in all core programs (except Organizational Support, which requires a 1:1 cash match), but a minimum of fifty percent (50%) of the overall 1:1 match **must** be cash.
- Expenditure documentation of **ALL City and minimum matching** Funds. The total amount of **ALL** City and minimum matching monies used to fund a project must be properly accounted. Expenditure documentation must be submitted organized by the Financial Form budget line item name and number. Receipts must clearly display the date of purchase, items purchased, amount per item and total. In-Kind expense documentation requires the donator's original signature and must reflect the date of service(s), donator name, project for which services were rendered, type of service rendered, hourly rate, hours donated, total amount of hours and dollar amount donated. The date and total amount on all expenditure documentation is to be highlighted. Failure to provide such documentation constitutes default of contract.

III. REPORTING REQUIREMENTS (Continued)

ACCEPTABLE DOCUMENTATION

1. Vendor invoices or receipts for goods or services provided for the specific project with full payment indicated.
2. Canceled check copies.
3. Canceled check copies over \$200 (except to contractor) must be accompanied by a signed invoice or receipt.
4. Copy of a check with a corresponding and clearly labeled bank statement that indicates checks paid.
5. Retail receipts.
6. Signed statements of payments received.

UNACCEPTABLE DOCUMENTATION

1. *Any in-house financial statements including check registers
2. Carbon copies of checks written or carbons of checks written
3. Receipts not marked paid in full
4. Invoices that do not show a zero balance
5. Job bids
6. Photocopies of currency
7. Unsigned In-Kind Receipts

Staff may, at any time, request additional documentation to substantiate expenditures. Do not hesitate to contact your Contract Administrator for clarification regarding acceptable vs. unacceptable documentation.

**Quick Books or similar software may be used in lieu of receipts for Organizational Support and some Project Support categories. Contact staff to verify if your organization is eligible.*

IV. FINANCIAL STATEMENTS

APPLICANTS FUNDED AT OR OVER \$50,000:

An independent audit may be required at the City's request for Contractor's funded at \$50,000 or greater. Should the City request such an audit, Contractor will retain the appropriate professionals within thirty (30) days of the City's request for an audit and the audit shall be Provided to the City within a reasonable time period and without unreasonable delay. Such audit will be required to include a complete set of audited financial statements and the auditor's management letter. Audits must conform to the standards of the American Institute of Certified Public Accountants. This audit would be in addition to the required Detailed documentation of **ALL** expenditures and other required information or documentation as outlined in the Final Report forms or as required by the Cultural Arts Division staff. Organizational Support Contractor's submitted an independent Audit with the FY 2013 application.

APPLICANTS FUNDED UNDER \$50,000:

Detailed documentation of **ALL** expenditures and other required information or documentation as outlined in the Final Report forms or as required by the Cultural Arts Division staff.

V. REVIEW AND COMPLIANCE

Throughout the contract period all funded projects and organizations must be in compliance with the following requirements of the City of Austin as they pertain to the organization:

ALL CONTRACTORS MUST PROVIDE:

- Current certificate of insurance on file with the Cultural Arts Division Office (**including Sponsored Projects**) (D/N apply to Cultural Expansion Program);
 - Current contact information with the Cultural Arts Division Office;
 - Written requests for significant program changes;
 - Notification of changes in program date(s);
 - Written requests for budget changes that are 20% of the award amount;
 - Completed in correct form final reports submitted with **original** signature(s);
 - Written requests to extend term of contract before deadline stated in contract must be submitted for staff approval.
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CLOSING CONTRACT

- Submit required completed final report and final report financial form, budget itemization, financial and publicity documentation on or before required due date.

Serious deviations from the requirements and contractual obligations of the contractor (and sponsored projects) may require actions included, but not limited to termination of contract or reimbursement of funds to the City. For specific information regarding non-compliance, see "X. Attachment A" at the end of this document.

MARKETING/PUBLICITY

- Contractor shall publicize the activities conducted by the Contractor under this Agreement.
- **Contractor shall list any and all events on NowPlayingAustin.com, including but not limited to all programs, performances, workshops, screenings, book signings, etc., as shown on the Work Statement (Revised Narrative) attached to the Contract as "Attachment A".**
- Contractor shall acknowledge the City's support in all electronic and printed materials and advertisements pertinent to City-funded programs/projects. Contractor shall also recognize the Texas Commission on the Arts in all appropriate printed materials and advertisements if specified in "Attachment C" or "Attachment C1" of the contract. Specific logo and credit line information can be found on our website at www.austincreates.com.

VI. INSURANCE REQUIREMENTS (D/N apply for Cultural Expansion)

Contract Agencies are required to carry insurance as outlined below and must **provide Cultural Contract Staff with a current certificate of insurance and notification of any non-renewals, cancellations or material changes. The certificate holder should read: City of Austin/EGRSO/Cultural Arts Division, 301 East 2nd Street, Austin, Texas 78701. Include in the distribution list City Purchasing Office, Attention: Insurance Processing, 124 W. 8th Street, Ste. 310, Austin, Texas.** More specific insurance requirements are included in the Cultural Services Agreement. Sponsored project artists or organizations must also meet the insurance requirements or be insured through the sponsoring organization.

The Contract Agency shall carry insurance in one or all of the following types and amounts as designated by the Risk Management Department of the City of Austin for the duration of this Contract and furnish certificates of insurance along with copies of all policy endorsements as evidence thereof:

- **Commercial General Liability Insurance** with a minimum combined single limit of \$500,000 per occurrence for Coverage's A (bodily injury and property damage) & B (personal and advertising injury). The policy shall also provide blanket contractual and coverage for independent contractors. Three endorsements shall be added in favor of the City of Austin, 1) additional insured, 2) waiver of subrogation and 3) 30 day notice of cancellation.
- **Automobile Liability Insurance** for all owned, non-owned, and hired vehicles with a minimum combined single limit of \$500,000 per occurrence. Three endorsements shall be added in favor of the City of Austin, 1) additional insured, 2) waiver of subrogation and 3) 30 day notice of cancellation.
- In the event the Contractor will serve liquor to individuals for entertainment purposes, the Contractor shall carry **Host Liquor Liability Coverage** of \$500,000 per claim.
- In the event the Contractor will sell liquor, the Contractor shall carry **Liquor Liability or Dram Shop Act Liability Coverage** of \$500,000 per claim.
- **Workers Compensation and Employers Liability Insurance** for all activities being held on City of Austin premises with minimum policy limits for Employer's Liability of \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee. Two endorsements shall be added in favor of the City of Austin, 1) waiver of subrogation and 2) 30 day notice of cancellation (a thirty day notice of cancellation endorsement must be provided).

CERTIFICATES OF INSURANCE SHALL CONTAIN THE FOLLOWING:

- Proper office of the insurer, the locations and operations to which the insurance applies and the expiration date of coverage.
- Written by a company licensed to do business in the State of Texas at the time the policy is issued and shall be acceptable by the City.
- Naming the City of Austin, Economic Growth & Redevelopment Services Office, Cultural Arts Division, 201 East Second Street, Austin, Texas 78701, as an **additional insured (CG 2010)**.
- **Waiver of Subrogation** in favor of the City of Austin (**CG 2404**)
- **30 day cancellation clause (CG 0205)** that obligates the insurance carrier to notify **the City of Austin/EGRSO/Cultural Arts Division and City of Austin Purchasing Office** of cancellations or material changes.

SUBMISSION OF CERTIFICATE OF INSURANCE

- All contractor's and sponsored projects are required to provide proof of insurance as is assessed by Risk Management.
- Cultural Arts Division staff will review your insurance certificate.
- Insurance certificates can be no more than six months in age.
- If your insurance is not up to date containing all required attachments, your contract will be held for processing.
- Funding cannot be initiated until the EGRSO Authorized Representative approves your contract.

VII. PAY REQUEST PROCEDURES

Pay requests are prepared internally. Contractors who have a pending, incomplete or delinquent final report will not be issued a current year contract.

Payments for funded projects and organizations are made based on the schedule's as shown below. The City of Austin has 31 days to disburse funds to its contractors. Please allow a **minimum of three weeks** for processing.

SPONSORED PROJECTS AND SPONSORING ORGANIZATIONS:

- Sponsored projects should allow an additional week for sponsor to receive and issue funds.
- Funds are sent to the sponsoring organization. It is the responsibility of the sponsoring organization to issue funds in a timely fashion.

CONTRACTORS REQUESTING FUNDING ORGANIZATIONAL OR PROJECT SUPPORT

Pay requests will be processed as follows:

Payment Date	% of Award
Upon processing of signed contract	30%
January 31, 2013	30%
March 31, 2013	30%
Upon processing of final report	10%

CONTRACTORS REQUESTING FUNDING FOR PROJECT SUPPORT II

Pay requests will be processed as follows:

Payment Date	% of Award
Upon processing of signed contract	40%
January 31, 2013	50%
Upon processing of final report	10%

CULTURAL EXPANSION/COMMUNITY INITIATIVES PROGRAMS REQUESTING FUNDING

Pay requests will be processed as follows:

Payment Date	% of Award
Upon processing of signed contract	75%
Upon processing of final report	25%

*Payment schedules for contracts may be individually developed based on actual project start and end date. Contact your Contract Compliance Specialist if you have questions or concerns.

VIII. CONTRACT AMENDMENTS

Contract changes constitute:

- Reallocation of City funds among the various line items and categories reflecting a 20% deviation of the award amount from that which was listed in the contract budget.
- Program dates, location, or scope of project

Amendment requests must be submitted in writing and are subject to approval by the Cultural Arts Division Office. Until written approval is issued, further program activity is not authorized. Changes that are implemented without approval will be considered in violation of the contract, may jeopardize payments, and can cause the contractor to be in default.

IV. RESPONSIBILITIES OF PARTIES

CONTRACT AGENCIES AND SPONSORED PROJECTS

- Comply with the terms of the Cultural Services Agreement, Sponsorship Agreement (if applicable) and Requirements for Cultural Services Agreements.
- Contractors that have received a notice of termination for default on a Cultural Services Agreement shall not be considered eligible applicants for the following year. Any application submitted by a contractor in default shall be returned. All Contract agencies and sponsored projects in non-compliance will be submitted in a staff report to the Division Manager annually. In accordance with the Cultural Services Agreement, the City may request of a contract agency or sponsored project data concerning its financial affairs and all of its records relating to all matters covered by the contract.

DIVISION MANAGER

- Designates contractors to be reviewed by City auditors.
- Reviews defaults on contracts, recommends action to the Director of the Economic Growth & Redevelopment Services Office, and initiates action with the Law Department; and
- Undertakes other activities required by the Director of the Economic Growth & Redevelopment Services Office.
- Is the executive liaison to the Austin Arts Commission.

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CULTURAL ARTS DIVISION STAFF

- Prepares Cultural Services Agreements approved by City Council;
- Maintains on-going relationships with contractors and suppliers of services;
- Monitors and tracks programs and required reports of contractors;
- Processes reports and prepares and approves requests for payments;
- Reports delinquent contractors to the Cultural Funding Manager;
- Prepares on-going reports on this program as required by the Cultural Funding Manager;
- Undertakes other duties assigned by Cultural Funding Manager.

X. ATTACHMENT A – NON-COMPLIANCE PLAN

The following notification plan will be used, as appropriate. Contractor admissible response is counted from the date of the non-compliance letter/e-mail.

INCOMPLETE REPORTS WILL BE PROCESSED AS FOLLOWS:

STEP 1	1st Notice sent via e-mail to contractor who has submitted an incomplete final report. Contractor has 5 business days to submit. E-mail is initiated and forwarded by the C o n t r a c t Administrator.	STEP 2	2nd Notice sent via U.S. certified mail to contractor who has not responded, or if report requires additional corrections. Contractor has 10 business days to make corrections. Letter signed by Cultural Funding Manager.	STEP 3	Termination Notice sent certified mail to contractor who has not responded, or not provided corrections. Letter signed by Division Manager. Copies of Termination Notice are forwarded to sponsor (when applicable), and Department Director.
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DELINQUENT REPORTS WILL BE PROCESSED AS FOLLOWS:

STEP 1	1st Notice sent via e-mail to contractor who is 15 business days delinquent in submitting final report. Contractor has 10 business days to submit report or contact office. E-mail is initiated and forwarded by the C o n t r a c t Administrator.	STEP 2	2nd Notice sent certified mail to contractor who is 30 business days delinquent or has submitted an incomplete report after first delinquent notice. Contractor has 5 business days to submit complete report. Letter signed by Cultural Funding Manager. Note: Applicant will not be granted program extensions request after second notice.	STEP 3	Termination Notice sent certified mail to contractor who has not responded, or not provided corrections or additional information. Letter signed by Division Manager. Copies of Termination Notice are forwarded to sponsor (when applicable), and Department Director.
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EXPIRED INSURANCE WILL BE PROCESSED AS FOLLOWS:

STEP 1	1st Notice sent to contractor via e-mail. Contractor has 5 business days to provide proof of insurance renewal or contact office. C o n t r a c t Administrator signs letter.	STEP 2	2nd Notice sent certified mail to contractor who is 10 business days delinquent in providing proof of insurance renewal. Contractor has 5 business days to submit renewal notice. Letter signed by Cultural Funding Manager.	STEP 3	Termination Notice sent certified mail to contractor who has not responded or not provided insurance renewal. Letter signed by Division Manager. Copies of Cancellation Notice are forwarded to the Department Director.
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A continuing default by contractor or sponsored project may result in:

- Suspension and/or termination of Cultural Services Agreement
- Suspension and/or termination of funds
- Reimbursement of funds received by City
- Ineligibility for future funding
- Review by City Auditor's Office Investigating Unit
- Sponsor (if applicable) of sponsored project will refund sponsoring fee to City
- Suspension of processing and administering of any future applications for funding until reports are completed from delinquent year