

# Understanding City of Austin Procurement Process

# A Minority Perspective

An electronic handbook compiled and edited by Asian Contractor Association ©July 2014



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## Background

The City of Austin has recently been ranked by Forbes as the #1 fastest growing city in the country with a projected growth rate of 6.1% between 2011-2016. Many factors contribute to the dramatic growth of the city, including the presence of several mega corporations such as Samsung, Dell, IBM, a plethora of startups relocating to Austin, and a large student population at UT, Austin. Calling Austin "an economic powerhouse," Forbes has placed Austin at the top spot three years in a row.

With the sudden influx of population and ever flourishing job market in recent years, the city is faced with a greater responsibility to make sure all civil infrastructures and facilities continue to have the stability and capacity to service all population including local businesses, and that no civil services are minimized or interrupted. To combat the welcome growth, the city has authorized plans to expand the airport, purchase additional solar energy, enhance social services, upgrade technology, redevelop a downtown area of 4.4 acres into office, retail, and residential space, and much more.

The purpose of the booklet is to help minority contractors who are interested in doing business with the city learn how they can join the ranks of certified minority vendors and participate in the city's existing and future purchasing plans. The booklet will illustrate the city's procurement process, what the city buys, where contractors can obtain procurement information, and how the city's MBE/WBE program works to promote minority participation.

## **City Funds by Expense Type**

The City of Austin currently enjoys an annual budget of \$3.3 billion generally received from the following sources by percentage: utility charges (57%), taxes (22%), charges for services (11%), fund transfers (4%), fees, fines, permits (3%). Expenditures of the budget are divided fairly evenly among three categories: personnel, contractuals, and commodities in the amounts as shown below.

 Personnel:
 \$1,188,825,000

 Contractuals:
 \$1,107,180,000

 Commodities:
 \$1,132,647,000

 (figures based on 2013-2014 approved budget)

The Personnel category covers expenses as such as city employee salaries, insurance, pension and other personnel related cost. The Contractuals and Commodities include but are not limited to expenses to build and maintain city properties, improve public facilities, playgrounds, libraries, neighborhoods, overall infrastructures, any other public works, and to provide various free or charged services to the citizens.

## **Solicitation Categories**

The City divides its purchases from its registered or certified vendors into four categories: **Construction, Non-Professional Services, Professional Services, and Commodities**, as described hereafter.

## Construction -- all construction trades

**Professional Services --** services that require licenses to practice such as architectural, engineering, legal, medical, accounting, real estate appraising, and legal services.

**Non-Professional --** services that are not considered professional, such as towing, dispatching services, vehicle parts and repair services, cleaning, catering, and research analysis and study.

**Commodities** -- a large variety of goods such as office supplies, bandages, auto parts, building materials, and generators.

Symbols:



## **Solicitation Types**

#### IFB (Invitation For Bids)

The City uses this solicitation for requirements anticipated to cost more than \$50,000, normally for construction projects or commodity purchases. Award is made to the lowest priced, responsive, and responsible vendor. All bid results are published online at Vendor Connection under Bid Tab/Response for the public to review. You will normally see a solicitation number that reads like IFB 6100 CLMC500.

## IFBBV (Invitation for Bid-Best Value)

The lowest cost is not necessarily the best value for all procurements. For example, a commodity or service of higher quality, such as a longer life span, may be a better value and investment for the City even if the initial cost is more. IFBBV is usually used for purchases of non-professional services or commodities. You will normally see a solicitation number that reads like **IFBBV 7800 JRD0001REBID**.

#### **RFQ (Request for Quotations)**

The City uses this solicitation method to purchase goods and services that can be well defined and awarded on the basis of price only. This solicitation is used when the total amount required equals \$50,000 or less. Award is

made to the lowest priced, responsive, and responsible vendor. You will normally see a solicitation number that reads like <u>RFQ 1100 DNJ0775</u>.

#### **RFP (Request for Proposals)**

This type of requests can be used for professional services, non-professional services or commodities, when a clearly defined requirement cannot be acquired based on price alone, and vendors are encouraged to propose a solution or answer to the stated needs. You will normally see a solicitation number that reads like **RFP 5700 CDL2001**.

## **RFQS (Request for Qualifications)**

This type of requests can be used for professional services, non-professional services, and construction. The City usually has a set of special and predetermined criteria and requirements for the proposers meet their qualifications. This is also a two-stage procurement process in which a firm's professional qualifications are submitted and reviewed, followed by negotiation of price with the selected vendor. You will normally see a solicitation number that reads like **RFQS 6100 CLMP158**.

## **Alternative Delivery Methods (ADM)**

**ADM** is a non-conventional delivery approach for the city's capital improvement projects, which range from the Austin City Hall to new swimming pools, fire stations and libraries. Contract award is based on proposals which offer the "**BEST VALUE**" to the City of Austin. Best Value is determined by scored and ranked weighted criteria published in the solicitation.

- Qualifications-Based Selection (QBS) Method is used.
- Award of an ADM contract is based on evaluating a firm on a set of criteria and ranking each firm to determine the "Best Value" to the City of Austin.
- Austin City Council authorizes each ADM project prior to issuing the solicitation.

ADM is believed to be more favorable to the MBE/WBE program to include local and minority participation. Asian American Resource Center, African American Cultural Center, and Phase I of the Mexican American Cultural Center were constructed utilizing two of the ADMs.

All city solicitations are published online at **Vendor Connection**. The following section lists five most commonly used solicitations by the City to manage all purchases. The **Vendor Connection** website is: www.austintexas.gov/financeonline/vendor\_connection/index.cfm



Austin Finance Online

HOME FINANCIAL DOCUMENTS CONTRACT CATALOG eCHECKBOOK UNCLAIMED PROPERTY OFFICES VENDOR CONNECTION FAQ

SEARCH & FORMS

HOTEL/STI

OPEN SOLICITATIONS CLOSED SOLICITATIONS BID TAB / RESPONSE

CREATE ACCOUNT

Welcome to Vendor Connection

To view current solicitations, click on the "OPEN SOLICITATIONS" tab above the "Welcome to Vendor Connection" section. Each solicitation has a symbol and solicitation number attached. Become familiar with them will help understand the nature of each project.

## **Local Preference**

If the City receives a competitive sealed bid from a bidder whose principal place of business is in the Austin Corporate City Limits and whose bid is within three percent of the lowest bid price received from a bidder who is not a resident of the Austin Corporate City Limits, the City may enter into a contract with the local vendor.

A firm (Offeror or Subcontractor) is considered to have a Local Business Presence if the firm is headquartered in the Austin Corporate City Limits, or has a branch office located in the Austin Corporate City Limits in operation for the last five (5) years. The City defines headquarters as the administrative center where most of the important functions and full responsibility for managing and coordinating the business activities of the firm are located. The City defines branch office as a smaller, remotely located office that is separate from a firm's headquarters that offers the services requested and required under this solicitation.

#### No-Contact Period (Anti-Lobbying Ordinance)

NO-CONTACT PERIOD means the period of time from the date of issuance of the solicitation until a contract is executed. If the City withdraws the solicitation or

rejects all responses with the stated intention to reissue the same or similar solicitation for the same or similar project, the no-contact period continues during the time period between the withdrawal and reissue.

## **No-Contact List**

If bidders have any questions about certain solicitations, they can contact authorized personnel assigned to each solicitation. The list can be found online. Just go to Vendor Connection. Click on Financial Documents, and then Purchasing.

#### **Bid Opening Webinars**

The City of Austin Purchasing Office offers live bid opening webinars on Tuesdays and Wednesdays at 2:15 p.m. There is a login limit of 25 participants for the webinar.

#### **View Online**

<u>View the live bid opening webinar</u>. Please sign in as a guest using your company name. Click the "help" button in the bottom left corner to test your computer to make sure that you are set up with all of the tools you will need to participate in the connect webinar.

#### **Attend In Person**

Municipal Building - 124 W. Eighth St. Austin, TX 78701. The results of the bid opening do not become final until after bids are verified. Bid information will not be released over the phone and will be posted as soon as possible. Please view <u>bid tabulations</u> to search for the posted results.

*Didn't find the Bid Tab you were looking for?* Contact the Contract Management Department at (512) 974-7141 or april.shaw@austintexas.gov

## **Council Award**

Any city procurement over \$53,000 requires council approval. City Council meeting schedule is posted online along with meeting agenda at www.austintexas.gov/department/city-council/council-meetings

Citizens have an opportunity to sign up before the meeting to address to the council about any particular agenda item. The mayor will call each speaker's name to go up before the dais as each item comes up for discussion. Council usually votes according to staff recommendations, but there are plenty of exceptions if there is strong feedback from the public. Council may also pass consent agenda items in a work sessions without public discussion.

#### **Pre-Construction Meeting**

Before a project commences, the project manager will hold a pre-construction conference with the prime contractor to ensure the prime clear understanding of contract requirements, establish lines of communications and designated points of contact, issue notice to proceed, outline process for submittal reviews, discuss/accept baseline schedule, and other house-keeping issues.

The prime is also required to meet with all the subcontractors on the compliance list separately prior to the beginning of the project to go over requirements, safety, project schedule, and how to submit invoices, payment timelines, and other pertinent issues. It is important for subcontractors to not miss this meeting to make sure they understand their rights and obligations to avoid running the risk of being off the project for breach of contract.

#### Bonding

All prime contractors are required to have Bid Bond, Performance Bond, and Payment Bond. General Liability and Workman's Comp insurance is standard requirement for all businesses providing services to the city. However, some prime contractors do enroll their subcontractors into the Contractor Controlled Insurance Program (CCIP) to cover their portion of the general liability and workman's comp insurance. Make sure you check with your prime regarding insurance requirements.

Subcontractors do not need to have Bid Bond, but will need Performance Bond and Payment Bond for their employees and subcontractors. Always check with your prime contractor or your prime subcontractor if you are a second- or thirdtier contractor, what insurance is required.

#### <u>Bid Bond</u>

Bid bonds make sure that contractors submit serious bid proposals. These bonds reassure project developers that bidders have the financial credentials necessary to accept the job. If a bid is selected and the contractor declines the job or retracts the bid, the project developer can make a claim on the bond to recoup the difference between that bid and the next-highest bid.

#### Performance Bond

Performance bonds guarantee that contractors complete projects according to contractual terms. If a contractor fails to do so, the project developer can make a claim on the bond to access funds that can be used to pay a second contractor to finish the job. The federal Miller Act requires that performance bonds be used on all federally funded projects worth \$100,000 or more.

## Payment Bond

Payment bonds guarantee proper payment for services in case lead contractors go bankrupt when working on projects. The bond amount can be used to reimburse suppliers, subcontractors and others who worked on a project if the lead contractor is unable to pay them for their work. The federal Miller Act requires that payment bonds be used on all federally funded projects worth \$100,000 or more. In fact, these bonds are frequently issued in conjunction with performance bonds.

## How Does the City Pay?

Under the Prompt Payment State law, the city is required to pay bills within 30 days of receiving a valid invoice. If payment is delayed, the city will pay interest on the amount owed at a specified rate. Each subcontractor and supplier will be paid their appropriate share of payments made by the prime contractor no later than ten (10) calendar days of the prime's receipt of payment from the city.

One of the benefits of being a contractor or subcontractor on all government projects is the certainty of receiving payments for your work. One consideration for subcontractors is having the financial staying power for at least 10 weeks after they start work before receiving payment from the prime contractors.

## MBE/WBE/DBE Procurement Program

The Department of Small & Minority Business Resources (SMBR) was established to administer the Minority/ Women-Owned Business Enterprise (MBE/WBE) and the Disadvantaged Business Enterprise (DBE) Procurement Program.

The program is based on a city ordinance which expires every year for council renewal. Since 1987, council has approved to maintain the program based on the results of the periodic Disparity Study conducted by the city to make the program continually legally defensible in court.

SMBR is currently staffed with 28 city personnel to provide various services to small and minority businesses as described thereafter.

## Certification

The types of certification offered by SMBR are:

- Minority- and Women-Owned Business Enterprise Certification (MBE/WBE)
- Disadvantaged Business Enterprise Certification (DBE)
- Small Business Enterprise Certification (SBE)

SMBR's Plan Room houses all city projects for the public to view at no cost. It also provides free electronic access to the McGraw-Hill Dodge system of drawings as well as hard copy plans and specifications from local, private, and public sector jobs. The Plan Room is open weekdays from 8:30 a.m. -4:30 p.m. Call (512) 974-7799 for more information.

## **Contract Compliance**

SMBR has a Compliance Division responsible for reviewing, monitoring and tracking MBE/WBE participation on City procurements throughout all phases of a project. All Solicitations over \$57,000 MUST be reviewed by SMBR. The Compliance team reviews solicitations, sets project goals, collaborates with Project Managers to help identify scopes of work on projects, and verifies Compliance Plan information submitted by Bidders/Proposers.

After the solicitation is awarded, the compliance division continues to monitor and assess compliance by conducting site audits, reviewing payment requests, facilitating performance/payment issues, and determining final compliance with the program.

Please see the table on page 9 for the current participation goals. Each project will have different participation percentages depending on the available certified minority contractors to perform work for the project. Consequently, not all projects will have MBE/WBE goals.

## **Bonding Consultant**

The Department is staffed with a Bonding Financial Consultant to provide free consultation to address your bonding questions. Contact Luke Ortega Luper at (512) 974-7733 to set up an appointment.

## **Outreach Services**

SMBR hosts regular training and information sessions to help small and minority businesses better understand and equipped to do business with the city. Networking sessions are also held to bring prime contractors, city project managers, and other city staff members to speak on upcoming project opportunities. Visit SMBR's website to find current events.

SMBR Physical Address: 4201 Ed Bluestein Blvd., Austin, TX 78721 Phone Number: 512-974-7600 Website: <u>www.austintexas.gov/department/small-and-minority-business</u> or Google SMBR Austin. Office Hours: Monday – Friday 8:00am to 5:00pm



#### **Minority Participation Goals**

Participation goals are set in accordance to City Code 2-9A-19. The city sets both annual goals and project goals. The table below shows the current annual goals for each ethnic group and each category.

Annual Participation Goals for the Program					
			Non-		
		Professional	Professional		
Group	Construction	Services	Services	Commodities	
AA	1.7%	1.9%	2.5%	0.3%	
HIS	9.7%	9.0%	9.9%	2.5%	
A/NA	2.3%	4.9%	1.7%	0.7%	
MBE	13.7%	15.8%	14.1%	3.5%	
WBE	13.8%	15.8%	15.0%	6.2%	

AA: African America HIS: Hispanic A/NA: Asian/Native American MBE: Minority-owned Business Enterprise WBE: Women-owned Business Enterprise Project goals are calculated using the formula below:

<u># of (AA, HIS, or A/NA) Vendors Total for the Commodity Code \* Commodity Code's Trade</u> <u>Summary %</u> Number of Vendors Total for that Commodity Code

\*Commodity Code's Trade Summary % is the percentage of project expenses for the commodity code.

#### **Basic MBE/WBE Program Compliance Rules That Concern You**

It is important that your understand what the MBE/WBE program requires a prime to do in order to be deemed compliant especially in the areas of tracking awards to minority subcontractors on the compliance list, the reason why minority subcontractors are replaced, and if payments are made on time.

The compliance division of SMBR monitors compliance by the prime contractors in two phases: pre-award and post award.

#### **Pre-Award Phase**

Prime bidders are required to submit documentation for the following items when submitting a bid on a City project with MBE/WBE participation goals.

- List of all MBE/WBE subcontractors
- List of all non-certified subcontractors
- List of all second-tier subcontractors
- Good faith efforts check list items that concern MBEs
- Were written notices sent to all MBE/WBEs from the availability list at least seven (7) business days prior to the submission of this Compliance Plan?
- Were two separate methods used to contact all MBE/WBEs from the availability list at least seven (7) business days prior to the submission of this Compliance Plan?
- ↔ Were steps taken to follow up with interested MBE/WBEs?

#### **Post-Award Phase**

Once an award has been made to a prime contractor, SMBR continues to monitor MBE/WBE program compliance and take actions against non-compliance in the following categories.

- Letter of Intent (LOI)
- LOIs are required for all levels of subcontracting, and a separate LOI for each subcontractor, supplier, or manufacturer is required. The amount and scope of work indicated on each LOI shall be the actual amount indicated on the Compliance Plan submitted with the bid and approved by the City.

- Changes to the Compliance Plan including additions, deletions, contract changes, or substitutions of subcontractors, suppliers, or manufacturers are permitted only after contract execution and only with prior written approval of SMBR.
- Payment Clause
  - City contracts require all subcontractors to be paid within ten (10) calendar days from the date that the prime contractor has been paid by the City for invoices submitted by subcontractors.
- Change Order/Contract Amendments
- For additional scopes of work, the prime contractor is required to make Good Faith Efforts to obtain MBE/WBE participation
- Project managers will have automatic SMBR approval to authorize any change order that increases the contract amount for an existing certified subcontractor and is within the existing scope being performed by that subcontractor.
- Sanctions May Be Imposed Against the Prime For:
  - Providing false or misleading information to the owner (the city) in Good Faith Efforts documentation, in post award compliance, or in other Program operations;
  - Substituting subcontractors without first receiving approval for such substitutions, which may include the addition of an unapproved subcontractor and failure to use a subcontractor listed in the approved Compliance Plan; and
  - Failure to comply with the approved Compliance Plan without an approved Request for Change, an approved Change Order, or other approved change to the Contract

Please refer to Section 2-9A-25 of the City Code and SMBR Rule 11.5 for additional information.

## **Third Party Agreements**

Projects under "Third Party Agreements" are subject to city's MBE/WBE program rules and participation goals. These projects include developer participation agreements, economic development agreements under Chapter 380 of the Texas Local Government Code ("Chapter 380 Agreements"), ground lease agreements, all third-party agreements negotiated between the City and private entities desiring to develop City-owned property; and any agreements pertaining to facilities constructed by private entities in conjunction with reliance on the City's endorsement pursuant to the Texas Major Events Trust Fund Act ("Eligible Third-party Agreements")

## MBE/WBE/Small Business Enterprise Procurement Program Advisory Committee

The committee is comprised of seven members with each member appointed by the mayor and six council members. It meets the first Tuesday every month to hear from citizens for any concerns or disputes with either the city or prime contractors. They also hear reports from SMBR Director on contract awards, participation goals, payment status to subcontractors, request for change reports, presentations from new project developers or prime contractors coming to the city, and other MBE/WBE program related issues.

The advisory committee serves as an advisory body to the MBE/WBE Council Committee. It also passes resolutions to send for the council committee to consider and possibly placing them on council agenda for approval.

All meeting agendas are posted online with a link on SMBR main webpage.

## MBE/WBE/Small Business Council Committee

The Committee is made up of three council members who meet on the second Tuesday of each month to hear SMBR staff report and report from the MBE/WBE Advisory Committee. It also discusses resolutions passed by the advisory committee and considers any further action to be taken. The meeting is open to the public to address to the committee any issues or concerns regarding the program.

## What do I do next?

Now you have a general idea of how the city buys from its vendors and how the city's MBE/WBE program is here to help you participate and protect your interests. Where do you begin?

## **First Step**

The number one thing for all businesses is to register their firms with the City of Austin. Go to Vendor Connection. Under "New Vendors" click "Create Account." Follow step by step procedure to complete the registration. You can just Google "Vendor Connection" to find the website.

## **Get Certified**

Now you are registered, the city will begin sending your solicitations with scope of work relevant to your services. You can bid as a registered vendor or you can move on to the next step to become a certified minority vendor. The SMBR website has all the necessary documents for you to get started in the certification process. Go to SMBR's main web page. (Google SMBR Austin to find the website.)



Click on "Certification" under "Top Content" on the right hand column of the page. The link will take you to the forms you need to fill out and submit to the SMBR. If you have any questions when filling out the forms, you can always call one of the certification counselors to get clarification at 512-974-7645. The whole process will take approximately 60 to 90 days, sometimes longer depending on the backlog.

## **Pre-Bid Meetings**

If you are interested in a particular project, it is important to find out who the prime bidders are. How do you know who they are? The city holds "prebid" or "pre-proposal" meetings to go over information such as project scope of work, MBE/WBE compliance, anti-lobbying ordinance and to answer any questions pertaining to the solicitation. Prime contractors who plan to bid will attend these pre-bid meetings. It is a good idea to go to these meetings as well to introduce yourself to the potential bidders and find out their requirements for subcontractors.

If you are not able to attend the pre-bid meetings, the sign-in sheets will be posted online at Vendor Connection. You may also contact them directly to seek subcontracting opportunities.

## **Select Your Projects**

Once you are certified, you will begin to receive notices from prime bidders to invite you to bid. Choosing the right projects is just as important as selecting the prime to partner with. To choose the right projects, consider the following factors:

- Who is your competition? It is ok to ask your prime who your competitors are.
- Nature of the project Is it a lot of work? Do you have enough workers to carry the load?
- Market conditions How many projects are in the area?
- Project duration Will the 10% retainage that you will receive at the end of the project affect your financial capacity to do business?
- Who the structural engineers and architects are? Their mistakes may cost contractors time and money.

## Working with Prime Subcontractors

Many subcontracting opportunities exist in working with first-tier subcontractors, who are still responsible in recruiting minority contractors to meet project participation goals. It is important to keep a close contact with the General Contractor (GC) of a project to find out who these first-tier contractors are. Often times networking with the GC will help you meet with their subcontractors who may be looking for second or third-tier contractors.

Relationship is the key in all human activities especially those to do with commerce. People tend to do business with people they know. Become a familiar face or a voice to insert a certain level of comfort in people if you are new in town.

The city, prime contractors, and trade associations periodically host networking events for minority contractors. Those are great opportunities as well.

## About Asian Contractor Association (ACA)

Founded in 2001, ACA has been a service provider for the City of Austin to help increase Asian participation of the city's MBE program. Our services include:

- Individual consultation
- Bid and project opportunities notifications
- Networking with prime contractors
- Referral services
- Plan room services
- Plan reading and estimating
- City procurement process
- MBE/WBE program advocacy
- ... much more

## Maps and Directions --- ACA and SMBR

Heading south on Highway 183 – continue on S. Hwy 183. You will pass MLK, and 51<sup>st</sup> St. Make a left on Techni Center Dr. and another left at the light. Keep going straight to enter the parking lot located at the back of the office building. Go down a flight of stairs to enter the lobby to sign in. SMBR and ACA are on the second floor. ACA is located inside SMBR in room #2105.



## **ACA Member Services**

- 1. Business and Technical Consultation
- 2. Minority Business Enterprise Certification Application, Renewal and Profile Change Process
- 3. Asian Subcontractor/Sub-consultant Referral Services
- 4. Upcoming Bid/Event Notifications
- 5. How to Use COA Vendor Connection
- 6. Plans Room Services
- 7. Plan Reading, Cost Estimating Consultation (RSMeans)
- 8. Proposal Writing and Bid Submission
- 9. Assist Vendors in Navigating City Procurement Processes
- 10. Contract Compliance and Contract Review
- 11. M/WBE Program Ordinance and Compliance Plan Orientation
- 12. Translations
- 13. Liaison Services Between Vendors and City Departments
- 14. Research Assistance of Current and Past City Solicitations and Winning Proposals
- 15. Collective Representation to Improve Asian Vendor Utilization

# Asian Contractor Association

A non-profit organization serving Asian businesses in the Greater Austin Metro Area since 2001

Board of Director

Chairman Mahesh Naik

Executive Vice Chairman George Chang

> Treasurer LiLi

Member Sung E. Cho

Member Thong Vo





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**Executive Director** Aletta Banks