



Understanding City of Austin Contract Documents

A Minority Perspective

An electronic handbook
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Background

For each construction project, the City of Austin issues a project manual containing instructions on what contract documents are required and what technical specifications are set for the project. Each bidder should read the manual carefully before submitting their bid. Failure to follow or comply with the manual will jeopardize one's eligibility as a potential candidate for a city contract. Therefore it is vitally crucial for any bidder interested in winning city construction contracts to become familiar with the city's bidding requirements.

The project manual usually contains two volumes. Volume 1 contains the standard contract documents and technical specifications. Volume 2 lists MBE/WBE participation goals, if any, depending on the availability of minority constructors for the scopes of work for the project.

The purpose of this handbook is to help you, as a subcontractor, gain a deeper understanding of the contract terms and conditions and bidding requirements by the city. Below is an overview of the key conditions in the project manual that all bidders should learn before submitting a bid to the city. In addition, section numbers are identifiers that you will know them by heart over time to help you quickly find the information you need while preparing for the bid.

Bidding Requirements

Pre-Bid Information (Section 00020)

This section lists general project information including project name, solicitation number, pre-bid date, bid due date, compliance plan due date, and bid open date. The authorized contact personnel information is also listed in this section. Attempt to contact any other city employees including Council members and Members of Boards and Commissions once a solicitation is advertised may be deemed in violation of the city's anti-lobbying law.

Instructions to Bidders (Section 00100)

This section provides a basic checklist for bidders to help them prepare their bids, such as bid documents, how to provide estimates of quantities, and relevant contract compliance laws, such as contact and representation restrictions, debarment, MBE/WBE good faith efforts, bonding requirements, that bidders should abide by. Make sure you read through each item in this section which includes the following subsections.

A. Preparation of Bid

Bid Documents: The city furnishes all the bid documents necessary to bid on the project in the project manual. Make sure you submit a price for each item in the bid form. In case of conflict between unit prices and extensions, unit prices shall govern.

Vendor Registration: Your business must be registered with the city to be eligible to sell your goods and services to the city. As a bidder, you will register your business on city's website as a registered vendor at Vendor Connection. https://austintexas.gov/financeonline/vendor_connection/index.cfm

Pre-Bid Conference: Some projects will have a mandatory or non-mandatory pre-bid conference to go over important project related information including MBE/WBE participation goals. It is highly recommended that subcontractors go to the pre-bid to meet the prime bidders not only to learn more about the project, but also to network with the prime bidders, especially when they will also be looking for minority partners to meet goals.

Sales Tax Exemption: The city is a tax exempt entity; therefore do not include sales tax in your bid prices on materials, supplies, or equipment that will be utilized to perform work on the project. The city will provide you with a Sales Tax Exemption Certificate to be issued to your suppliers.

Addenda: Addenda will be issued from time to time to make adjustments to a solicitation. Make sure you subscribe to the solicitations you are interested in bidding to receive the latest addenda notifications. To subscribe to a solicitation, log on to your vendor account on Vendor Connection to view all the open solicitations, and click the "subscribe" button next to the solicitation #.

Required Items: You must submit with your bid all the required forms signed by the authorized personnel. (See "Submission of Bid" for a list of the forms) Any correction to a bid should be initiated by the person signing the bid.

Professional Services: You must obtain any required architectural or engineering services, such as professional land surveyors and engineers, through a qualification-based selection process, not through a bidding process, which is a violation of State Law – Professional Services Procurement Act, Chapter 2254 of the Texas Government Code)

(Request for) Further Information: If you have questions about a solicitation, you must send their written request for more information to the city's authorized contact person listed in the project manual no later than seven working days before the bid opening date. Any verbal communication will not be binding.

Anti-lobbying and Procurement: The city ordinance prohibits any lobbying activities by a bidder or someone representing the bidder between the date the IFB is issued and the date of contract execution. This is called the "no-contact period."

- 1) *Restriction on Contact:* During the no-contact period, a bidder can only communicate with the authorized contact person for project information. The no-contact period expires when the contract is executed or the solicitation is cancelled.
- 2) *Permitted Representation:* "Representation" is defined as a communication related to a bid to a council member, official, employee, or City representative that has any direct or indirect influence on the outcome of the bid. However, a bidder is allowed to submit a representation if 1) the city seeks additional information from the bidder, 2) the bidder wishes to send a complaint, 3) the bidder sends a written inquiry regarding the bid, 4) the bidder does not receive a response, 5) the bidder has a procedural question, 6) inquiries are made a public meeting or hearing.
- 3) *Contract Voidable and Debarment:* A contract awarded to a bidder who has violated the city's anti-lobbying & procurement provisions, the contract is voidable. If a bidder has been disqualified more than two times in a sixty month period (five years), the bidder can be debarred from bidding for three years maximum.

MBE/WBE Program Requirements: When a prime bidder fails to meet the MBE/WBE goals, the bidder must document his or her Good Faith Efforts, which include, but not limited to the following:

- 1) Providing interested MBEs/WBEs adequate information about the bid documents and requirements, including addenda, in a timely manner to assist them in responding to the bid.
- 2) Negotiating in good faith with interested MBEs/WBEs that have submitted bids to the prime bidder.
- 3) Not rejecting MBEs/WBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities.
- 4) Making economically feasible portions of the work available to MBE/WBE subcontractors and suppliers consistent with their certified codes.
- 5) The ability or desire of the prime bidder to self perform the project work does not relieve the prime bidder of the responsibility to make Good Faith Efforts

B. Estimates of Quantities (Unit Price Contracts Only)

Quantities in unit price bid form are considered approximate quantities and used for comparison, not actual quantities ordered.

C. Drawings, Project Manual, and Site(s) of Work

Make sure you study the project manual and drawings carefully to comply with all the requirements before submitting a bid.

D. Withdrawal of Bid

A bid may be withdrawn after a bidder submits a written request to withdraw the bid prior to the time set for opening the bids.

E. Bid Guaranty

All bids shall be submitted with a bid guaranty with a monetary amount of no less than five percent of the total bid. If the total bid is \$100,000 or less, bidder has the option of providing a cashier's or certified check accompanied by a letter from a surety company, or a bid bond with Power of Attorney attached, issued by a solvent surety acceptable by the city. If the total bid amount exceeds \$100,000, the only bid guaranty acceptable is a bid bond with Power of Attorney attached. (See ACA publication "Understanding City of Austin Procurement Process" for more information about bonding requirements)

F. Submission of Post Bid Information

The three lowest bidders must submit additional required information within three business days including letters of intent between the prime bidder and all subcontractors and suppliers identified in the MBE/WBE Compliance Plan. The city will make its final decision to choose a bidder deemed responsible from the three lowest bidders.

G. Award and Execution of Contract (local preference)

Award of contract will be given to the lowest, responsible bidder meeting all requirements of the bid documents. City may award a contract for construction services less than \$100,000 to a local bidder and whose bid is within 5% of the lowest bid price, if the city finds that the local bidder offers the city the best combination of contract price and additional economic development opportunities for the city.

H. ROCIP Requirements

If the project is under ROCIP (Rolling Owner Controlled Insurance Program), a bidder should remove from the bid the cost of insurance for the prime contractor and subcontractors of all tiers working on the site.

I. Signature Requirements

All contract documents must be signed by an authorized representative of the bidder accompanied by necessary documentation depending on the structure of the company. Please see below list of documents required by organization.

- Individual/Sole Proprietor: a copy of any assumed name certificate
- Partnership/Joint Venture: a copy of the assumed name certificate, if any, and a copy of the partnership or joint venture agreement
- Corporation: a copy of a corporate resolution and minutes granting such authority with a certificate of an officer of the corporation

- Limited Liability Company: a copy of the LLC's certificate of organization and articles of organization and regulations
- Limited Partnership: a copy of the limited partnership agreement and the certificate of limited partnership

J. Super Prompt Payment Program

This program applies to certain projects with a construction cost estimate greater than \$2 million. It requires the prime contractor to submit bimonthly payment requests to the city for the prime and the subs. The city will make electronic payments to the prime, who must register with the city's treasury office and its financial institution to receive electronic payments.

Bid Forms, Agreement Forms, and Bonds and Certificates (Section 00300, 00400, 00500, 00610)

These sections are the forms required and should be filled out correctly and completely according to instructions.

General Conditions (Section 00700)

This section has 17 articles that outline the city's requirements for the contractor, not the bidder, before and after the start of work. Make sure you read through this section thoroughly before work commences. Listed below are a selected number of terms for you to pay special attention to. Please refer to the city project manual for the full list.

Calendar Day: Any day of the week; no days are exceptional. Work on weekends or holidays should be coordinated with the city.

Change Directive: The city may make adjustments to the work in the contract including the amount or time or both in writing to the contractor. The directive itself does not authorize change of contract amount or time, but is an official document informing the contractor of the change to come by issuing subsequent Change Order.

Change Orders: Written agreements between the contractor and the city authorizing an addition, deletion, or revision to the contract.

Claim: A written demand by the contract seeking adjustment or interpretation of contract terms, payment of money, extension of time or other relief with respect to the terms of the contract.

Critical Path: The longest series of tasks that runs consecutively from the beginning to the end of the project. This path sets the managerial standard for how quickly a project can be completed.

E/A: Engineer/Architect

Execution Date: Date of last signature of the parties to the contract agreement.

Field Order: A written order for minor work changes by a city representative that does not involve a change in the contract amount or time.

Force Account: A method of payment for the direct performance of work resulting from a change directive, which never takes the shape of a formal change order due to a disagreement on the new contract amount.

Resident Project Representative: The authorized representative of E/A, who may be assigned to the site or any part thereof.

Shop Drawings: All drawings, diagram, illustrations, schedules, and other data or information which are specifically prepared or assemble by or for the prime contractor and submitted by the prime contractor as required.

Sub-Subcontractor: A person or entity who has a direct or indirect contact with a subcontractor of the project.

Working Day: Any day of the week, not including Saturdays, Sundays, or legal holidays period of not less than (7) hours between 7:00am and 6:00pm. Work on Saturdays, and Sundays, and holidays may be allowed upon agreement.

Supplemental General Conditions (Section 00800)

This is an important section that addresses specific conditions and changes to the general conditions to the project.

It contains information of the engineering firm or engineer, and any changes to the insurance requirements or contract amount. It will also include adjustments to bidding requirements, contract forms, or wage rates and wage reporting. Make sure you comply with the changes before work commences.

Specifications

Division 1 -- General Requirements (Section 01010-01900)

Section 01010 of this division summarizes the scope of work of the project. The rest of the division covers the city's general construction requirements related to sustainability, environmental protection, waste management and other information and regulations such as: standards and definitions, project meetings, submittals, construction photography and videos, temporary facilities, public safety and convenience, and prohibition of asbestos materials.

City Standard Technical Specifications

This part of the project manual may be separated out into Volume 2 depending on the amount of information there is. This is the portion where you will find special instructions for your particular trades as a subcontractor.

Become familiar with the document number(s) associated with your trades, so you can quickly locate the information without flipping through the whole manual. These numbers have three digits followed by an S at the end, which can range from 100S to 1000S. Other special specifications will be listed under the prefixes of SP and SS.

MBE/WBE Procurement Program Package

If you are bidding as a prime bidder or prime consultant, even if you are a minority vendor, you still need to submit 1) MBE/WBE compliance plan and 2) Good Faith Efforts documentation in the compliance plan if the project in the event that you fail to meet the goals. Your bid or proposal will be rejected as non-responsive if you do not comply with the plan. Any questions related to the compliance plan can be directed to the Small and Minority Business Resources Department at 512-974-7600. Such communication will not be considered a violation of the city's anti-lobbying ordinance.

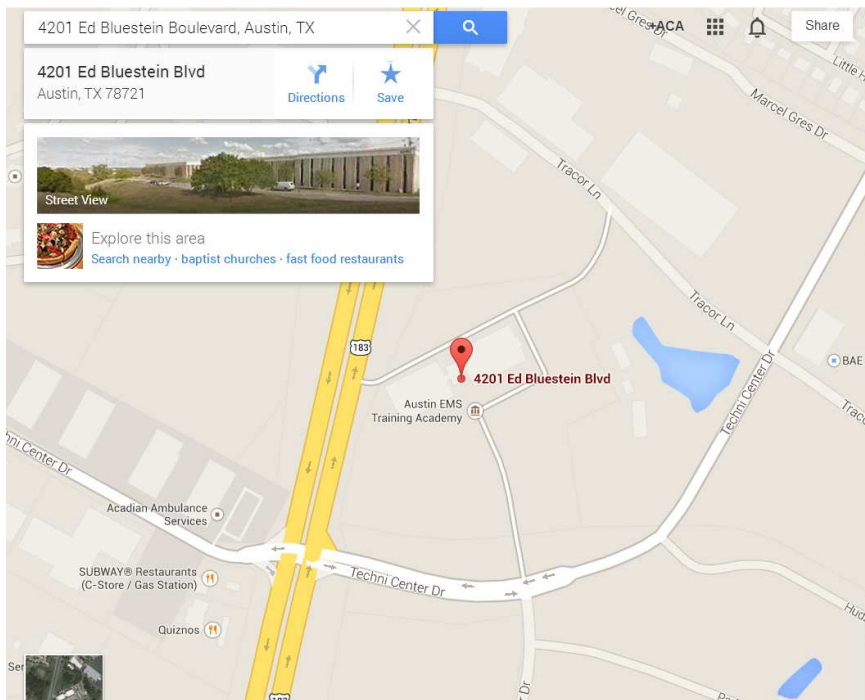
Compliance Plan Instructions

How to count MBE/WBE participation:

- 1) Any value of work actually performed by the MBE/WBE firms, including supplies, materials, equipment purchased, leased, and fees or commissions charged by an MBE/WBE firm for providing a bona fide service.
- 2) Cost of supplies, materials, or equipment purchased from an MBE/WBE firm who is a manufacturer or a dealer.
- 3) Work performed by a 2nd-tier MBE/WBE subcontractor
- 4) If a firm is certified as both an MBE and WBE, work by the firm can only count toward either goal not both.
- 5) To be counted toward project goals, MBE/WBEs must be certified by SMBR prior to the due date of the Compliance Plan.
- 6) Only expenditures to an MBE/WBE contractor that is performing a Commercially Useful Function can be counted toward the project goals.

SMBR and ACA Direction and Map

Heading south on Highway 183 – continue on S. Hwy 183. You will pass IH35, MLK, and 51st St. Make a left on Techni Center Dr, and the first left at the light. It will take you to the parking lot located at the back of the building. Go down a flight a 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

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in the Greater Austin Metro Area since 2001

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