

2009-2010 Contracting Requirements For the Cultural Arts Division Funding Programs

The 2009-2010 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 immediately if there is any obligation to the City of Austin that you will be unable to meet.

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Updated September, 2009

I. PRE-CONTRACT REQUIREMENTS

The following documents for Core Programs and Capacity Building II must be mailed, e-mailed, faxed or hand-delivered to the Cultural Arts Division Office, 301 West Second Street, Suite 2030, Austin, Texas 78701 **no later than Friday, October 30, 2009 by 4:00 p.m.** (Please Note: Signed documents cannot be sent electronically.)

501 (C)3 Non-Sponsoring Artists

- Revised narrative(s) (for staff review and approval)
- Revised budget(s) (for staff review and approval)
- Budget Itemization (for staff review and approval)
- Certificate of Insurance (D/N apply to Special Opportunity and Capacity Bldg. Programs)
- *W-9 Form
- *Company Profile Form

501 (C)3 Sponsoring

- Revised narrative (for staff review and approval)
- Revised budget (for staff review and approval)
- Budget Itemization (for staff review and approval)
- Certificate of Insurance including insurance for sponsored projects (one certificate per project unless umbrelled under sponsoring agents policy) (D/N apply to Special Opportunity and Capacity Bldg. Programs)
- Signed Sponsorship Agreements (one per sponsored project)
- Revised Narratives, Budgets and Itemizations of Sponsored Projects
- *W-9 Form
- *Company Profile Form

Sponsored Projects – Sponsors are responsible for obtaining signed agreements and documentation from Sponsored projects in order to attach them to the executed cultural arts contract prior to its submission.

- Revised narrative(s) (for staff review and approval)
- Revised budget(s) (for staff review and approval)
- Budget Itemization(s) (for staff review and approval)
- Sponsorship Agreement (forward with signed contract)
- **Your sponsor must have you listed as additional insured on their Certificate of Insurance or you must provide your own Certificate of Insurance**

***These forms will only be needed if you are a new vendor or had an address change from the previous year. Contact our office if this is the case and the forms will be provided, or notify us of completion of the change via the City of Austin Purchasing Department's on-line registration site at www.cityofaustin.org.**

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- **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 programming without a reduction in scope. Necessary budget changes will be treated as contract changes and will require written justification for the changes.
 - **All Cultural Services Agreements must be completed and signed by December 4, 2009 for Capacity Building II and Core Programs.**
 - Cultural Contracts Program **does not** fund:
 - Debt reduction
 - Underwriting
 - 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 scholarships 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 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.
 - **Revised narratives that do not explicitly state the names, locations and dates of programming / 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. REPORTING REQUIREMENTS

Please use current year reporting forms; previous year's forms will not be accepted.

Applicant must notify the Cultural Arts Division Office of any changes in phone number, email address and contact person. For any changes in mailing address, a company profile and W-9 form are required, or notification that such change has been completed via the on-line registration site at www.cityofaustin.org, as well as any other final report information or documentation required by the Cultural Arts Division staff.

FINAL REPORT

Due within 30 days of the completion of activities funded by Cultural Contracts (30 days after the last day of funded project)

A complete final report includes:

- If applicable, pertinent publicity / programs / critical reviews or other information to document the event took place, including proper credit to the City of Austin, Texas Commission on the Arts (State) and National Endowment for the Arts (note: Art in the Schools projects may include letters, photos, videos, teacher evaluations, etc.);
- Completed budget, program description and budget itemization that corresponds to **revised budget** and **narrative** in contract. Changes in programming or budget (exceeding 20% of total amount funded) may require prior approval from Cultural Contracts staff;
- 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 with receipts);
- If funded in more than one program receipts may not be duplicated between those programs;
- For additional requirements, See Report Financial Requirements;
- Final Report must have an original signature of the authorizing official.

REPORT FINANCIAL REQUIREMENTS

- Final Reports for Sponsored Projects must have the **original** signatures of an agent of the Sponsoring Organization and of the Sponsored Project. **Copies will not be accepted.**
- Match requirements are set at a 1:1 match (**50:1 for Capacity Bldg. II**). 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%) of the match 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. In-Kind is not allowable in the Auxiliary Programs with the exception of Capacity Building.
- 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 for. **Expenditure documentation must be submitted organized by type corresponding to each individual budget line item used.** Failure to provide such documentation constitutes default of contract. Documentation that is not clearly labeled will not be accepted.

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

Staff may, at any time, request additional documentation to substantiate expenditures. *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.

III. FINANCIAL STATEMENTS

APPLICANTS FUNDED AT OR OVER \$50,000:

An independent Audit is required of all Contractor's in the Project Support category funded in excess of \$50,000 due no later than **March 31, 2010**. This audit must include a complete set of audited financial statements and the auditor's management letter covering either 1) the term of this contract or 2) the contractor's fiscal year that corresponds with the term of the contract. Audits must conform to the standards of the American Institute of Certified Public Accountants. If such an audit is requested, the Contractor is required to 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. 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 2010 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.

IV. 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 Capacity Building and Special Opportunity Programs);
- Current contact information with the Cultural Arts Division Office;
- Written requests for program and/or budget changes that exceed 20% of total City and State funding may be required upon Staff's discretion;
- Submit complete and correct final reports **with original signature**;
- Written requests to extend term of contract before deadline stated in contract must be submitted for staff approval.

CLOSING CONTRACT

- Submit required final report with attachments and financial documentation; correct and complete on or before required due date.
- Submit audience and/or activity report; correct and complete on or before required due date.
- **Submit match and financial expenditure documentation due with final report**

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. For specific information regarding non-compliance, see Attachment A.

V. INSURANCE REQUIREMENTS (D/N apply for Capacity Building and Special Opportunity Programs)

Contract Agencies are required to carry insurance as outlined below and must **provide the Cultural Arts Division Office with a current certificate of insurance**. 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.

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, 301 West Second Street, Suite 2030, Austin, Texas 78701, as an additional insured.
 - **Waiver of Subrogation in favor of the City of Austin**
 - **30 day** cancellation clause that obligates the insurance company to notify the Cultural Arts Division Office or 974-6379 (fax) of cancellations or material changes.
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VI. PAY REQUEST PROCEDURES

Pay requests are prepared internally. Contractors who have a pending, incomplete or delinquent final report can not be issued a 2009-2010 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 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, 2010	30%
March 31, 2010	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, 2010	50%
Upon processing of final report	10%

CAPACITY BUILDING II/AUXILLARY 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. Cultural Arts Division staff will notify you regarding exact payment dates. Contact your Contract Compliance Specialist if you have questions or concerns.

VII. CONTRACT AMENDMENTS

Contract changes constitute:

- Reallocation of City funds among the various line items and categories in excess of 20% total funded
- 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.

VIII. 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 and the Austin Arts Commission on a monthly basis. 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 official 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 Contracts Manager;
- Prepares on-going reports on this program as required by the Cultural Contracts Manager;
- Undertakes other duties assigned by Cultural Contracts Manager.

IV. ATTACHMENT A – NON-COMPLIANCE PLAN

The following notification plan will be used, as appropriate.

INCOMPLETE REPORTS WILL BE PROCESSED AS FOLLOWS:

STEP 1 1st Notice sent to contractor who has submitted an incomplete final report. Contractor has 15 business days to submit. Letter signed by Contractor Administrator.	STEP 2 2nd Notice sent to contractor who has not responded, or if report requires additional corrections. Contractor has 15 business days to make corrections. Letter signed by Division 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), Austin Arts Commission and Department Director.
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DELINQUENT REPORTS WILL BE PROCESSED AS FOLLOWS:

STEP 1 1st Notice sent to contractor who is 15 business days delinquent in submitting final report. Contractor has 10 business days to submit report or contract office. Contractor Administrator signs letter.	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 15 business days to submit complete report. Letter signed by Division 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), Austin Arts Commission and Department Director.
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EXPIRED INSURANCE WILL BE PROCESSED AS FOLLOWS:

STEP 1 1st Notice sent to contractor. Contractor has 10 business days to provide proof of insurance renewal or contact office. Contractor 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 Division 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 Austin Arts Commission and 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 funding for one year
- Review by City Auditor's Office Investigating Unit
- Sponsor (if applicable) of sponsored project will refund sponsoring fee to City
- Suspension of processing and administrating of any future applications for funding until reports are completed from delinquent year