Posting Language: Approve an ordinance amending City Code Chapter 2-7, Article 6 (*Anti-Lobbying and Procurement*) to remove social services funded solicitations as an exception to the anti-lobbying requirements, to adjust the no-lobbying period, to clarify communications that do not violate the prohibition, and to clarify the appeal process.

ORDINANCE NO.

AN ORDINANCE AMENDING CITY CODE ARTICLE 6. ANTI-LOBBYING AND PROCUREMENT SECTION 2-7-102 (APPLICABILITY) TO REMOVE CITY SOCIAL SERVICES FUNDING FROM THE LIST OF APPLICABILITY EXCEPTIONS AND AMEND SECTION 2-7-105 (PERMITTED COMMUNICATIONS) TO SPECIFY THAT DISCUSSIONS BETWEEN CITY OFFICIALS AND MEMBERS OF THE PUBLIC ON SOCIAL SERVICES FUNDING REMAIN PERMITTED.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. City Code Section 2-7-102 (*Applicability*) is amended to read:

§ 2-7-102 APPLICABILITY.

A. This article applies to all solicitations except:

(1) [~~City social service funding;~~]

[~~(2)~~] City cultural arts funding;

(2) [~~(3)~~] federal, state or City block grant funding;

(3) [~~(4)~~] the sale or rental of real property;

(4) [~~(5)~~] interlocal contracts or agreements; and

(5) [~~(6)~~] solicitations specifically exempted from this article by council.

PART 2. City Code Section 2-7-103 (*Definitions*) is amended to read:

§2-7-103 Definitions.

In this article:

(1) AGENT means a person authorized by a respondent to act for or in place of the respondent in order to communicate on behalf of that respondent. Each of the following is presumed to be an agent:

(a) a current full-time or part-time employee, owner, director, officer, member, or manager of a respondent;

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(b) a person related within the first degree of consanguinity or affinity to a current full-time or part-time employee, owner, director, officer, member, or manager of a respondent;

(c) a person related within the first degree of consanguinity or affinity to the respondent, if a respondent is an individual person; and

(d) a lobbyist, attorney, or other legal representative of the respondent that has been retained by the respondent with respect to the subject matter of either the solicitation or the respondent's response to the solicitation.

(2) AUTHORIZED CONTACT PERSON means a City employee designated in a City solicitation as the point of contact for all purposes for that solicitation.

(3) CITY EMPLOYEE is defined in Section 2-7-2 (*Definitions*), and further includes an independent contractor hired by the City with respect to the solicitation.

(4) CITY OFFICIAL is defined in Section 2-7-2 (*Definitions*).

(5) NO-LOBBYING PERIOD means the period of time beginning at the date and time responses to a solicitation are due [~~is published~~] and continuing through the earliest of the following:

(a) [~~the date the last contract resulting from the solicitation is signed;~~

~~(b) 60 days following~~] the day council authorizes or declines to authorize [~~authorization of~~] the last contract resulting from the solicitation; or

(b) [~~(c)~~] cancellation of the solicitation by the City.

(6) PURCHASING OFFICER means the City employee authorized to carry out the purchasing and procurement functions and authority of the City.

(7) RESPONSE means a written offer or submission in reply to a solicitation.

(8) RESPONDENT means a person or entity that has timely submitted or subsequently timely submits a response to a City solicitation, even if that person subsequently withdraws its response or has been disqualified by the City for any reason. Respondent includes:

(a) a subsidiary or parent of a respondent;

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(b) a joint enterprise, joint venture, or partnership with an interest in a response and in which a respondent is a member or is otherwise involved, including any partner in such joint enterprise, joint venture, or partnership; and

(c) a subcontractor to a respondent in connection with that respondent's response.

(9) SOLICITATION means an opportunity to compete to conduct business with the City that requires council approval under City Charter Article VII Section 15 (*Purchase Procedure*), and includes, without limitation:

(a) an invitation for bids;

(b) a request for proposals;

(c) a request for qualifications;

(d) a notice of funding availability; and

(e) any other competitive solicitation process for which the purchasing officer, in the purchasing officer's sole discretion, affirmatively determines this article should apply in accordance with Section 2-7-102(B).

PART 3. City Code Section 2-7-105 (*Permitted Communications*) is amended to read:

§ 2-7-105 PERMITTED COMMUNICATIONS.

The following communications are permitted under this article at any time:

(1) any communication between a respondent or agent and any authorized contact person, including, without limitation and in accordance with regulation, any complaint concerning the solicitation;

(2) any communication between a respondent or agent and any person to the extent the communication relates solely to an existing contract between a respondent and the City, even when the scope, products, or services of the current contract are the same or similar to those contained in an active solicitation;

(3) any communication between a respondent or an agent and a City employee to the extent the communication relates solely to a non-substantive, procedural matter related to a response or solicitation;

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(4) any communication required by or made during the course of a formal protest hearing related to a solicitation;

(5) any communication between a respondent or an agent and the City's Small and Minority Business Resources Department, that solely relates to compliance with Chapters 2-9A through 2-9D (*Minority-Owned and Women-Owned Business Enterprise Procurement Program*) of the City Code;

(6) any communication between an attorney representing a respondent and an attorney authorized to represent the City, to the extent the communication is permitted by the Texas Disciplinary Rules of Professional Conduct;

(7) any communication made by a respondent or an agent to the applicable governing body during the course of a meeting properly noticed and held under Texas Government Code Chapter 551 (*Open Meetings Act*);

(8) any communication between a respondent or an agent and a City employee whose official responsibility encompasses the setting of minimum insurance requirements for the solicitation to which the communication relates, to the extent the communication relates solely to the insurance requirements established by the City in the solicitation; [~~and~~]

(9) any contribution or expenditure as defined in Chapter 2-2 (*Campaign Finance*); and [~~.~~]

(10) any communication between a respondent or an agent and a City official or employee on matters generally related to social services and the communities served and matters outside the scope of an active solicitation.

PART 4. City Code Section 2-7-109 (*Enforcement*) is amended to read:

§2-7-109 - ENFORCEMENT.

(A) A respondent that has been disqualified pursuant to Section 2-7-110(A) may appeal such disqualification pursuant to the protest procedures and appeals process for City solicitations[~~to a subcommittee that is less than a quorum of the Ethics Review Commission established in Chapter 2-7, Article 2 (Ethics Review Commission), whose decision on appeal shall be final and binding. Any appeal must be filed in the manner prescribed by the Ethics Review Commission within 5 calendar days of the notice given by the purchasing officer pursuant to Section 2-7-110(B)~~].

(B) The purchasing officer shall waive a violation of Section 2-7-104(1) if the violation was solely the result of communications initiated by a City official or a City employee other than the authorized contact person.

(C) The purchasing officer has the authority to enforce this article through rules promulgated in accordance with Chapter 1-2 (Adoption of Rules), which at a minimum shall include a notice and protest process for respondents disqualified pursuant to Section 2-7-110 (Disqualification; Contract Voidable), including:

(1) written notice of the disqualification imposed pursuant to Section 2-7-110 (Disqualification; Contract Voidable);

(2) written notice of the right to protest the disqualification imposed; and

(3) written notice of the right to request an impartial hearing process.

PART 3. This ordinance takes effect on _____, 2026.

PASSED AND APPROVED

§
§
_____, 2026 § _____
Kirk Watson
Mayor

APPROVED: _____ **ATTEST:** _____
Deborah Thomas
City Attorney

Erika Brady
City Clerk

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