

# **THE MUNICIPAL EMPLOYEES' BENEFIT TRUST (The MEBT)**

## **REQUEST FOR PROPOSAL RFP Audit Services**

**Issue Date:** [October 29, 2020](#)

**Due Date and Time:** [December 3, 2020 @ 4:00 pm Pacific Time](#)

## REQUEST FOR PROPOSAL

Notice is hereby given that proposals will be received by the Municipal Employees' Benefit Trust (MEBT) for:

### Audit Services

By filing with MEBT, City of Bellevue - Service First Desk, 450 110<sup>th</sup> Ave. NE, First Floor, Bellevue, Washington, 98004 until:

Date: **December 3, 2020**

Time: **4:00 pm Pacific Time**

Proposals submitted after the due date and time will not be considered. The proposing party accepts all risks of late delivery of mailed proposals regardless of fault.

Detailed Request for Proposal (RFP) information including general information, general terms and conditions, requested services, proposal requirements and evaluation process is available on MEBT's website at [www.mebt.org](http://www.mebt.org).

MEBT reserves the right to reject any and all submittals and to waive irregularities and informalities in the submittal and evaluation process. This RFP does not obligate MEBT to pay any costs incurred by respondents in the preparation and submission of a proposal. Furthermore, the RFP does not obligate MEBT to accept or contract for any expressed or implied services.

Dated this 29<sup>th</sup> day of October, 2020

Paula Dillon  
Senior retirement Analyst

Published: The Seattle Times  
Daily Journal of Commerce

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## Section 1. General Information

### 1.01 Introduction

The Municipal Employees' Benefit Trust (the MEBT) officially began in the City of Bellevue, WA, on October 1, 1972. The Trust was created to manage the assets of the employee retirement benefit Plans (the Plans) of certain cities in the State of Washington. Each of the cities withdrew from or elected not to participate in coverage under the Social Security Administration. The MEBT is governed by a five-member leadership body appointed by the Bellevue City Manager. The MEBT investments total approximately \$850 million (as of 12/31/2019) for close to 5,300 members in the entities of Bellevue, Edmonds, Federal Way, Kirkland, Mill Creek, Redmond, Woodinville, and NORCOM. Although the investments are jointly managed by the MEBT Trust Committee, each entity has its own individually designed Plan document, which governs its participation, contributions and disbursements.

### 1.02 Purpose of RFP

The MEBT is soliciting requests for proposal for the purpose of contracting for Audit Services. A listing of requested services can be found in Section 4 of this RFP.

### 1.03 Background

The Municipal Employees' Benefit Trust (MEBT or Trust) Trust Committee is requesting proposals for the annual financial audit to assure MEBT is receiving the optimal level of service at the best price. The MEBT Trust Committee routinely tests the market for all consultants and advisor services (audit, recordkeeping, legal, etc.) as a part of its fiduciary responsibilities to assure that the Trust is being best served.

After the proposals have been reviewed, finalists will be selected for interviews with the Audit Services Selection Subcommittee of the MEBT Trust Committee.

The MEBT Trust Committee is a five-member leadership body charged with the general governing of a \$850 million, 5,300+ member retirement trust fund. The Trust was created to manage the assets of the employee retirement benefit Plans for eight entities: Bellevue, Edmonds, Federal Way, Kirkland, Mill Creek, Redmond, Woodinville and NORCOM. Each entity has an individual Plan document which governs its participation, contributions, and disbursements. Each of the entities withdrew from, or elected not to participate in, coverage under the Federal Old Age, Survivors, Disability and Health Insurance Act (Social Security). In lieu of such coverage, the entities created the Plans, whereby both the employee and employer make contributions to the Plans to provide retirement, survivor, and disability benefits otherwise provided by Social Security. Some entities offer different Plans/programs depending on the status of the employee. The retirement benefits are codified by each entity's respective Employees' Retirement Benefit Plan (Plan(s)). All eight Plans are defined contribution savings programs. These Plans stipulate either voluntary or mandatory employee contributions, as well as mandatory employer contributions. The Trust and Plans are not subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), however MEBT looks to ERISA as a guide. The MEBT benefits are in addition to the benefits provided by coverage in the State of Washington's Department of Retirement Systems' programs (LEOFF, PERS and PSERS).

The MEBT Trust Committee is comprised of five City of Bellevue employees appointed by Bellevue's City Manager to five-year terms. The MEBT Trust Committee has primary responsibility for Trust-wide activities. Each of the member entities has a Plan Committee of its own. Each Plan Committee is generally responsible for overseeing their Plan's operations and formulating benefits policy, such as changes in their Plan's benefits. These Plan Committees are also responsible for ensuring that their Plans are appropriately administered.

The retirement benefits of each Plan are funded through the Trust. Although the assets of the eight entities are invested jointly, the assets of each participating employer are accounted for separately. The Trust Agreement has established an Investment Advisory Committee (IAC) comprised of a representative from each of the member entities. The IAC provides investment policy recommendations to the Trust Committee, which then has final discretion as to official Trust policy.

**1.04 Definitions**

Contract	The agreement to be entered into for services between the MEBT and the successful party who submits the proposal accepted by the MEBT.
MEBT	Municipal Employees’ Benefit Trust
MEBT’s Website	www.mebt.org
Proposing Party	The firm or individual submitting the proposal.
RFP	This Request for Proposal, including any amendments or other addenda hereto.
Selection Committee	The RFP Selection Committee is comprised of the RFP Coordinator (defined in Section 1.05) and others associated with the MEBT.
Successful Party	The firm(s) or individual(s) awarded the contract.

**1.05 RFP Coordinator/Communications**

Upon release of this RFP, all communications should be directed in writing to the RFP Coordinator listed below. Unauthorized contact regarding this RFP with anyone other than the RFP Coordinator may result in disqualification. Interested firms (the term “firm” as used throughout this RFP includes sole practitioners) should rely only on written statements issued by the RFP Coordinator. Interested firms or persons who wish to ask questions regarding this RFP must submit written questions to the RFP Coordinator no later than the Pre Submittal Questions Due date as specified in the RFP Schedule, Section 1.06.

RFP Coordinator for this RFP will be:

*Contact Name:* [Paula Dillon](#)  
*Address:* MEBT - City of Bellevue  
 Street - 450 110<sup>th</sup> Ave. NE, Bellevue WA 98004  
 Mailing - P.O. Box 90012, Bellevue, WA 98009-9012  
*Telephone:* 425.452.7198  
*Fax:* [425.452.4071](tel:425.452.4071)  
*E-mail:* [PDillon@bellevuewa.gov](mailto:PDillon@bellevuewa.gov)

**1.06 Preliminary Schedule**

*These dates are estimates and are subject to change by the MEBT.*

<b>Event</b>	<b>Date</b>
Release RFP	October 29, 2020
Pre Submittal Questions (if any) Due	November 10, 2020 - 4:00pm
Responses to Pre-Submittal Questions posted to website	November 19, 2020
Proposal Responses Due	December 3, 2020 – 4:00pm
Proposal Evaluation Complete	December 7, 2020
Interviews at the MEBT (tentative)	December 16, 2020
Announce Apparently Successful Party	December 17, 2020
Complete Contract Negotiations	January 7, 2021
Conversion	January 15 to February 15, 2021
Transition Complete	February 16, 2021

### 1.07 Response Format

The provider shall submit a checklist using the form supplied in Form 1. Proposals should be prepared simply and economically, providing a straightforward, concise description of provider capabilities to satisfy the requirements of the request. Emphasis should be on completeness and clarity of content. The checklist shall be signed by a person legally authorized to bind them to a firm contract.

### 1.08 Completeness of Proposal

Proposals shall include all of the information listed on Form 1 of this RFP and be signed by a representative authorized to bind the proposing party contractually. This statement must identify any exceptions that the proposing party takes to the MEBT's RFP or declare that there are no exceptions taken to the RFP. Please note that any response to this RFP may be included as an attachment to a contract or service agreement with the successful firm.

### 1.09 Proposal Response Date and Location

Proposals must be submitted to the City of Bellevue's Service First Desk no later than December 3, 2020 at 4:00pm Pacific Time. The Official Clock for submissions is located at the Service First Desk (address listed below). All proposals and accompanying documentation will become the property of the MEBT and will not be returned. Faxed proposals will not be accepted. The proposing party accepts all risks of late delivery of mailed proposal regardless of fault.

<i>Address:</i>	<u>Office Location:</u> Bellevue City Hall Service First Desk 450 110 <sup>th</sup> Ave. NE Bellevue, WA 98004	<u>Mailing Address:</u> City of Bellevue Human Resources Dept. PO Box 90012 Bellevue, WA 98009-9012
<i>Telephone:</i>	(425) 452-7198	
<i>Email:</i>	<a href="mailto:PDillon@bellevuewa.gov">PDillon@bellevuewa.gov</a>	

### 1.10 Required Number of Proposals

Two (2) completed proposals must be received at Bellevue City Hall by the date and time listed in Section 1.09 along with one (1) electronic version of the proposal sent to the email address provided. The electronic version of the questions and responses in Section 6 MUST be provided in Microsoft Word format. The MEBT, at its discretion, may make additional copies of the proposal for the purpose of evaluation only. The two (2) original proposals sent to Bellevue City Hall must include original signatures, in ink, by authorized personnel, on all documents that require an authorized signature.

## **Section 2. Terms and Conditions**

### **2.01 Questions/Clarifications Regarding the RFP**

No oral interpretation or clarification will be made as to the meaning of RFP documents. Written requests for interpretation/clarification shall be addressed to the RFP Coordinator.

### **2.02 RFP Amendments**

The MEBT reserves the right to change the RFP schedule or issue amendments to the RFP at any time. The MEBT also reserves the right to cancel or reissue the RFP. In the event of a material modification, providers will be given an opportunity to modify their proposal in the specific areas that are affected by the modification.

### **2.03 Withdrawal of Proposal**

Proposals may be withdrawn at any time prior to the submission time specified in Section 1.09, provided notification is received in writing. Proposals cannot be changed or withdrawn after the time designated for receipt.

### **2.04 Rejection of Proposals**

The MEBT reserves the right to reject any and all proposals, to waive any minor informalities or irregularities in the selection process, to request clarification of information from any Provider and to accept any proposal deemed to be in the best interest of the MEBT.

### **2.05 Proposal Clarifications and Modifications**

The MEBT reserves the right to request any provider to clarify its proposal or to supply any additional material deemed necessary to assist in the evaluation of the proposal.

Modification of a proposal already received will be considered only if the request is received prior to the submittal deadline. All modifications must be made in writing, executed and submitted in the same form and manner as the original proposal.

### **2.06 Proposal Validity Period**

Submission of a proposal will signify the proposing party's agreement that its proposal and the content thereof are valid until December 31, 2021 unless otherwise agreed to in writing by both parties. The proposal may become part of the contract that is negotiated between the MEBT and the successful party.

### **2.07 Contract Negotiation**

The MEBT reserves the right to negotiate all elements of the requirements, submittals, proposals, terms and conditions, and/or scope of services as part of the contract negotiation process prior to any formal authorization of the contract by the MEBT.

### **2.08 Public Records**

Under Washington state law, the documents (including but not limited to written, printed, graphic, electronic, photographic or voice mail materials and/or transcriptions, recordings or reproductions thereof) submitted in response to this request for proposal (the "documents") become a public record upon submission to MEBT, subject to mandatory disclosure upon request by any person, unless the documents are exempted from public disclosure by a specific provision of law. If MEBT receives a request for inspection or copying of any such documents it will promptly notify the person submitting the documents to MEBT and upon the written request of such person, received by MEBT within five days of the mailing of such notice, will postpone disclosure of the documents for a reasonable period of time as solely determined by MEBT or its designee to enable such person to seek a court order prohibiting or conditioning the release of the documents. MEBT assumes no contractual obligation to enforce any exemption to disclosure of documents.

## **2.9 Non-Endorsement**

The successful party agrees to make no reference to the MEBT in any literature, promotional material, brochures, sales presentation or the like without the express written consent of the MEBT.

## **2.10 Insurance Requirements**

The successful party shall maintain insurance that is sufficient to protect their business against all applicable risks, as set forth in the MEBT's Standard Insurance Requirements (**Appendix "A"**).

### Section 3. Minimum Qualifications

To be considered, firms should meet at least the following minimum qualifications:

1. Minimum 10 years of experience providing annual financial audit services to retirement plans with a minimum of five of those years auditing public retirement plans.
2. Relevant Internal Revenue Code expertise.
3. Knowledge of relevant tax laws related to public employee retirement plans similar to MEBT.
4. Excellent communication skills.

## Section 4. Requested Services – Scope of Work

The following service is being requested in this Request for Proposal.

- Audit Services

All quoted fees should include all of the services covered under the applicable section.

A. This will become the Scope of Services for the contract.

### **1. Audit Services For the MEBT Trust and 8 Unique MEBT Plans**

1. Serve as Auditor to perform annual audit in accordance with Generally Accepted Auditing Standards and present the audit to the MEBT Trust Committee.
2. Make recommendations regarding policies, procedures, etc.
3. Provide additional services or assistance as needed.

## Section 5. Miscellaneous Information

### 5.01 Company Information

Statement of Qualification Checklist – Complete **Form #1**

- Please note any exceptions that you will be taking to this RFP
- Fee Proposal – also complete Attachment A
- Statement of Qualifications
- The form must be signed by the representative authorized to bind the proposing party contractually.

Client References - Complete **Form #2**

Non-Collusion Certificate – Complete **Form #3**

### 5.02 Compensation

The fee proposal may be an hourly rate, a base fee plus a per member amount, a lump sum or other method of the firm's choosing. Regardless of the method chosen, the fee proposal must be inclusive of all costs, charges, overhead and profit.

Payment by the MEBT for services will only be made after the services have been performed. Unless a fixed fee is being proposed, an itemized billing statement must be submitted which shall specifically set forth the services performed, the time period the services were performed, the name of the person(s) performing such services, and the hourly labor charge rate for such person (if applicable). Payment will be made thirty (30) days from the date of receipt of a properly submitted invoice. No unauthorized work outside of final contract scope of services will be paid without prior approval of the MEBT.

## Section 6. RFP Questions

### 6.01 Organization and Background

1. Provide a *brief* description and history of your firm's practice including the following:
  - Year founded
  - Philosophy of the Firm
  - Areas of specialization
  - Number of employees (total)
  - Number of employees specializing in government pensions
2. Describe the Firm's organization, client philosophy, and what makes your Firm unique.
3. Provide a list of the individuals who would be assigned to work on the MEBT audit, a description of their qualifications and experience in providing audit services, and a description of their background in auditing government pensions.
4. A statement as to the availability, continuity and accessibility of the individuals who would be assigned to work on the MEBT audit.
5. How many plans do you audit annually?
6. Do you specialize in employee benefit plan audits?
7. How much employee benefit plan CPE have the individuals who would be assigned to MEBT completed in the last year? Last three years?
8. Are you a member of AICPA employee benefit plan audit quality center (EBPAQC)?
9. Is the firm subject to any current litigation?
10. Has the firm been the subject of any DOL findings or referrals, or any AICPA or State Society of Ethics referrals?

## Section 7. Proposal Evaluation

### 7.01 Evaluation Procedures

Proposals will be evaluated by a Selection Committee made up of staff from the 8 MEBT member entities. Evaluations will be based on criteria outlined herein which may be weighted by MEBT in a matter it deems appropriate. All proposals will be evaluated using the same criteria and weighting.

### 7.02 Scoring and Evaluation Factors

#### A. Responsiveness to RFP

MEBT will consider all the material submitted to determine whether the service provider's offering is in compliance with the RFP documents.

#### B. Ability to Perform Required Services

MEBT will consider all the relevant material submitted by each Firm, and other relevant material it may otherwise obtain, to determine whether the Firm is capable of, and has a history of, successfully completing contracts of this type. The following elements may be given consideration by MEBT in determining whether a Firm is capable:

1. the ability, capacity and skill of the Firm and the skills and experience of the individuals to be assigned to the MEBT audit;
2. the availability, continuity and accessibility of individuals assigned;
3. the performance quality by the Firm for previous and similar contracts;
4. such other information as may be secured having a bearing on the decision to award the contract.

The firm shall furnish acceptable evidence of their ability to perform, regarding such categories as expertise/experience and personnel qualified to perform requested duties. Refusal to provide such information upon request may cause the proposal to be rejected.

### 7.03 Presentations, Committee Interviews and/or Additional Information/Reviews

After the proposals are evaluated, the Selection Committee may hold formal presentations/interviews for finalists.

### 7.04 Provider Selection

The Selection Committee will formulate their recommendation for award of the contract and forward their selection to the MEBT Trust Committee for approval. The selection will not be final until the formal contract has been negotiated and finalized.

### 7.05 Contract Award and Execution

MEBT reserves the right to enter into a contract without further discussion of the proposal submitted. Therefore, the proposal should be initially submitted on the most favorable terms the proposing party can offer. MEBT preferred contract provisions are provided in Appendix A and Appendix B. Please review these preferred provisions prior to submitting a proposal.

The foregoing should not be interpreted to prohibit either party from proposing additional contract terms and conditions during the negotiations of the final contract.

The RFP document and the successful party's proposal response, as amended by agreement between MEBT and the successful party, including e-mail or written correspondence relative to the RFP, may become part of the contract documents. Additionally, MEBT may verify the successful party's representations that appear in the proposal. Failure of the successful party to perform as represented may result in elimination of the successful party from competition or in contract cancellation or termination.

The successful party will be expected to enter into a contract with MEBT. If the successful party fails to sign the contract within 28 calendar days following notification of intent to contract, MEBT may elect to negotiate the contract with another party.

MEBT shall not be bound, or in any way obligated, until both parties have executed a contract. No party may incur any chargeable costs prior to the execution of the final contract.

## Form #1: Statement of Qualifications Checklist

### Submittal elements:

1. The following information is attached as required by the RFP:

- Meet Minimum Requirements of the RFP (see 2. Below) \_\_\_\_\_
- Answers to Fee Proposal also complete Attachment A \_\_\_\_\_
- Statement of Qualifications \_\_\_\_\_

Form 2: Client References \_\_\_\_\_

Form 3: Non-Collusion Certificate \_\_\_\_\_

Answers to Questions in Section 6 \_\_\_\_\_

2. Exceptions to any elements presented in the RFP (These may be construed as being non-responsive to the RFP)

3. Additional items for consideration.

### Basic Services Confirmation:

Our authorized signature in the space below indicates our acceptance of all the terms and conditions as presented in the Request for Proposal and preferred contract provisions.

Firm Name: \_\_\_\_\_

By: \_\_\_\_\_  
Authorized Signature Title Date

## Client References Form #2

### Client References #1

Client Name	
Contact Name	
Title	
Phone Number	
Email Address	
Type of Services Provided	
Number of Participants	
Assets (12/31/2019)	
Services Provided Similar to the MEBT's Scope of Services?	<input type="checkbox"/> Yes – Explain similarities: <input type="checkbox"/> No

### Client References #2

Client Name	
Contact Name	
Title	
Phone Number	
Email Address	
Type of Services Provided	
Number of Participants	
Assets (12/31/2019)	
Services Provided Similar to the MEBT's Scope of Services?	<input type="checkbox"/> Yes – Explain similarities: <input type="checkbox"/> No

### Client References #13

Client Name	
Contact Name	
Title	
Phone Number	
Email Address	
Type of Services Provided	
Number of Participants	
Assets (12/31/2019)	
Services Provided Similar to the MEBT's Scope of Services?	<input type="checkbox"/> Yes – Explain similarities: <input type="checkbox"/> No



**Attachment A: Fee Schedule**

1. Each Firm shall provide a complete statement of fees with the basis of charging those fees.
2. The authorized signature in the space below commits the Firm to the attached Fee Schedule for the duration of the contract, plus any extensions. The basis for future fee increases, if any, must be described under “exceptions” below.

Exceptions:

Firm Name:

by:

\_\_\_\_\_

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

# **Appendix A**

## **INSURANCE REQUIREMENTS**

### **AUDIT SERVICES**

The Consultant shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, his or her agents, representatives, employees or subcontractors. The cost of such insurance shall be paid by the Consultant. Insurance shall meet or exceed the following unless otherwise approved by the MEBT.

#### **A. Minimum Insurance**

1. Commercial General Liability coverage with limits not less than \$1,000,000 per occurrence/\$2,000,000 annual aggregate,
2. Commercial Automobile Liability coverage with limits not less than \$1,000,000 per accident for any Auto.
3. Workers' Compensation coverage as required by the Industrial Insurance Laws of the State of Washington.
4. Consultant's Errors & Omissions or Professional Liability with limits not less than \$2,000,000 per claim and \$4,000,000 as an annual aggregate.

#### **B. Additional Insurance:**

Network Security and Privacy Liability coverage with limits not less than \$1,000,000 per occurrence and as an annual aggregate, which names MEBT, The MEBT Entities, its officials, employees and volunteers as additional insured. Such coverage shall be primary. Any coverage for network security and privacy liability obtained by MEBT, MEBT Entities or its officials, employees and volunteers, shall be excess of such consultant additional coverage and shall not contribute to any losses covered by such additional insured coverage procured by Consultant.

#### **C. Self-Insured Retentions:**

Self-Insured retentions must be declared to and approved by the MEBT.

#### **D. Other Provisions**

Commercial General Liability policies shall be endorsed to:

1. Provide that such insurance shall be primary as respects any insurance or self-insurance maintained by the MEBT, and MEBT Entities,
2. MEBT, its officials, employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, leased or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to MEBT, its officials, employees or volunteers.
3. Each insurance policy shall provide that coverage shall not be canceled except after thirty (30) days' written notice has been given to the MEBT.

#### **E. Acceptability of Insurance**

Insurance shall be placed with insurers with a rating acceptable to the MEBT.

**F. Verification of Coverage**

Consultant shall furnish the MEBT with certificates of insurance required by this clause. The certificates are to be received and approved by the MEBT before work commences. The MEBT reserves the right to require complete, certified copies of all required insurance policies at any time.

**G. Subcontractors**

Consultant shall require subcontractors to provide coverage with complies with the requirements stated herein.

# **Appendix B**

## **SAMPLE CONTRACT**

### **Professional Services Contract**

#### **The Municipal Employees Benefit Trust (“the MEBT”) Contract Identification Information:**

Contract Title: Audit Services for the Municipal Employees’ Benefit Trust  
This AGREEMENT is entered into between the **Municipal Employees Benefit Trust (“the MEBT”)** and **XYZ - (“CONSULTANT”)**.

#### **1. SERVICES BY CONSULTANT**

- A. Performance of Services. The Consultant shall perform the services described in the Scope of Services, which is attached hereto as Attachment "A" and by this reference is incorporated herein. All Services will be rendered to the best of the Consultant's ability and in a timely and professional manner in compliance with all standards and rules reasonably established by the MEBT.
- B. Modification. The MEBT periodically may make changes to the Services that are within the general scope of the Agreement, by giving the Consultant written notice of such changes. If any change results in an increase or a reduction in the work that was contemplated to be performed by the Consultant as described in Attachment "A", the Consultant's compensation hereunder shall be modified accordingly.

#### **2. PAYMENT**

- A. The MEBT will be paying the Consultant for such services at an hourly rate plus actual expenses (See Attachment A.)
- B. The Consultant shall maintain time and expense records, report them to the MEBT monthly and shall submit invoices to the MEBT monthly for payment of work performed to the date of the invoice. Invoices shall be in a format acceptable to the MEBT.
- C. The MEBT shall pay all invoices from the Consultant by mailing payment within 30 days of receipt of a properly completed invoice after approval of the Consultant's completed tasks/deliverables to the date of the invoice or monthly report, as appropriate.
- D. The Consultant shall keep cost records and accounts pertaining to the Agreement available for inspection by representatives of the MEBT for a period of three (3) years after final payment. Copies shall be made available to the MEBT upon request.
- E. If the services rendered do not meet the requirements of the Agreement, the Consultant shall correct or modify the work to comply with the Agreement. MEBT may withhold payment for such work until it meets the requirements of the Agreement.

#### **3. DISCRIMINATION AND COMPLIANCE WITH LAWS**

- A. The Consultant agrees not to discriminate against any employee or applicant for employment or any other person in performance of this Agreement because of race, creed, color, national origin, marital status, sex, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational disqualification. Without limiting the foregoing, Consultant agrees to comply with the provisions of Appendix "D", attached hereto and incorporated herein by this reference.
- B. The Consultant shall comply with all current federal, state, and local laws and ordinances applicable to the work to be done under this Agreement.
- C. Violation of this Section 3 shall be a material breach of this Agreement and grounds for cancellation, termination or suspension of the Agreement by the MEBT, in whole or in part, and may result in ineligibility for further work for the MEBT.

#### **4. TERM AND TERMINATION OF AGREEMENT**

- B. Term. This Agreement shall be two years, with the option of MEBT to extend the contract for up to three additional two-year periods unless terminated earlier in accordance with paragraph 4.B. of this Agreement.
- C. Rights upon Termination. This Agreement may be terminated by either party without cause upon thirty days' written notice, in which event all finished or unfinished documents, reports, or other material or work of Consultant pursuant to this Agreement shall be submitted to the MEBT, and the Consultant shall be entitled to just and equitable compensation at the rate set forth in Section 2 for any satisfactory work completed prior to the date of termination.

#### **5. OWNERSHIP OF WORK PRODUCT**

All data, materials, reports, memoranda and other documents developed under this Agreement whether finished or not shall become the property of the MEBT, shall be forwarded to the MEBT at its request and may be used by the MEBT as it sees fit. The MEBT agrees that if it uses products prepared by the Consultant for purposes other than those intended in this Agreement, it does so at its sole risk and it agrees to hold the Consultant harmless therefore.

#### **6. GENERAL ADMINISTRATION AND MANAGEMENT**

The Chair of the MEBT Trust for Trust activities or the Chair of the Plan Committee for Plan activities, or their designee, shall be the MEBT's representative, and shall oversee and approve all services to be performed, coordinate all communications, and review and approve all invoices, under this Agreement.

#### **7. INDEMNIFICATION AND HOLD HARMLESS**

- A. The Consultant shall protect, defend, indemnify and save harmless the MEBT, its officers, employees, agents and its sponsoring cities and their elected officials, employees and agents from any and all costs, claims, judgments or awards of damages, arising out of or in any way resulting from the acts or omissions of the Consultant, and its officers, agents or employees. The Consultant agrees that its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, the Consultant, by mutual negotiation, hereby waives, as respects the MEBT and sponsoring cities only, any immunity that would otherwise be available against such claims under the industrial insurance provision of Title 51 RCW. In the event the MEBT, its officers, employees, agents or sponsoring cities, or their elected officials, employees and agents incur any judgment or award, and/or incurs any cost arising therefrom including attorneys' fees to enforce the provisions of this article, all such fees, expenses, and costs shall be recoverable from the Consultant.
- B. To the extent permitted by law, the MEBT shall protect, defend, indemnify and save harmless the Consultant, its officers, employees and agents from any and all costs, claims, judgments or awards of damages, arising out of or in any way resulting solely from the negligent acts or omissions of the MEBT and its officers, employees and agents. The MEBT agrees that its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, the MEBT by mutual negotiation, hereby waives, as respects the Consultant only, any immunity that would otherwise be available against such claims under the industrial insurance provision of Title 51 RCW. In the event the Consultant, its officers, agents or employees incur any judgment or award, and/or incurs any cost arising therefrom including attorneys' fees to enforce the provisions of this article, all such fees, expenses, and costs shall be recoverable from the MEBT.
- C. The Consultant will indemnify, defend, and hold the MEBT and its sponsoring cities and their elected officials, officers, employees, successors, assigns, insurers, licensees, distributors, independent Consultants, and agents harmless from all claims, damages, losses, and expenses (including reasonable attorney's fee's incurred on such claims and in proving the right to indemnification) arising out of or resulting from any claim, action, or other proceeding that is based upon (a) the Consultant's breach of any obligations, representations, or warranties under the Agreement, (b) the Consultant's outside business activities, or (c) the infringement or misappropriation by the Consultant of any foreign or United States patent, copyright, trade secret, or other proprietary right in results.

## **8. INSURANCE; RISK OF LOSS**

The Consultant shall maintain insurance that is sufficient to protect the Consultant's business against all applicable risks, as set forth in Appendix "A". The Consultant will provide the MEBT with certificates of insurance and other supporting materials as the MEBT reasonably may request to evidence Consultant's continuing compliance with this Section 8. The Consultant will be liable for all loss or damage, other than ordinary wear and tear, to the MEBT's property in the Consultant possession or control that is caused by the Consultant. In the event of any such loss or damage, the Consultant will pay the MEBT the full current replacement cost of such equipment or property within thirty (30) days after its loss or damage.

## **9. INDEPENDENT CONSULTANT**

- A. Nature of Relationship. The Consultant shall be and act as an independent Contractor (and not as the employee, agent, or representative of the MEBT) in the performance of the Services for the MEBT. The Agreement shall not be interpreted or construed as creating or evidencing an association, joint venture, partnership or franchise relationship among the parties or as imposing any partnership, franchise, obligation, or liability on any party. The Consultant will not represent himself/herself as an employee of the MEBT. The Consultant shall not be entitled to, and shall not attempt to, create or assume any obligation, express or implied, on behalf of the MEBT. So long as the Consultant is able to adequately perform all of the Consultant's obligations under the Agreement in a skilled and workmanlike manner, the Consultant shall not be required to devote the Consultant's full time to the performance of the Services called for under the Agreement, and it is acknowledged that the Consultant has other clients and/or offers services to the general public. Since the Consultant will not be an employee of the MEBT, the Consultant will not be entitled to any of the benefits that the MEBT may make available to its employees, such as but not limited to vacation leave, sick leave, or insurance programs, including group health insurance or retirement benefits; nor shall the Consultant permit or cause any of the Consultant's employees, agents or subcontractors to perform any services under the Agreement in such a way as to cause or enable them to become, or claim to have become, employees, common law or otherwise, of the MEBT. In addition, the Consultant acknowledges that as an independent Contractor, he/she/it and/or his/her/its agents, servants or employees are not eligible to recover worker's compensation benefits from or through the MEBT in the event of injury.
- B. Consultant Responsible for Taxes and Records. The Consultant will be solely responsible for and will file, on a timely basis, all tax returns and payment required to be filed with or made to any federal, state or local tax authority with respect to the Consultant's performance of the Services and receipt of fees under the Agreement. The Consultant will be solely responsible for and must maintain adequate records of expenses incurred in the course of performing the Services under the Agreement. No part of the Consultant's compensation will be subject to withholding by the MEBT for the payment of any social security, federal, state or any other employee payroll taxes; nor shall the MEBT be obligated to make any such withholdings and/or payments on behalf of any employee, subcontractors, supplier, or other person working for or engaged by the Consultant to perform the Consultant's obligations under the Agreement. The MEBT will regularly report amounts paid to the Consultant by filing Form 1099-MISC with the Internal Revenue Service as required by law.

## **10. FUTURE SUPPORT**

The MEBT makes no commitment and assumes no obligations for the support of the Consultant's activities except as set forth in this Agreement.

## 11. GENERAL PROVISIONS

- A. **Governing Law; Forum.** The Agreement will be governed by the laws of Washington and its choice of law rules. The Consultant irrevocably consents to the exclusive personal jurisdiction and venue of the federal and state courts located in King County, Washington, with respect to any dispute arising out of or in connection with the Agreement, and agrees not to commence or prosecute any action or proceeding arising out of or in connection with the Agreement other than in the aforementioned courts.
- B. **Severability.** If any provision of the Agreement is held to be invalid or unenforceable for any reason, the remaining provision will continue in full force without being impaired or invalidated in any way. The MEBT and the Consultant agree to replace any invalid provision with a valid provision that most closely approximates the intent and economic effect of the invalid provision.
- C. **Nonwaiver.** Any failure by the MEBT to enforce strict performance of any provision of the Agreement will not constitute a waiver of the MEBT's right to subsequently enforce such provision or any other provision of the Agreement.
- D. **No Assignment.** Neither the Agreement nor any of the rights or obligations of the Consultant arising under the Agreement may be assigned, without the MEBT's prior written consent. Subject to the foregoing, the Agreement will be binding upon, enforceable by, and inure to the benefit of, the parties and their successors and assigns.
- E. **The MEBT Marks.** The Consultant will not use any trade name, trademark, service mark, or log of the MEBT (or any name, mark, or logo confusingly similar thereto) in any advertising, promotions, or otherwise, without the MEBT's express prior written consent.
- F. **Notices.** All notices and other communications under the Agreement must be in writing, and must be given by registered or certified mail, postage prepaid, or delivered by hand to the party to whom the communication is to be given, at its address set forth in this agreement, at the address set forth below:

Post Office Box:  
City of Bellevue – Human Resources  
P.O. Box 90012  
Bellevue, WA 98009-9012

Or Street Address:  
City of Bellevue – Human Resources  
450 110<sup>th</sup> Ave NE  
Bellevue, WA 98004

### **Consultant Address**

- G. **Legal Fees.** In any lawsuit between the parties with respect to the matters covered by the Agreement, the prevailing party will be entitled to receive its reasonable attorney's fees and costs incurred in the lawsuit, in addition to any other relief it may be awarded.
- H. **Counterparts.** The Agreement may be signed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall be deemed one in the same document.

**12. EXTENT OF CONTRACT/MODIFICATION**

This Contract, together with the attachments and/or addenda, represents the entire and integrated Agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended, modified or added to only by written instrument properly signed by both parties hereto.

In witness whereof, the parties have executed this Agreement and it shall be effective as of the last date written below.

**XYZ**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_  
Tax ID: \_\_\_\_\_  
UBI Number: \_\_\_\_\_  
Phone Number: \_\_\_\_\_

**The MEBT:**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_  
Approved as to  
form: \_\_\_\_\_

**Attachment A – Fee Schedule**

**Attachment B – Insurance Requirements (see RFP Appendix A)**

# Appendix C

## EQUAL OPPORTUNITY REQUIREMENTS

### **General Instructions:**

**Applications:** The following materials pertain to the Equal Opportunity Requirements of the City of Bellevue as set forth in Chapter 4.28.170 of the Bellevue City Code. All contractors, subcontractors, consultants, vendors and suppliers who contract with the City in a total amount of thirty-five thousand or more within any given year, and as may be requested by the City, must comply with these requirements.

**Affidavit:** Before being considered for a contract of the magnitude listed above, all contractors will be required to submit the "Affidavit of Equal Opportunity Compliance" as part of their proposal/qualifications or upon the request of the Procurement Services Division.

**Compliance:** The City of Bellevue reserves the right to randomly select contractors, subcontractors, consultants, vendors or suppliers to be audited for compliance of the requirements listed. During this audit, the contractors, etc. will be asked for a specific demonstration of compliance with the requirements.

**Noncompliance:** A finding of a noncompliance may be considered a breach of contract and suspension or termination of the contract may follow.

**City contact:** The City's Compliance Officer is the Procurement Services Division, and specific questions pertaining to this section may be directed to the Procurement Services Division at (425) 452-7876.

### **Bellevue City Code Excerpt:**

Section 4.28.170 of the Bellevue City Code establishes the requirements for all contractual service providers:

"All contractors, subcontractors, consultants, vendors and suppliers who contract with the City of Bellevue in a total amount of thirty-five thousand or more within any given year, and as may be requested by the City, are required to take affirmative action and comply with the following requirements of this section. There shall be included in any contract between such contractual services provider and the City of Bellevue the following provisions:

1. Contractor shall make specific and constant recruitment efforts with minority and women's organizations, schools, and training institutions. This shall be done by notifying relevant minority and women's organizations.
2. Contractor shall seek out eligible minority and women contractors to receive subcontract awards. Appropriate minority and women contractors shall be notified in writing of any bids advertised for subcontract work.
3. Contractor shall provide a written statement to all new employees and subcontractors indicating commitment as an equal opportunity employer and the steps taken to equal treatment of all persons.
4. Contractor shall actively consider for promotion and advancement available minorities and women.
5. Contractor is encouraged to make specific efforts to encourage present minority and women employees to help recruit qualified members of protected groups.
6. Contractor is encouraged to provide traditional and nontraditional employment opportunities to female and minority youth through after school and summer employment.
7. Contractor is encouraged to assist in developing the skills of minorities and women by providing or sponsoring training programs.

Willful disregard of the City's nondiscrimination and affirmative action requirements shall be considered breach of contract and suspension or termination of all or part of the contract may follow.

All contractors, subcontractors, vendors, consultants or suppliers of the City required to take affirmative action must sign the affidavit of compliance and submit with the bid proposal or upon the request of the Procurement Services Division. All documents related to compliance steps listed above shall be presented upon the request of the Procurement Services Division. The Procurement Services Division shall serve as the compliance officer for the city and is authorized to develop and issue procedures for the administration of this section."

### **Interpretations:**

In order to more readily determine compliance with BCC 4.28.170, the following interpretations are provided:

Requirement 1. When a contractor needs to recruit, they must notify minority and women's organizations, schools and training institutions. Such "notification" can be in the form of an advertisement in newspapers or trade journals of general circulation in the metropolitan Seattle area. When the contractor hires through a union hiring hall, the contractor must be able to provide confirmation, upon request by the City, that the hiring hall has an equal opportunity policy.

Requirement 2. When a contractor intends to subcontract out any work they shall notify minority and women contractors for the subcontract work. The requirements to notify minority and women contractors of any bids can be satisfied by advertising in newspapers or trade journals that are of general circulation in the metropolitan Seattle area.

Requirement 3. If and when a contractor hires new employees or contracts with subcontractors, the contractor must alert such employees and subcontractors to the contractor's commitment as an equal opportunity employer, etc. This requirement may be complied with by posting a notice of equal opportunity commitment at the job shack, or by the time clock.

Requirement 4. If and when a contractor promotes or advances employees, the contractor must consider all eligible employees.

The City of Bellevue reserves the right to audit all contractors for compliance with the requirements set forth in BCC 4.28.170.