



January 9, 2012

**REQUEST FOR PROPOSAL
#674**

**Public Works – Technical Services Division
Oracle Support Services**

ADDENDUM #3

The City of Springfield is hereby amending or clarifying the above mentioned Request for Proposal (RFP). The original document can be found on the City's website at www.springfield-or.gov by selecting the hyperlink *Purchasing/Contracts* from the menu on the left side of the home page, interested parties will be linked to the RFP/ITB page.

- 1. Question:** It mentioned only One Production and One Test Database on Windows OS. Is that all? If so, please mention the database size, concurrent users or please let us know.
City's Response: *There will be one production and one test database in the system environment. As described in Attachment 7 of the RFP, the combined production database size is approximately 200GB. The anticipated number of concurrent users with editing privileges will be 10-20. The anticipated number of concurrent users with read-only privileges will be 50-75.*
- 2. Question:** Can the Environment architecture diagram be provided?
City's Response: *A complete diagram of the integrated system environment is not available at this time.*
- 3. Question:** Current challenges / performance on database/ Application / Upgrade issues?
City's Response: *As this will be a new implementation there are no current challenges or issues.*
- 4. Question:** What are the tools used to support the database/server? Do we need to provide any of these tools?
City's Response: *As this will be a new implementation there are no current tools being used in support of the database or server. As per Attachment 1 (Scope of Services) of the RFP, proposers should discuss tools that would be used for Oracle database support services. The same attachment provides space for describing said services and tools and their associated costs.*
- 5. Question:** Any RAC architecture... no. of nodes/operating system.. will be helpful. Can it be provided?
City's Response: *The City has not implemented Oracle RAC architecture and RAC is not part of the planned implementation*

6. **Question:** No. of issue tickets raised for the last quarter?
City's Response: *As this is a new implementation this is not applicable.*
7. **Question:** Any replications/ fail over environment setup for other systems other than RAC?
City's Response: *None.*
8. **Question:** What is the lead time for the DBA to visit onsite if required
City's Response: *This will be determined at the time the City decides that on-site support is required.*
9. **Question:** Is this an MBE set-aside? If so, can our company certified by State of NJ be qualified?
City's Response: *Previously answered in Addendum #2.*
10. **Question:** Is there an incumbent vendor already providing the requested services? If yes, what is the name of the company? Will they also be responding?
City's Response: *Previously answered in Addendum #2.*
11. **Question:** Should the two optional services be also included in the pricing?
City's Response: *It is left to the proposer's discretion as to whether they provide pricing for the optional services.*
12. **Question:** For cost effectiveness, can remote services be provided by our consultant out of our development center based outside of the US? Or would you require services from only within the shores of the US?
City's Response: *The requirements for remote services are listed in Attachment 6 of the RFP.*
13. **Question:** Would you require the detailed resume of the proposed consultant? Or would a sample resume suffice?
City's Response: *If providing consultant resumes they should be accurate representations and not samples.*
14. **Question:** Would the candidate be interviewed prior to the award? If so, how would you deal with possibilities if the submitted consultant becomes unavailable? Can vendors at a later date (time of the interview) submit similarly skilled candidate(s) with the same proposed bill rate?
City's Response: *As per page 6 of the RFP, if interviews are deemed necessary they will be conducted with the supplier and any staff resources that supplier decides to have present for the interview. The City cannot regulate employee turnover by suppliers of services.*
15. **Question:** Attachment 2 – Sample Contract - 2 – Supplier cannot agree to this provision. All prices quoted are stand-alone prices prepared by Supplier based on factors exclusive and unique to the project. As such, the pricing for each project is developed specifically for that project and therefore the prices charged to other customers are not applicable to the establishment of the prices quoted to CITY.
City's Response: *City is willing to remove the Intergovernmental Cooperative Purchasing clause. The sample contract is amended to read as follows:*

2. Intergovernmental Cooperative Purchasing. This agreement will not be subject to Cooperative Purchasing.

16. Question: Attachment 2 – Sample Contract - 3- Supplier would anticipate developing a detailed mutually agreed upon Statement of Work (SOW) reflecting revisions to this proposal that would be included as part of the Contract. The SOW will replace any specific descriptions of the services, pricing, and acceptance criteria identified in the RFP.

City's Response: *The City anticipates a mutually agreed upon SOW but will not accept prior to contract execution that it will replace any of the clauses in the agreement nor suppliers response to the RFP.*

17. Question: Attachment 2 – Sample Contract - 6 – Supplier agrees that services provided under this Agreement shall conform to and Supplier will conduct itself in a manner that conforms to commercially acceptable industry standards of care and practice.

City's Response: *The City is willing to revise Sample Contract paragraph 8 (not 6) to incorporate the sentence. See #18 below for revised paragraph 8.*

18. Question: Attachment 2 – Sample Contract -8 – Supplier shall perform the services in accordance to the mutually agreed upon Statement of Work (SOW) which shall be attached to and incorporated by this reference into the Agreement.

City's Response: *The City is willing to revise Sample Contract paragraph 8. The sample contract is amended to read as follows:*

8. Work Performed. The work to be performed by Independent Contractor includes services generally performed by Independent Contractor in his/her/its usual line of business. Independent Contractor agrees that services provided under this Agreement and will conduct itself in a manner that conforms to commercially acceptable industry standards of care and practice. Supplier shall perform the services in accordance to the mutually agreed upon Statement of Work (SOW) which shall be attached to and incorporated by this reference into the Agreement.

19. Question: Attachment 2 – Sample Contract 13 – Supplier cannot agree to this provision. All prices quoted are stand-alone prices prepared by Supplier based on factors exclusive and unique to the project. As such, the pricing for each project is developed specifically for that project and therefore the prices charged to other customers are not applicable to the establishment of the prices quoted to CITY.

City's Response: *This isn't a negotiable clause as it is a Federal requirement if any Federal Funds are to be used. At this point it is not anticipated any Federal Funds to be used but we cannot foresee the future if any potential Federal Funds become available this clause will prevail.*

20. Question: Attachment 2 – Sample Contract -14 – Supplier will agree to the indemnifications only to the extent that it is responsible for the action or omission requiring indemnification.

City's Response: *We can't make exceptions to our Indemnification and Hold Harmless clause. Review paragraph 14 as it already states "The Independent Contractor shall not be liable for nor be required to defend or indemnify, the City relative to claims for damage or damages resulting solely from acts or omissions of the City, its officials, agents or employees."*

21. Question: Attachment 2 – Sample Contract- 15.7 – Supplier agrees to obtain CITY's written approval but requests such approval not be unreasonably withheld, conditioned, or delayed.

Any assignment shall transfer all obligations and rights to the assignee, and Supplier will be no longer liable after such assignment.

City's Response: *This RFP will be awarded on the basis of the proposal submitted. It is for a highly complex task requiring experience and expertise. Thus, we can't make exceptions to our assignment/subcontract clause.*

- 22. Question:** Attachment 2 – Sample Contract 16 – For all terminations by CITY for any reason, Supplier requests thirty (30) days' written notice, an opportunity to cure, and payment for all services performed through the date of termination which obligation shall survive termination of the Agreement.

This Agreement may only be terminated for cause by CITY upon a material breach by Supplier which it does not cure within thirty (30) days.

Supplier believes that it should have the right to temporarily stop work and ultimately terminate the Agreement in the event that CITY fails to perform its obligations under the Agreement and does not cure the breach within thirty (30) days.

City's Response: *The City cannot accept the modification to the termination clause. In the event of termination the independent contractor shall be paid for work accepted in accordance with the contract through the termination date.*

- 23. Question:** Attachment 2 – Sample Contract -17 – Supplier will agree to grant CITY either ownership rights to or a perpetual, non-assignable license to use all work products produced under the Agreement; however, the grant will be tied to receipt of full payment for the work product.

Supplier will retain ownership of all knowledge, techniques, procedures, routines, templates, and methods which have been developed by Supplier in its regular course of business and not for specific use in performance of this Contract, and used in the provision of services ("Supplier Tools"). Contractor shall grant CITY, upon full payment, a perpetual, irrevocable, non-assignable, non-exclusive license to all Supplier Tools that Supplier embeds in or provides with any Work Product or that are otherwise used in connection with the services.

City's Response: *The City cannot accept the modification to the Rights in Data clause.*

- 24. Question:** Attachment 2 – Sample Contract- 18 – Supplier requests that this provision be mutual so as to protect its confidential information.

Supplier requests that if either party is confronted with legal action or believes applicable law requires it to disclose any portion of the other party's information protected hereunder, that party shall promptly notify and assist the other (at the other party's expense) in obtaining a protective order or other similar order, and shall thereafter disclose only the minimum of the other party's protected information that is required to be disclosed in order to comply with the legal action, whether or not a protective order or other order has been obtained.

City's Response: *The City is willing to modify the Confidentiality clause as follows below. The City will not agree to engage in assisting in a protective order nor pay for such protective order. The sample contract is amended to read as follows:*

18. Confidentiality. During the course of performance hereunder, the City, Independent Contractor or its agent, employees, or contractors, may receive confidential information. Each of the City and Independent Contractor agree to use its best efforts to maintain the confidentiality of such information and to inform each agent and employee performing services of the confidentiality obligation that pertains to such information. Contractor shall identify information that it wishes City to use best efforts to maintain confidentiality. It is understood that City's efforts will be subject to the requirement of the Oregon public records law.

25. Question: Attachment 2 – Sample Contract- 19 – Supplier agrees to obtain CITY's written approval but requests such approval not be unreasonably withheld, conditioned, or delayed. Any assignment shall transfer all obligations and rights to the assignee, and Supplier will be no longer liable after such assignment.

City's Response: *This RFP will be awarded on the basis of the proposal submitted. It is for a highly complex task requiring experience and expertise. Thus, we can't make exceptions to our assignment/subcontract clause.*

26. Question: Attachment 2 – Sample Contract-21 – This Agreement may only be terminated for cause by CITY upon a material breach by Supplier which it does not cure within thirty (30) days.

If Supplier fails to cure the noncompliance within thirty (30) days, Supplier agrees to reimburse CITY for reasonable damages or costs resulting from noncompliance.

City's Response: *We can't make exceptions to our Compliance with All Government Regulations clause. In the event of termination the independent contractor shall be paid for work accepted in accordance with the contract through the termination date.*

27. Question: Attachment 2 – Sample Contract 22 – Each party may be responsible for the other party's reasonable attorney fees only upon prevailing in a lawsuit as a determined in a court of law.

City's Response: *The City is willing to modify 22. Attorney Fees clause. The sample contract is amended to read as follows:*

22. Attorney Fees. In the event a lawsuit of any kind is instituted on behalf of CITY to enforce any provision of this Agreement, Independent Contractor shall pay such additional sums as the Court may adjudge reasonable for attorney fees plus all costs and disbursements at trial and on any appeal. Each party may be responsible for the other party's reasonable attorney fees only upon prevailing in a lawsuit as a determined in a court of law.

28. Question: Attachment 2 – Sample Contract- 23 – Supplier requests that upon receipt of notice of failure or delay in performance caused by the foregoing, performance time shall be considered extended for a period of time equivalent to the time lost as a result of such delay, within reasonable limits. If either party is unable to continue to perform for a period of thirty (30) calendar days from the date such notice was issued, then either party may terminate this Agreement.

City's Response: *We can't make exceptions to our Force Majeure clause.*

29. Question: Attachment 2 – Sample Contract²⁴ – Supplier will agree to the indemnifications only to the extent that it is responsible for the action or omission requiring indemnification.

The indemnification obligation set forth herein shall not be applicable to the extent the infringement is attributable to the acts or omissions of CITY including, without limitations, materials, specifications, or products provided by CITY, modifications made by CITY to any of the products or services delivered by Supplier, or if CITY uses the products or the services in a manner not intended by Supplier.

City's Response: *The City is willing to modify 24. Assistance Regarding Patent and Copyright Infringement clause. The sample contract is amended to read as follows:*

24. Assistance Regarding Patent and Copyright Infringement. In the event of any claim or suit against CITY on account of any alleged patent or copyright infringement arising out of the performance of this Agreement or out of the use of any material furnished or work or services performed hereunder, Independent Contractor shall defend CITY against any such suit or claim and hold CITY harmless from any and all expenses, court costs, and attorney's fees in connection with such claim or suit. The indemnification obligation set forth herein shall not be applicable to the extent the infringement is attributable to the sole acts or omissions of CITY including, without limitations, materials, specifications, or products provided by CITY, modifications made by CITY to any of the products or services delivered by Supplier, or if CITY uses the products or the services in a manner not intended by Supplier.

30. Question: Attachment 2 – Sample Contract – Additional Requested Provisions

33. Disclaimer of Warranties. Any warranty contained herein is Independent Contractor's sole and exclusive warranty. Independent Contractor affirmatively excludes any and all other warranties, conditions, or representations (express or implied, oral or written), with respect to the services provided including any and all implied warranties or conditions of title, merchantability, or fitness or suitability for any purpose (whether or not the Independent Contractor knows, has reason to know, has been advised, or is otherwise in fact aware of any such purpose) whether arising by law or by reason of custom of the trade.

City's Response: *The City rejects the additional clause.*

31. Question: Attachment 2 – Sample Contract – Additional Requested Provisions

34. Liability. Except with respect to indemnification obligations set forth herein and notwithstanding anything contained in this Agreement to the contrary, in no event shall either party be responsible for special, indirect, incidental, consequential, exemplary or punitive damages of any kind or nature, including without limitation, lost profits, lost revenues, or other monetary loss, arising out of or related to this Agreement and any actions or omissions with respect thereto, whether or not any such matters or causes are within a party's control or due to negligence or other fault on the part of a party, its agents, affiliates, employees, or other representatives, and regardless of whether such liability arises in tort, contract, breach of warranty, or otherwise. Any liability incurred by Independent Contractor in connection with this Agreement shall be limited to the aggregate amount of all fees and expenses actually paid by CITY to Independent Contractor under this Agreement. Any liability incurred by CITY in connection with this Agreement shall be limited to the aggregate amount of all fees and expenses owing to Independent Contractor under this Agreement at the time such liability arose.

City's Response: *The City rejects the additional clause.*

32. Question: Attachment 2 – Sample Contract – Additional Requested Provisions

35. Non-Solicitation of Employees. Independent Contractor and CITY agree that neither party shall directly or indirectly solicit for employment any employee of the other party. This clause shall remain in effect during the term of this Agreement and for a period of one year after the termination of this Agreement, unless prior written consent of the other party is first obtained.

City's Response: *The City accepts adding a Non Solicitation Clause. The sample contract is amended to include the following clause:*

33. Non-Solicitation of Employees. Independent Contractor and CITY agree that neither party shall directly or indirectly solicit for employment any employee of the other party. This clause shall remain in effect during the term of this Agreement and for a period of one year after the termination of this Agreement, unless prior written consent of the other party is first obtained.

33. Question: Attachment 6 is it to be completed?

City's Response: Yes, it is our expectation that you complete and return Attachment 6 as instructed on page 4 of the RFP **II. Proposal Format H.**

In the event that it is necessary to further amend, revise or supplement any part this RFP, additional addenda will be posted on the City's website at <http://www.springfield-or.gov> (select the **Purchase Contracts** hyperlink and Addendum #3 – RFP #674 Oracle Support Services). As stated in the original solicitation, City will make a reasonable effort to provide the addenda to all Proposers to whom City provided the initial Request for Proposal. This addendum shall be considered part of the specification of the Request for Proposal. The City is not responsible for any explanation, clarification, interpretation or approval made or given in any manner except by written addenda issued by City.

ALL PROPOSERS SHALL ACKNOWLEDGE AND INCLUDE THIS ADDENDA #3 AS PART OF THEIR SUBMITTAL PACKAGE.