



Lower Connecticut River Valley Council of Governments

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Questions on RiverCOG RFP for Financial Administrative and Reporting Support for Municipal American Recovery Plan Act (ARPA) Funds

Question 1/18/22: Must the services provided be in person 100% of the time, or can some of the services be performed virtually? What specific services can be provided virtually?

Answer: The services do not need to be provided in person if they can be handled virtually. There may be some in-person meetings as needed, and as is safe, but since the service will be spread out over the region we do not expect in-person services at all times.

Questions 1/19/22 (answers are in red):

Please confirm that the contractual party will be the Lower Connecticut River Valley Council of Governments (LCRVCOG). **It is expected that RiverCOG will be the contractual party, however if a single town requested additional work we would be happy to amend the contract on their behalf, or the town may seek a separate contract with the select vendor for the additional work.**

Please provide a sample contract for this assignment, if available.

See attached sample of general conditions. The contract will of course be more extensive and pertinent to this project.

Will LCRVCOG have payment liability under the terms of the contract with the successful vendor?

Yes

If LCRVCOG bears no payment liability, how is the underlying municipalities' payment liability contracted?

The participating towns are all members of RiverCOG, with their chief elected/executive officials serving as the agency's board of directors. RiverCOG is an extension of the municipalities that formed it under the Connecticut General Statutes, and RiverCOG commonly passes charges back to our member municipalities.

Will the LCRVCOG members consider advance funding of a contract payment escrow account based on a negotiated percentage from ARPA funds allocated?

This has not been considered, though an RFP response could propose such an approach. However, RiverCOG has never used a "contract payment escrow account." RiverCOG routinely hires consultants and contractors and has a record of paying our vendors promptly and fully.

RiverCOG

AGREEMENT

Project: Lower Connecticut River Valley Regional XXXX Project

THIS AGREEMENT, concluded at Essex, Connecticut, this XX day of January 20XX, by and between the Lower Connecticut River Valley Council of Governments, acting herein by Samuel S. Gold, Executive Director, duly authorized, hereinafter referred to as "LCRVCOG", and XXX

WHEREAS, LCRVCOG has been designated by the Governor of the State of Connecticut as the responsible Regional Planning Organization within the Lower Connecticut River Valley Planning Region, as defined by the Secretary of the Office of Policy and Management under the provisions of Chapter 127 of the General Statutes of Connecticut, as revised, and by Chapter 295 of the General Statutes of Connecticut, as revised, and

WHEREAS, LCRVCOG has selected XX to provide professional services, as outlined in Schedule 'A' herein, in support of the project identified in Schedule A, hereinafter referred to as "the PROJECT".

NOW, THEREFORE, LCRVCOG and XX, for the consideration hereinafter named, do hereby agree as follows:

ARTICLE I. DESCRIPTION OF WORK

LCRVCOG hereby retains XX to perform, and XX agrees to perform, the services described in Schedule 'A' annexed hereto. LCRVCOG further agrees to pay XX and XX agrees to accept as full compensation for such services, the amounts set forth in such Schedule.

ARTICLE II. STANDARD PRACTICES AND REQUIREMENTS

All services performed by XX shall be subject to the approval of LCRVCOG. Such services shall be performed in a prompt and professional manner and in accordance with generally accepted practices and customs as ordinarily exercised by similar firms performing similar services under similar conditions.

ARTICLE III. DOCUMENTS FORMING THE CONTRACT

The contract documents shall include this Agreement, all schedules and exhibits annexed thereto, and documents incorporated by reference in the body of this Agreement and its schedules and exhibits. This Agreement may be executed in any number of parts and each part shall be deemed to be an original.

ARTICLE IV. TAXES, ROYALTIES, AND EXPENSES

XX shall pay all taxes, royalties and expenses incurred in connection with the services performed under this Agreement.

ARTICLE V. FHI LIABILITY

XX shall be responsible for all damage to life and property to the extent caused by the negligent activities of XX, their subcontractors or employees, in connection with the services performed under this Agreement. XX specifically agrees that their subcontractors and employees shall possess the experience, knowledge and character necessary to qualify them individually for the particular duties they perform. Further, it is expressly understood that XX shall indemnify and hold LCRVCOG harmless from claims, suits, actions, damages, attorney's fees and costs of every description to the extent caused by the negligent performance of XX and such indemnity shall not be limited by reason of any insurance coverage herein required. Negligent performance of services, within the meaning of this Article, shall include negligence founded in tort and damages caused by XX failure to perform the services covered under this Agreement in accordance with professional standards and customs as set forth in the second sentence of Article II Standard Practices and Requirements. Nothing in this Article or in this Agreement shall create or give to third parties any claim or right of action against XX or LCRVCOG.

ARTICLE VI. WORKMEN'S COMPENSATION AND LIABILITY INSURANCE

With respect to the services provided by XX under the terms of this agreement and also those performed for XX by its subcontractors, XX and subcontractors agree to carry for the duration of this Agreement, including any supplements thereto or renewals thereof with LCRVCOG being named an additional insured party for paragraphs (1) and (2) below, the following minimum insurance coverage at no direct cost to LCRVCOG. In the event XX secures excess/umbrella liability insurance to meet the minimum requirements specified in the paragraphs 1-4 below, LCRVCOG shall be named as an additional insured.

1. COMMERCIAL GENERAL LIABILITY

XX shall procure and maintain Commercial General Liability Insurance, including Contractual Liability Insurance, subject to the policy terms, conditions and exclusions, providing for a combined single limit of not less than One Million Dollars (\$ 1,000,000) for all damage arising out of bodily injuries to or death of all persons in any one accident or occurrence, and for all damages arising out of injury to or destruction of property in any one accident or occurrence with a General Aggregate limit of Two Million dollars (\$2,000,000) and Products/Completed Operations Aggregate limit of Two Million Dollars (\$2,000,000).

2. AUTOMOBILE LIABILITY

The operation of all motor vehicles, including those hired or borrowed, used in connection with this Agreement shall be covered by Automobile Liability Insurance providing for a total limit of One Million Dollars (\$ 1,000,000) for all damages arising out of bodily injuries to or death of all persons in any one accident, and for all damages arising out of injury to or destruction of property in any one accident or occurrence. In cases where an insurance policy shows an

aggregate limit as part of the automobile liability coverage, the aggregate limit must be at least Two Million Dollars (\$2,000,000).

3. WORKER'S COMPENSATION

With respect to all operations XX performs and all those performed for XX by subcontractors, XX and subcontractor(s) shall carry Worker's Compensation Insurance and, as applicable, insurance required in accordance with the requirements of the laws of the State of Connecticut and of the laws of the United States respectively.

4. The insurance company has a right and duty to defend the insured against any suit seeking damages (or under Worker's Compensation benefits) to which the referenced insurance policy applies and may investigate and settle any claim or suit as they deem appropriate. The insurance company's duty to defend or settle any claim or suit ends when the applicable limit of liability has been exhausted in the payment of judgments or settlements. XX shall produce, within five (5) days, a copy or copies of all applicable insurance policies when requested by LCRVCOG, except, if required, Professional Liability. In providing said policies, XX may redact provisions of the policy that are proprietary. This provision shall survive the suspension, expiration or termination of this Agreement.

ARTICLE VII. CHANGE OF PLAN AND TERMINATION

LCRVCOG shall reserve the right to amend the PROJECT or to modify work within the general scope of this Agreement at any time by giving written instructions to XX, providing that the total liability of XX is not thereby increased. If LCRVCOG does amend the PROJECT or scope of work covered by this Agreement in such a way as to affect a material change to the obligations of XX, the parties shall execute an amendment to this Agreement. LCRVCOG has the right to suspend, postpone, abandon or terminate this Agreement, and such action shall in no event be deemed a breach of contract. Upon receipt of written notification from LCRVCOG that this Agreement is to be suspended, postponed, abandoned or terminated, XX shall cease all services being performed under this Agreement and shall deliver to LCRVCOG all material that has been prepared, developed, furnished or otherwise obtained under the terms of this Agreement. LCRVCOG shall review this material and determine the amount of acceptable work performed under the terms of this Agreement and LCRVCOG shall make settlement with XX, on an equitable basis. XX agrees to accept any reasonable evaluation by LCRVCOG of the percentage of work completed to the date of suspension, postponement, abandonment or termination. In the event this Agreement is suspended, postponed, abandoned or terminated under the provisions of this Article, the date of termination will be the date of mailing of the Notice of Suspension, Postponement, Abandonment or Termination, provided such notice is concurrently provided via email, return receipt requested, and via facsimile machine on the day the notice is mailed. Written notices shall be sent via certified mail, return receipt requested, to the attention of:

X

ARTICLE VIII. INTERCHANGE OF DATA

A copy of all technical data and work products collected or developed to support the requirements of this PROJECT, whether existing in the office of the LCRVCOG or existing in the office of XX, shall be made available to the other party, without expense. Geospatial data and files created for this PROJECT will be provided to LCRVCOG without expense.

ARTICLE IX. DAMAGES AND DELAYS

XX shall neither directly charge nor submit claims to LCRVCOG for damages resulting from any delays or hindrances caused by any party during the performance of this Agreement. Such delays or hindrances, if any, may be compensated for by an extension of time for such reasonable period as LCRVCOG may determine. In no event shall an extension of the performance period or other permission to complete any services after the expiration of this Agreement operate as a waiver on the part of LCRVCOG of any of its rights and privileges stated herein.

ARTICLE X. REVIEW OF WORK

LCRVCOG shall be permitted to review at any reasonable time, any and all work performed under the terms of this Agreement. For the purposes of this Agreement, the definition of "work" shall include deliverables and intermediate products identified in Exhibit 2 of this Agreement, working documents, meeting notes, correspondence and any other products created by XX, its sub-contractors, employees or agents in performance of this Agreement.

ARTICLE XI. RETENTION OF RECORDS AND RECORDS ACCESSIBILITY

The State or its representatives shall have the right at reasonable hours to examine any books, records and other documents of the sub-grantee or its subcontractors or sub-grantees pertaining to work performed under this agreement. The State will give sub-grantee or such sub-subcontractor or sub-grantee at least twenty-four hours' notice of such intended examination. At the State's request, the sub-grantee shall provide the State with hard copies of or magnetic tape containing any data or information relating to the State's business, which data or information is in the possession or control of the sub-grantee. The sub-grantee shall incorporate this paragraph verbatim into any agreement it enters into with any subcontractor or sub-grantee relating to this grant.

ARTICLE XII. CODE OF ETHICS/CONFLICT OF INTEREST

XX specifically agrees that this Agreement may be canceled or terminated by LCRVCOG in the event that XX, its sub-contractors, agents or employees violate the ethics laws, executive orders or policies of the State of Connecticut.

ARTICLE XIII. INDEPENDENT CONTRACTOR

XX is an independent contractor. XX employees shall neither claim to be an employee or agent of LCRVCOG, nor represent or appear to represent as LCRVCOG employees. XX shall not make any claim, demand or application to or for any right, benefit or privilege applicable to an employee of LCRVCOG.

ARTICLE XIV. COMPLIANCE WITH OTHER LAWS

XX agrees to comply with all applicable federal, state and local laws in the jurisdictions in which the services covered under this Agreement are performed. Further, XX shall cause all persons employed by them including subcontractors, agents, officers, and employees to comply with all such applicable laws. Any persistent, deliberate, or substantial failure of XX, their subcontractors, agents or employees to comply with such laws may result in the cancellation or termination of this Agreement.

ARTICLE XV. SUPERVISION

LCRVCOG reserves the right to supervise the work of XX through its representatives and through officers and employees of agencies of the State of Connecticut and member municipalities of LCRVCOG, as it shall determine.

ARTICLE XVI. ASSIGNMENT OF AGREEMENT

XX shall not assign, transfer, sell or convey this Agreement or any part thereof, or their right, title, or interest therein, to any person, firm, or corporation without the prior written consent of LCRVCOG.

ARTICLE XVII. PERFORMANCE

XX shall be liable for damages, delays, or failure to perform for any cause within the control of XX or their subcontractors, agents and employees to the extent such failure is caused by XX's failure to perform its services in accordance with the applicable standard of care. XX shall not be liable for damages, delays, or failure to perform resulting from governmental regulation, acts of war, acts of God, or other unforeseeable intervening acts that render performance impossible or impracticable. XX shall use all reasonable efforts to complete the work on time.

ARTICLE XVIII. AVAILABILITY OF FUNDS

XX specifically agrees that this Agreement shall be deemed binding on LCRVCOG only to the extent that funds designated for this PROJECT remain available. In the event that funds designated for this PROJECT become unavailable, LCRVCOG may cancel or terminate this Agreement and XX shall have no future claims against LCRVCOG, LCRVCOG member municipalities, or state of Connecticut in relation to this PROJECT other than for services performed prior to notice of such cancellation or termination.

ARTICLE XIX. PREQUALIFICATIONS AND RIGHT OF REMOVAL

LCRVCOG reserves the right to review the qualifications, credentials and salary classification of all employees and agents of XX and its sub-contractor(s) to verify compliance with all

applicable laws, regulations, policies and professional customs and standards. LCRVCOG further reserves the right to require removal from this project of any employee or agent of XX or its sub-contractor(s) who fails to meet minimum qualifications or standards set by law, regulation or professional custom, is incompetent or negligent in the performance of his or her duties, has failed to conduct himself or herself in an ethical and professional manner, or neglects or refuses to comply with the requirements of this Agreement.

ARTICLE IX. LCRVCOG CONTRACTS

This Agreement requires the completion of the project in accordance with the provisions and conditions of the LCRVCOG/OPM Notice of Grant Award Number XXX a copy of which LCRVCOG warrants that it has provided to XX. All provisions thereof, to the extent applicable to this Agreement, are hereby incorporated herein.

END OF GENERAL CONDITIONS

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year indicated.

LOWER CT RIVER VALLEY COUNCIL OF GOVERNMENTS

Witness:

[Faint, illegible text and lines, likely representing witness signatures and names.]