



**CITY OF SPRINGFIELD, MISSOURI
DIVISION OF PURCHASES**

REQUEST FOR PROPOSAL NO. 020-2017

CYBER SECURITY AWARENESS TRAINING

RFP Due Date: 3:00pm on Friday, September 2, 2016

Location: Division of Purchases, 218 E. Central, Springfield, MO 65802

Buyer: Margaret Juarez **Email:** mjuarez@springfieldmo.gov

Phone: 417-864-2079 **Fax:** 417-864-1927

Proposals will be received by the Purchasing Division at the specified location until the time and date cited above. Only proposals received by the correct time and date will be recorded.

Proposals must be submitted in an envelope with the Request for Proposal number and the Vendor's name and address clearly indicated on the envelope. All proposals must be completed in ink or typewritten and submitted by the time and date above.

Consultants are strongly encouraged to carefully read the entire Request for Proposal.

August 4, 2016
Issue Date

CITY OF SPRINGFIELD, MISSOURI
DIVISION OF PURCHASES
STANDARD INSTRUCTIONS TO PROPOSERS AND CONDITIONS OF REQUEST FOR PROPOSAL

1. PREPARATION OF PROPOSALS

A. Proposers are expected to examine the scope of services, delivery schedule, requirements and all instructions of the Request for Proposal. Failure to do so will be at Proposer's risk. In case of a mistake in extension, the unit price(s) will govern.

B. Any manufacturer's name, trade names, brand names, information and/or catalogue numbers listed in a specification are for information and are not intended to limit competition. The Proposer may offer any brand which meets or exceeds the specification for any item. If proposals are based on equivalent products, indicate on the proposal the manufacturer's name and model number. The Proposer shall explain in detail the reasons why the proposed equivalent will meet the specifications and not be considered an exception thereto. Proposals which do not comply with these requirements are subject to rejection. Proposals lacking any written indication of intent to propose an alternate brand will be received and considered in complete compliance with the specifications as listed on the proposal forms.

C. All supplies and equipment offered in a proposal must be new and of current production unless the Request for Proposal clearly specifies that used or reconditioned supplies or equipment may be offered.

D. Firm fixed prices shall be bid and include all packing, handling and shipping charges.

E. Unless otherwise indicated prices quoted shall be firm for acceptance for ninety days from proposal opening and for the specified contract period.

F. The City of Springfield does not pay federal excise and sales tax on direct purchases of tangible personal property. Exemption number A356656.

2. SUBMISSION OF PROPOSALS

A. A proposal submitted by a Proposer must (1) be manually signed by the Proposer on the Division of Purchases Request For Proposal Affidavit for Compliance form; (2) contain all information required by the Request For Proposal; (3) be priced as required; (4) be sealed in an envelope or container; (5) be attached to a security deposit if required; and (6) be delivered to the Division of Purchases and officially clocked in no later than the exact time and date specified on the Request For Proposal.

B. The sealed envelope or container containing a proposal should be clearly marked on the outside left corner with (1) the official Request For Proposal number and (2) the official closing date and time.

C. Do not submit proposals in response to other solicitations in the same sealed envelope. If more than one proposal is submitted in the same container, your proposal may be rejected as non-responsive.

3. MODIFICATION OR WITHDRAWAL OF PROPOSALS

A. Proposals may be modified or withdrawn by written or telegraphic notice received prior to the official closing date and time specified. A proposal may also be withdrawn or modified in person by the Proposer or his authorized representative provided proper

identification is presented before the official closing date and time. Verbal phone requests to withdraw or modify a proposal will not be considered.

B. After the official closing date and time, no proposal may be modified or withdrawn.

C. The proposal is firm for acceptance for ninety (90) days after proposal opening.

4. PROPOSAL OPENING

A. Proposal openings shall be public on the date and at the time specified on the proposal form. It is the Proposer's responsibility to assure that his proposal is delivered at the proper time and place of the proposal opening. Proposals which for any reason are not so delivered will be not considered. Offers by telegram, telephone, or facsimile will not be accepted, unless specifically authorized by the Request for Proposal. Proposal files may be examined during normal working hours by appointment.

5. AWARDS

A. Unless otherwise stated in the Request For Proposal, cash discounts for prompt payment of invoices will not be considered in the evaluation of prices, if part of the proposal. However, such discounts are encouraged to motivate prompt payment.

B. As the best interest of the City may require, the right is reserved to make awards; to reject any and all proposals or waive any minor irregularity of technicality in proposals received.

C. Awards will be made to the Proposer whose proposal (1) meets the specifications and all other requirements of the Request For Proposal and (2) is the best proposal, considering price, responsibility of the Proposer and all other relevant factors in the criteria for award.

D. Each proposal is received with the understanding that the acceptance in writing by the City of the offer to furnish any or all the materials, equipment, supplies or services described therein shall constitute a contract between the Proposer and the City; and shall bind the Proposer to furnish and deliver at the price, and in accordance with the conditions of said accepted proposal and detailed specifications.

6. OPEN COMPETITION

A. It is the intent and purpose of the Division of Purchases that the Request for Proposal permits free and open competition. However, it shall be the Proposer's responsibility to advise the Division of Purchases if any language, requirements, etc., or any combination thereof, inadvertently restricts or limits the requirement to a single source or otherwise prohibits the submission of a proposal. The notification should be received by the Division of Purchases at least ten days prior to the Request for Proposal closing date and time. The Proposer may submit a notification after the proposal closing provided sufficient time is permitted for a thorough review by the Division of Purchases and its decision will be final.

**CITY OF SPRINGFIELD, MISSOURI
DIVISION OF PURCHASES
STANDARD TERMS AND CONDITIONS OF PURCHASE**

A. This contract expresses the complete agreement of the parties and performance shall be governed solely by the terms and conditions contained herein. Changes, additions or modifications hereto must be in writing and signed by the Purchasing Agent.

B. **QUANTITIES:** The City of Springfield assumes no obligations for articles or materials shipped in excess in the quantity ordered. Any unauthorized quantity is subject to the City's rejection and returned at the Seller's expense.

C. **DELIVERY:** Time is of the essence of this order. If deliveries or completion time are not made at the time agreed upon, the City reserves the right to cancel or to purchase elsewhere and hold Seller liable for any re-procurement costs.

D. **SHIPMENT:** Deliveries shall be FOB: Destination unless otherwise specified by the City.

E. **INVOICES:** An original and three copies of the invoice shall be submitted and shall show the purchase order number or contract and contract release number and contain full descriptive information of item or services furnished.

F. **INSPECTION AND ACCEPTANCE:** No material received by the City pursuant to this contract shall be deemed accepted until the City has had reasonable opportunity to inspect said material. All material which is discovered to be defective or which does not conform to any warranty of the Seller herein upon inspection, or at any later time if the defects contained in the material were not reasonably ascertainable upon the initial inspection, may be returned at the Seller's expense for full credit or replacement. Such right to return offer to the City arising from the City's receipt of defective goods shall not exclude any other legal, equitable or contractual remedies the City may have therefore.

G. **WARRANTY:** Seller expressly warrants that all articles, materials and work covered by this contract will conform to each and every specification, drawing, sample or other description which is furnished to or is adopted by the City and that they will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defect. Such warranty shall not be deemed waived either by reason of the City's acceptance of said material or goods or by payment for them.

H. **PATENTS:** Seller guarantees that the sale or use of the articles described herein will not infringe upon any U. S. or foreign patent and Seller covenants that he will, at his own expense, defend every suit which may be brought against the City, or those selling or using City's product for any alleged infringement of any patent by reason of the sale or use of such articles and Seller agrees that he will pay all costs, damages and profits recoverable in any such suit.

I. **BANKRUPTCY OR INSOLVENCY:** In the event of any proceedings by or against either party, voluntary or involuntary, in bankruptcy or insolvency, or for the appointment of a receiver or trustee or an assignee for the benefit of creditors, of the property of Seller, or in the event of breach of any of the terms hereof including the warranties of the Seller, City may cancel this contract or affirm the contract and hold Seller responsible in damages.

J. **COMPLIANCE WITH APPLICABLE LAWS:** The Seller warrants its has complied with all applicable laws, rules and ordinances of the United States, or any state, municipality or any other governmental authority or agency in the manufacture or sale of the items covered by this contract, including but not limited to

all provisions of the Fair Labor Standard Act of 1938, as amended.

K. **INTERPRETATION OF CONTRACT AND ASSIGNMENTS:** The contract shall be construed according to the laws of the State of Missouri. The contract, or any rights, obligations or duties hereunder may not be assigned by Seller without City's written consent or any attempted assignment without such consent shall be void.

L. **TERMINATION OF CONTRACT:** The City reserves the right to terminate the contract at any time if any of the provisions of the contract are violated by the Contractor or by any of his Subcontractors, in the sole judgment and discretion of the City. In the event of such termination, the Contractor shall be liable for any excess costs incurred by the City. If the contract is so terminated, the City may purchase upon such terms and in such manner as the Purchasing Agent may deem appropriate, supplies or services similar to those so terminated, and that the Contractor will be liable for excess costs occasioned thereby.

M. **NON-DISCRIMINATION IN EMPLOYMENT:** In connection with the furnishing of supplies or performances or work under this contract, the Contractor agrees to comply with the Fair Labor Standard Act, Fair Employment Practices, Equal Opportunity Employment Act, and all other applicable federal and state laws, and further agrees to insert the foregoing provision in all subcontracts awarded hereunder.

N. **PROVISIONS BY LAW DEEMED INSERTED:** Each and every provision of the law and clauses required by law to be inserted in this contract will be deemed to be inserted herein and will read and enforced as though it were included herein, and if through mistake, or otherwise any such provision is not inserted, then upon the application of either party the contract will be physically amended to make such insertion or correction.

O. **PERFORMANCE BONDS:** If required, as a condition for the award of a contract, the amount of a performance bond will be described in the Request for Proposal at the time of issuance. The performance bond must be issued for the amount specified by a surety company, or secured with a certified check, cash, or cashiers check. No personal or company-check is acceptable.

P. **TAX-EXEMPT:** The City of Springfield is exempt from sales tax and Federal Excise Tax Certificate No. A356656.

Q. **ASSIGNMENT:** The Contractor shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the City thereto. Provided, however, that claims for money due or to become due to the Contractor from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished in writing promptly to the City. Any such assignment is expressly subject to all rights and remedies of the City under this agreement, including the right to change or delete activities from the contract or to terminate the same as provided herein, and no such assignment shall require the City to give any notice to any such assignee of any actions which the City may take under this agreement, though City will attempt to so notify any such assignee.

1.0 SCOPE OF WORK

RFP #020-2017

1.1 PURPOSE: The City of Springfield is requesting proposals for cloud-based training with a variety of courses for employees to take to increase employee cyber security awareness. Site shall be vendor hosted with moderate customization and reporting capabilities.

1.2 BACKGROUND: The City of Springfield currently does not have an online training program in place.

1.3 REQUIREMENTS:

1. Subscription for training must be hosted in the cloud and support Active Directory integration with Single Sign-On for our users.
2. The site shall have basic customization options where the City logo can be inserted and contain City specific branding for its training program.
3. Content must be engaging, interactive, adaptive based on user's knowledge and include testing and scoring for each course.
4. Each course shall include testing and then a certificate upon completion of the course with a satisfactory score and each certificate shall include a unique identifier (such as certificate ID) that can be tied to each individual user.
5. Subscription to service shall also include monthly newsletters with current up to date topics. The City prefers newsletters that are newly created each month as opposed to pre-made "canned" newsletters which may not include as up to date information.
6. At a minimum, courses shall include the following topics:
 - a. Basic Security Awareness Best Practices
 - b. Phishing/Email Security
 - c. Data Security
 - d. Mobile Security
 - e. Physical Security
7. Reporting features shall include the ability to see who viewed each specific course, whether they completed the course or not, their scores and how many attempts it took to them to complete the course with a passing grade.
8. All data collected and data transferred shall be encrypted and secured from unauthorized access. (Ex. SSL encryption)
9. The City must have ownership of all data. Data may not be re-sold or accessed by any third-party without consent. If the contract is canceled or not renewed, the vendor must provide a copy of all data according to the specifications of the City at that time.

1.4 SYSTEM REQUIREMENTS: Cyber Security Awareness site shall be accessible to any potential user through a variety of internet browsers – Internet Explorer and Chrome at the very least. Generated reports within the system shall be compatible with Microsoft Excel 2007 and newer.

1.5 SCHEDULE: The following is the schedule of events which are anticipated by the City for the implementation and completion of the project. The City may, in its discretion, revise the schedule of events at any time as may be in its best interests:

Publish Request for Proposal	August 4, 2016
Final Questions Due from Offerors	August 18, 2016
City's Response to Questions	August 22, 2016
Proposals Due	September 2, 2016
Anticipated Award	September 23, 2016*
Anticipated Notice to Proceed	October 2016

*The City would like to roll out the new Cyber Security Awareness Training as soon as possible to be ready for Cyber Security Awareness Month which is October. To expedite the process, please have a demo prepared in case the City requests to see one.

1.6 EXECUTION OF AGREEMENT: It is anticipated the selection of a firm will be completed as soon as possible after the review of the proposals. The successful proposer shall, within ten (10) calendar days after Notice of Award is issued by the City of Springfield Division of Purchases, enter into a contract with the City for the performance of work awarded to him/her and shall simultaneously provide any indemnities and insurance certificates. Failure to comply within the established deadline for submittal of required documents may be grounds for cancellation of the award.

2.0 GENERAL TERMS AND CONDITIONS

RFP #020-2017

Proposal Terms and Conditions:

The following terms and conditions apply to submitting proposals in response to this Request for Proposal:

- 2.1 Incurred expenses:** This City is not responsible for any expenses which proposers may incur in preparing and submitting proposals called for in this Request for Proposals.
- 2.2 Interviews:** The City reserves the right to conduct personal interviews or require presentations of any or all proposers prior to selection. The City will not be liable for any costs incurred by the proposer in connection with such interviews/presentations (i.e. travel, accommodations, etc.)
- 2.3 Request for Additional Information:** The proposer shall furnish such additional information as the City of Springfield may reasonably require. This includes information which indicates financial resources as well as ability to provide and maintain the system and/or services. The City reserves the right to make investigations of the qualifications of the proposer as it deems appropriate.
- 2.4 Acceptance/Rejection/Modification to Proposals:** The City reserves the right to negotiate modifications to proposals that it deems acceptable, reject any and all proposals, and to waive minor irregularities in the procedures.
- 2.5 Proposals Binding:** All proposals submitted shall be binding for one hundred twenty (120) calendar days following the opening.
- 2.6 Proprietary Information:** In accordance with Public Records Law, and except as may be provided by other applicable State and Federal law, all proposers should be aware that Requests for Proposals and the responses thereto are in the public domain. However, the proposers are requested to identify specifically any information contained in their proposals which they consider confidential and/or proprietary and which they believe to be exempt from disclosure, citing specifically the applicable exempting law.

All proposals received from proposers in response to this Request for Proposal will become the property of the City of Springfield and will not be returned to the proposers. In the event of contract award, all documentation produced as part of the contract will become the exclusive property of the City.
- 2.7 Proposer's Certification:** By submitting a proposal, the proposer certifies that he has fully read and understands the proposal method and has full knowledge of the scope and nature and quality of work to be performed. The proposer further certifies that no employee of the City has any direct or indirect financial interest in any resultant contract, and that no gratuities will be offered or provided to City of Springfield employees or their family members.
- 2.8 Non-exclusive contract:** The agreement resulting from this RFP shall be a non-exclusive contract, and the City reserves the right to purchase same or like services from other sources the City deems necessary and appropriate.
- 2.9 Exceptions:** If the Offeror desires to take exception to any terms, conditions and requirements of the RFP, the Offeror must clearly state those exceptions on the Affidavit of Compliance. Exceptions taken by the Offeror may be considered in the evaluation of proposals.

- 2.10 Late proposals:** Proposals received by the City after the time specified for receipt will not be considered. Proposers shall assume full responsibility for timely delivery of the proposals to the location designated for receipt of proposals. The City of Springfield is not responsible for the U.S. Mail or private couriers in regards to mail being delivered by the specified time so that a proposal can be considered. All proposals will be received at the time and place specified and made available for public inspection when an award decision is made.
- 2.11 Completeness:** All information required by the Request for Proposal must be supplied to constitute a legitimate proposal. The City of Springfield reserves the right to use any and all information presented in any response to the Request for Proposal. Acceptance or rejection of the RFP does not affect this right.
- 2.12 Confidential Information:** Information obtained from service providers is considered confidential and should be treated as such by the selected firm. The information must be kept confidential and shall not be disclosed to parties other than the firm's employees on a need-to-know basis for the purposes of this contract.

3.0 FORMAT, CONTENT, AND SUBMISSION OF PROPOSALS

RFP #020-2017

In order for the Committee to adequately compare proposals and evaluate them uniformly and objectively, all proposals shall be submitted in accordance with this format. The proposal should be prepared simply and economically, providing straight-forward and concise information as requested.

3.1 QUALIFICATIONS

- 3.1.1 Title Page: The complete legal name, address, Federal ID number or Social Security number, permanent address and telephone number of the Offeror including the name of the person to contact for discussion of the proposal. **NOTE:** The address listed on the proposal will ultimately be the address we mail the Award Letter/Contract to. Please use the correct mailing address to avoid a time delay resulting from Contracts being mailed to the wrong office.
- 3.1.2 Table of Contents
- 3.1.3 Letter of Transmittal - Limit to one (1) or two (2) printed pages
- 3.1.4 Overview of the company, including the year founded, office locations, and the number of years you have provided the services specified herein.
- 3.1.5 The resumes of the individuals that will be assigned to this project including prior work experience on similar projects.
- 3.1.6 A list of current clients (municipalities) represented by the firm for similar engagements.
- 3.1.7 At least three references including the nature and date of engagement, name, and contact information.

3.2 TECHNICAL INFORMATION:

- 3.2.1 Provide sufficient information to indicate the Offeror understands the Scope of Work and to describe how the Offeror will plan, implement, and accomplish the project. Plan must include a time table.
- 3.2.2 Specifically discuss how your firm can meet or exceed the requirements set forth in the Scope of Work.
- 3.2.3 Include a sample of a similar project completed by the firm. Confidential information may be redacted. The City would specifically like to see samples of the following:
 - A. Course completion certificate
 - B. Screenshot of a sample test
 - C. At least 2-3 sample newsletters
- 3.2.4 Include available Cyber Security Awareness course names and descriptions.
- 3.2.5 Include reporting features readily available.

3.2.6 Please include any and all other relevant information that supports the submitted proposal.

3.3 OFFER AND SCHEDULE OF PROFESSIONAL FEES AND EXPENSES: All fees and charges that might be assessed should be included in the pricing section of this Request for Proposal. Pricing should be expressed in terms of set-up fee and annual maintenance fee, as well as breaking out the costs for available courses, reporting features, add-ons, etc. for the product.

3.4 FORMS AND ATTACHMENTS: The Affidavit of Compliance Form is required to be sent with your proposal. Any exceptions to the RFP terms, conditions and requirements shall be stated on this form. Any amendments to the RFP shall be acknowledged on this form.

3.5 PROPOSAL DUE DATE: Sealed proposals with one (1) original and three (3) complete copies, along with one (1) electronic copy on a USB drive will be received at the Purchasing Division no later than 3:00 p.m. Friday, September 2, 2016. Proposals will not be accepted after this time. Proposals shall be addressed as follows:

For Mail or Hand Delivery

CITY OF SPRINGFIELD, MO

MARGARET JUAREZ, BUYER

218 E. CENTRAL

SPRINGFIELD, MO 65802

Submitted envelopes should be marked:

"REQUEST FOR PROPOSAL: #020-2017"

3.6 AMENDMENTS: If it becomes necessary to revise or amend any part of this Request for Proposal, the City Purchasing Agent will furnish the revision by written Amendment to all prospective proposers who received an original Request for Proposal.

3.7 PROPOSAL EVALUATION PROCESS: The steps and activities in the proposal process will include the following:

3.7.1 A Selection Committee consisting of at least three (3) members will be established to review and evaluate all proposals submitted in response to this Request for Proposals (RFP). The Committee shall conduct a preliminary evaluation of all proposals on the basis of the information provided and other evaluation criteria as set forth in this Request for Proposals or as reasonably determined by the Committee.

3.7.2 The Committee will first review each proposal for compliance with the minimum qualifications and mandatory requirements of the RFP. Failure to comply with any mandatory requirements may disqualify a proposal.

3.7.3 Proposals will then be evaluated and rated in accordance with the evaluation criteria. A shortlist will be developed listing the highest ranked proposals.

3.7.4 The City Purchasing Agent will confer with all responsible proposers who have been short listed and may arrange, if necessary, for interviews/presentations by the short listed firms.

3.7.5 The City Purchasing Agent reserves the right to conduct pre-award discussions and/or pre-contract negotiations with any or all responsive and responsible proposers who submit proposals determined to be reasonably acceptable of being selected for award. Proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submission of proposals and prior to award of a contract.

3.7.6 The City reserves the right to reject any and all proposals and to waive minor irregularities. The City

further reserves the right to seek new proposals when such a procedure is reasonable and in the best interests of the City to do so.

3.8 CRITERIA FOR AWARD: The Selection Committee will evaluate proposals and a recommendation will be made to the Purchasing Agent. Each proposal will be evaluated for full compliance with the RFP instructions to the Offeror and the mandatory terms and conditions set forth within the RFP. The objective of the evaluation will be to recommend the firm who is most responsive to the herein described needs of the City. Proposals which are responsive to this Request for Proposal will be evaluated based on, but not limited to the following criteria:

50% Quality of Content. (Content shall be interactive with adaptive scaling and include basic branding)

20% Courses must include testing with scoring capability / reporting features

20% Cost of subscription

10% Administration/Support

3.9 QUESTIONS REGARDING SPECIFICATIONS OR PROPOSAL PROCESS: To ensure fair consideration for all proposers, the City prohibits communication to or with any department, board, or employee during the submission process, except as provided in paragraph (B) below. Additionally, the City prohibits communications initiated by a proposer to the City official(s) or employee(s) evaluating or considering the proposals prior to the time an award decision is made. Any communication between proposer and the City will be initiated by the appropriate City Official(s) or employee(s) in order to obtain information or clarification needed to develop a proper, accurate evaluation of the proposal. Such communications initiated by a proposer may be grounds for disqualifying the offending proposer from consideration for award of the proposal and/or any future proposal(s).

3.9.1 Any questions relative to interpretation of specifications or the proposal process shall be addressed to the Buyer in writing, by the date set forth in the schedule referenced in 1.6. No inquiries, if received after the scheduled date will be given any consideration. Any interpretation made to prospective proposers will be expressed in the form of an amendment to the RFP which will be posted on the Purchasing website.

3.9.2 It will be the responsibility of the proposer to contact the Purchasing Division prior to submitting a proposal to ascertain if any amendments have been issued, to obtain all such amendments, and to acknowledge amendment with the proposal.

4.0 CONTRACT TERMS AND CONDITIONS

RFP #020-2017

- 4.1 AUTHORIZATION:** The services of the Contractor shall commence only as authorized in writing by City Purchase Order or other written notice and shall be undertaken and completed as promised by the Contractor in its bid.
- 4.2 TIME OF COMPLETION:** Notwithstanding the term of the Contract, the Contractor shall complete all work and provide all services in accordance with the schedule of time promised by the Contractor in the Contractor's proposal.
- 4.3 CONTRACT TERM:** The term of this contract shall be for a period of one (1) year beginning on date of award. The City may, at its option, extend the contract for up to four (4) additional one-year terms. In any additional year extension, the quantities may vary from the original listed in this RFP.
- 4.4 ESCALATION/DE-ESCALATION:** Proposal prices shall remain firm for a period of one (1) year from the date of award. The contract prices may be changed after the first year for the following reasons:
- a. An increase or decrease in the supplier's cost of materials may be justification for price change; however, this shall not be construed in any way to increase vendor's margin of profit.
 - b. All written request for price increase must include backup documentation as to the nature of the increase and shall be submitted to the City Purchasing Agent at least 30 days prior to the scheduled price increase/decrease or renewal of contract. Approval of each request shall be by written confirmation from the City Purchasing Agent. If the City should consider said increase unwarranted or unreasonable, the City reserves the right to terminate the contract with the vendor. Any price decline at the manufacturer's level shall be reflected in an immediate reduction of the contract prices and the vendor shall notify the buyer of said decline.
- 4.5 OCCUPATIONAL LICENSE:** The Contractor shall obtain and maintain an occupational license with the City of Springfield, Missouri. The cost for this occupational license shall be borne by the Contractor. No contract will be executed by the City until this occupational license has been obtained.
- 4.6 CERTIFICATION OF NON-RESIDENT/FOREIGN CONTRACTORS:** If the Consultant is a foreign corporation or non-resident Consultant, it is agreed that the Consultant shall procure and maintain during the life of this contract:
- 4.6.1 A certificate of authority to transact business in the State of Missouri from the Secretary of State, unless exempt pursuant to the provisions of Section 351.570 RSMo.
 - 4.6.2 A certificate from the Missouri Director of Revenue evidencing compliance with transient employer financial assurance law, unless exempt pursuant to the provisions of Section 285.230 RSMo.
- 4.7 GENERAL INDEPENDENT CONTRACTOR CLAUSE:** This agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the Contractor will be an independent Contractor and not the City's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri revenue and taxation laws, Missouri workers' compensation and unemployment insurance laws. The Contractor will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Contractor's activities and responsibilities hereunder. The Contractor agrees that it is a separate and independent enterprise from the public employer, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the Contractor and the City, and the City will not be liable for

any obligation incurred by the Contractor, including but not limited to unpaid minimum wages and/or overtime premiums.

4.8 CONTRACTOR'S RESPONSIBILITY FOR SUBCONTRACTORS: It is further agreed that Contractor shall be as fully responsible to the City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons it directly employs. Contractor shall cause appropriate provisions to be inserted in all subcontracts relating to this work, to bind all subcontractors to contractor by all the terms herein set forth, insofar as applicable to the work of subcontractors and to give Contractor the same power regarding termination of any subcontract as the City may exercise over Contractor under any provisions of this contract. Nothing contained in this contract shall create any contractual relations between any subcontractor and the City or between any subcontractors.

4.9 NON-DISCRIMINATION: The Contractor agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, status as a protected veteran or status as a qualified individual with a disability, or political opinion or affiliation, against any employee of Contractor or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder. The parties hereby incorporate the requirements of 41 C.F.R. §§ 60-1.4(a)(7), 29 C.F.R. Part 471, Appendix A to Subpart A, 41 C.F.R. § 60-300.5(a) and 41 C.F.R. § 60-741.5(a), if applicable.

This contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-300.5(a). This regulation prohibits discriminations against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

This contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

4.10 LIABILITY AND INDEMNITY:

- A. In no event shall the City be liable to the Contractor for special, indirect, or consequential damages, except those caused by the City's gross negligence or willful or wanton misconduct arising out of or in any way connected with a breach of this contract. The maximum liability of the City shall be limited to the amount of money to be paid or received by the City under this contract.
- B. The Contractor shall defend, indemnify and save harmless the City, its elected or appointed officials, agents and employees from and against any and all liability, suits, damages, costs (including attorney fees), losses, outlays and expenses from claims in any manner caused by, or allegedly caused by, or arising out of, or connected with, this contract, or the work or any subcontract thereunder (the Contractor hereby assuming full responsibility for relations with subcontractors), including, but not limited to, claims for personal injuries, death, property damage, or for damages from the award of this contract to Contractor, notwithstanding any possible negligence, whether sole or concurrent, on the part of the City, its officials, agents and employees.
- C. The Contractor shall indemnify and hold the City harmless from all wages or overtime compensation due any employees in rendering services pursuant to this agreement or any subcontract, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act, the Missouri Prevailing Wage Law or any other federal or state law.
- D. The indemnification obligations of Contractor hereunder shall not be limited by any limitations as to the amount or type of damages, compensation or benefits payable by or for the Contractor, under any federal or state law, to any person asserting the claim against City, its elected or appointed officials, agents and employees, for which indemnification is sought.

- E. The indemnification obligations herein shall not negate, abridge or reduce in any way any additional indemnification rights of the City, its elected or appointed officials, agents and employees, which are otherwise available under statute, or in law or equity.
- F. Contractor affirms that it has had the opportunity to recover the costs of the liability insurance required in this agreement in its contract price. Contractor's obligation under this agreement to defend, indemnify and hold harmless any person from that person's own negligence or wrongdoing is limited to the coverage and limits of the applicable insurance required of Contractor under this agreement.
- G. Intellectual Property Indemnification:
- i. Notwithstanding anything to the contrary the Contractor shall retain all right, title, and interest in all of the Contractor intellectual property. Customer agrees that it shall not disclose nor verify to any third party any information concerning the Contractor's trade secrets, methods, processes or procedures or any other confidential, financial or business information of the Contractor which it learned during the course of its performance of this Agreement, without the prior written consent of the Contractor.
 - ii. To the extent that either party specifically grants a license and provides the other with tradenames, registered trademarks registered service marks, or other copyrighted material (Collectively "IP"), the providing party agrees to defend and indemnify the other from any liability associated with the use of the IP in the provision of services under this Agreement as set forth below.
 - iii. Through the provision of Services, either party may provide the other with content including content licensed from third parties. Each party warrants to the other that it has the authority and license to provide the other with the content for the use for which it is provided. Further, each party shall defend and indemnify the other from any liability arising from the provision of content.
 - iv. If a claim is made or an action brought alleging that the Software Modules or Intellectual Property (IP) infringes a U.S. patent, or any copyright, trademark, trade secret or other proprietary right, the Contractor will defend the Customer against such claim and will pay resulting costs and damages finally awarded, and attorney's fees, provided that (i) Customer promptly notifies the Contractor in writing of the claim, (ii) The Contractor has sole control of the defense and all related settlement negotiations, and (iii) Customer cooperates in such defense. The obligations of the Contractor under this Section are conditioned on Customer's agreement that if the Software Module or IP, or the use or operation thereof, becomes, or in the opinion of the Contractor is likely to become, the subject of such a claim, the Contractor may—at its expense—either procure the right for Customer to continue using the Software Modules or IP or, at the option of The Contractor, replace or modify the same so that it becomes non-infringing (provided such replacement or modification maintains the same material functionality and does not adversely affect Customer's use of the Software Modules or IP as contemplated hereunder). If neither of the alternatives is available on terms which are reasonable in the Contractor's judgment, the Customer will return the Software Modules or IP.
 - v. If the Contractor gives the Customer notice that it chooses not to defend such claim or attempt to settle such claim on reasonable terms, The Contractor shall be deemed to have elected not to conduct the defense of the subject claim, and in such event the Customer shall have the right to conduct such defense and to compromise and settle the claim without prior consent of the Contractor, and in such case, the indemnity set forth in the first sentence of this paragraph shall apply.

4.11 ASSIGNMENT: The Contractor shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the City thereto. Provided, however, that claims for money due or to become due to the Contractor from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished in writing promptly to the City. Any such assignment is expressly subject to all rights

and remedies of the City under this agreement, including the right to change or delete activities from the contract or to terminate the same as provided herein, and no such assignment shall require the City to give any notice to any such assignee of any actions which the City may take under this agreement, though City will attempt to so notify any such assignee.

- 4.12 APPROPRIATION OF FUNDS:** In the event that funds are not appropriated by the Council of the City of Springfield for any term of the contract or extension thereto or portion of any term of the contract which falls in a fiscal period other than a fiscal period for which funds have been appropriated, the contract shall terminate without notice at the end of the fiscal period for which funds are appropriated.
- 4.13 MODIFICATION OF CONTRACT:** The Scope of Work to be done under the Contract shall be subject to modification and supplementation upon the written Agreement of the duly authorized representatives of the Contracting parties. No provision in the Contract shall be changed or modified without the execution of a formal addendum to the Contract, mutually agreed to by the City and the Contractor and processed through the Division of Purchases. Upon request by the City, the Contractor shall provide an estimate of cost of any additional work or services to be incorporated by a modification to the Scope of Work and the Contract.
- 4.14 CONTRACT DOCUMENTS:** The agreement between the City of Springfield and the Contractor shall consist of (1) the Request for Proposal, and any addenda thereto, and (2) the proposal, as accepted, submitted in response to the Request for Proposal, and (3) the award letter. In the event of a conflict in language between the documents referenced above, the provisions and requirements set forth and/or referenced in the Contract shall govern over all other documents, and the Request for Proposal and addenda thereto shall govern over the Contractor's Proposal and addenda thereto. However, the City reserves the right to clarify any Contractual relationship in writing with the concurrence of the Contractor, and such written clarification shall govern in case of conflict with the applicable requirements stated in the Request for Proposal or the Contractor's proposal. In all other matters not affected by the written clarification, if any, the Request for Proposal shall govern.
- 4.15 COOPERATION:** All information, data, and reports as are existing, available and necessary for the carrying out of the work, shall be furnished to the Contractor without charge, and the parties shall cooperate with each other in every way possible in carrying out of the scope of services.
- 4.16 COORDINATION:** The Contractor shall fully coordinate its activities in the performance of the contract with the activities of the City.
- 4.17 PERSONNEL:** The Contractor represents that Contractor will secure, at Contractor's own expense, all personnel required to provide the goods and/or perform the services called for under this contract by Contractor. Such personnel shall not be employees of or have any Contractual relationship with the City except as employees of the Contractor. All of the services required hereunder will be performed by the Contractor or under Contractor's direct supervision and all personnel engaged in the work shall be fully qualified and shall be authorized under state and local law to perform such services.
- 4.18 TERMINATION:**

For Breach: If, through any cause, the Consultant shall fail to fulfill in a timely and proper manner Consultant's obligations under this contract, or if the Consultant shall violate any of the covenants, agreements, or stipulations of this contract, the City shall thereupon have the right to terminate this contract by giving written notice to the Consultant of such termination and specifying the effective date thereof, at least five (5) days before the effective day of such termination.

For Convenience: The City shall have the right at any time by written notice to Consultant to terminate and cancel this contract, without cause, for the convenience of the City, and Consultant shall immediately stop work.

In either such event, all finished or unfinished documents, data, studies, reports, or other materials prepared by the Consultant shall, at the option of the City become its property. The Consultant shall be entitled to receive just and equitable compensation for any satisfactory work completed prior to termination of the contract. Notwithstanding the above, the Consultant shall not be relieved of liability to the City for damages sustained by the City by virtue of any such breach of the contract by the Consultant.

- 4.19 CITY'S RIGHT TO PROCEED:** In the event this contract is terminated pursuant to Paragraph 17, then the City may take over the work and prosecute the same to completion, by contract or otherwise, and Contractor and its sureties shall be liable to the City for any costs over the amount of this contract thereby occasioned by the City. In any such case the City may take possession of, and utilize in completing the work, such materials, appliances and structures as may be on the work site and are necessary for completion of the work. The foregoing provisions are in addition to, and not in limitation of, the rights of the City under any other provisions of the contract, City ordinances, and state and federal laws.
- 4.20 DELAY BY THE CITY:** City and Contractor agree that the schedule of services to be provided by Contractor under this agreement may depend upon timely fulfillment of City responsibilities. If the City is unable to provide services and/or facilities as specified in the contract documents, and/or causes delays to the project beyond Contractor's control, the Contractor shall be entitled to an extension of the time for contract completion but such contract time of completion shall be extended no more than one day for each day of delay caused by the City. Any such agreement to modify or extend the time of contract completion shall be made in writing by formal addendum to the contract. The contract time of completion shall not be extended because of delay caused by the City unless and until the Contractor has notified the City, in writing, that the City has caused a delay; such notice shall be made not later than seven (7) days after the beginning of the delay caused by the City.
- 4.21 SAFETY PRECAUTIONS:** The contractor shall maintain and enforce all necessary and adequate safety precautions for the protection of life and property on all work performed under the provisions of these Contract Documents. The contractor shall also comply with all regulatory agencies requirements for safety.
- 4.22 JURISDICTION:** This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Greene County, Missouri.
- 4.23 WAIVER:** No provision of the contract documents shall be construed, expressly or by implication, as a waiver by the City of any existing or future right or remedy available by law in the event of any claim of default or breach of contract.
- 4.24 CONFLICTS:** Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services to be performed under this contract. The Contractor further covenants that in the performance of this contract no person having such interest shall be employed.

No salaried officer or employee of the City and no member of the City Council shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations and applicable provisions in Section 105.450 RSMo., et seq. shall not be violated.

- 4.25 EXCHANGE OF DATA:** All information, data, and reports in the City's possession and necessary for the carrying out of the work, shall be furnished to the Contractor without charge, and the parties shall cooperate with each other in every way possible in carrying out the scope of services.
- 4.26 CONFIDENTIALITY OF DOCUMENTS:** Any reports, data, design or similar information given to or prepared or assembled by the Contractor under this contract which the City requests to be kept as confidential shall not be made available to any individual or organization by the Contractor without prior written approval of the City.

- 4.27 COMPLIANCE WITH LAWS:** Contractor agrees to comply with all applicable federal, state and local laws or rules and regulations applicable to the provision of services and products hereunder. Contractor affirmatively states that payment of all local, state, and federal taxes and assessments owed by Contractor is current.
- 4.28 ENTIRE AGREEMENT:** This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

Notice and Instructions to Bidders/Vendors

Regarding Sections 285.525 through 285.550 RSMO, Effective January 1, 2009 and Section 292.675 RSMO, Effective August 28, 2009

Effective January 1, 2009 and pursuant to the State of Missouri's RSMO 285.530 (1), No business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri.

As a condition for the award of any contract or grant in excess of five thousand dollars by the state or by any political subdivision of the state (e.g., Greene County, Mo.) to a business entity, the business entity (Company) shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Every such business entity shall sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. [RSMO 285.530 (2)]

RSMO 285.530 pertains to all solicitations for services over \$5,000. RSMO 285.530 does not apply to solicitations for goods only. If a solicitation is for services and goods, RSMO 285.530 applies if the services portion of the solicitation is over \$5,000.00.

1. Affidavit for Service Contracts over \$5,000.00 (US) – Effective 1-1-2009, Company shall comply with the provisions of Section 285.525 through 285.550 R.S.Mo. Contract award is contingent on Company providing an acceptable notarized affidavit stating:

- a. that Company is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the contracted services; and
- b. that Company does not knowingly employ any person who is an unauthorized alien in connection the contracted services.

2. Additionally, Company must provide documentation evidencing current enrollment in a federal work authorization program (e.g. electronic signature page from E-Verify program’s Memo of Understanding (MOU). *See attached sample.*

The City of Springfield encourages companies that are not already enrolled and participating in a federal work authorization program to do so. E-Verify is an example of this type of program. Information regarding E-Verify is available at <http://www.uscis.gov/e-verify> or by calling **888-464-4218**.

If you have any questions, please contact the City Purchasing Department at 417-864-1620.

**Affidavit of Compliance with Section 285.500, RSMo., et seq.
For All Agreements Providing Services In Excess Of \$5,000.00.**

Effective January 1, 2009

STATE OF _____)

) ss.

COUNTY OF _____)

Before me, the undersigned Notary Public, in and for the County of _____,

State of _____, personally appeared _____ (Name)

who is _____ (Title) of _____

(Name of company), a (circle one) corporation, partnership, sole proprietorship, limited liability company, and is competent and authorized to make this affidavit, and being duly sworn upon oath deposes and says as follows:

- (1) that said company is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the contracted services; and
- (2) that said company does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.

The terms used in this affidavit shall have the meaning set forth in Section 285.500 R.S.Mo., et seq.

Documentation of participation in a federal work authorization program is attached to this affidavit.

Signature _____

Print Name: _____

Subscribed and sworn to before me this ____ day of _____, _____.

Notary Public

My commission expires: _____

Company ID Number: XXXXXX

The foregoing constitutes the full agreement on this subject between the SSA, DHS (Department of Homeland Security), and the Employer.

The individuals whose signatures appear below represent that they are authorized to enter into this MOU on behalf of the Employer and DHS respectively.

To be accepted as a participant in E-Verify, you should only sign the Employer's Section of the signature page. If you have any questions, contact E-Verify Operations at 888-464-4218.

Employer, Your Company Name

John Doe

Name (Please type or print)

Title

Electronically Signed

01/01/2009

Signature

Date

Verification

Department of Homeland Security –Division

USCIS Verification Division

Name (Please type or print)

Title

Electronically Signed

01/01/2009

Signature

Sample
Memo of Understanding - MOU
E-Verify
Electronic Signature Page

**CITY OF SPRINGFIELD
STATEMENT OF "NO PROPOSAL"
REQUEST FOR PROPOSAL #020-2017**

RETURN THIS PAGE ONLY IF YOUR COMPANY PROVIDES THE PRODUCTS/SERVICES BEING BID AND DECLINES TO DO SO.

WE, THE UNDERSIGNED, HAVE DECLINED TO BID ON YOUR **RFP NO. 020-2017** FOR **CYBER SECURITY AWARENESS TRAINING** FOR THE FOLLOWING REASON(S):

_____ SPECIFICATIONS ARE TOO "TIGHT", I.E. GEARED TOWARD ONE BRAND OR MANUFACTURER ONLY
(PLEASE EXPLAIN REASON BELOW)

_____ INSUFFICIENT TIME TO RESPOND TO REQUEST FOR PROPOSAL.

_____ WE DO NOT OFFER THIS PRODUCT/S OR EQUIVALENT.

_____ REMOVE US FROM YOUR BIDDERS' LIST FOR THIS COMMODITY OR SERVICE

_____ OUR PRODUCT SCHEDULE WOULD NOT PERMIT US TO PERFORM.

_____ UNABLE TO MEET SPECIFICATIONS.

_____ UNABLE TO MEET INSURANCE REQUIREMENTS.

_____ SPECIFICATIONS UNCLEAR (PLEASE EXPLAIN BELOW).

_____ OTHER (PLEASE SPECIFY BELOW).

REMARKS: _____

COMPANY NAME: _____

ADDRESS: _____

SIGNATURE AND TITLE: _____

TELEPHONE NUMBER: _____

DATE: _____