

186429

INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement (IGA) is entered into by and between the City of Portland, acting by and through its City Budget Office, hereafter called "City" and the State Board of Higher Education, acting by and through Portland State University, hereafter called "PSU", individually the "Party", collectively the "Parties".

RECITALS

This Intergovernmental Agreement (IGA) is authorized pursuant to ORS 190.110. The purpose of this IGA is for PSU to assist with the Innovation Fund proposal review and implementation.

GENERAL PROVISIONS

1. Effective Date and Duration

This IGA is effective from the date of execution by both parties. Unless earlier terminated or extended, this IGA shall expire December 31, 2014 or earlier when deliverables have been completed. This IGA may be extended by mutual written consent signed by the parties.

2. Statement of Work

The statement of work (the "Work") including the delivery schedule for such Work is contained at the end of this agreement.

3. Project Representatives

Each party has designated a project manager to be the formal representative for this IGA. All reports, notes, and other communications required under or relating to the technical aspects of this IGA shall be directed to the appropriate individual.

CITY'S CONTACT:

Project Manager: Ryan Kinsella
Organization: City of Portland, City Budget Office
Address: 1120 S.W. Fifth Avenue, Rm 1204, Portland, Oregon 97204
Phone: 503.823.6960
Email: ryan.kinsella@portlandoregon.gov

PSU's CONTACT:

Project Manager: Marcus Ingle
Organization: Portland State University
Address: PO Box 751, PA-ELI, Portland, OR 97201
Phone: 503-725-8261
Email: mingle@pdx.edu

Administrative Contact: Jennifer Everett, jennifer.everett@pdx.edu or 503-725-8259

4. Subcontracts

PSU shall not enter into any subcontract for the work scheduled under this IGA.

5. Amendments

The terms of this IGA shall not be waived, altered, modified, supplemented or amended in any manner whatsoever, except by written instrument signed by both parties. The Director of the City Budget Office is authorized to execute amendments to this IGA on behalf of the City, provided such amendments do not increase risks or maximum payment amounts in this IGA, and approved as to form by the City Attorney.

6. Reimbursement

Total amount to PSU under this agreement is up \$60,000. PSU shall submit invoices to the City on a quarterly basis (March, June, September, and December 2014). Invoices shall contain the City's Agreement Number and include the services completed by PSU. Invoices shall be sent to City's Project Manager. The City's Project Manager or designee shall review and approve invoices. The City shall pay all amounts to which no dispute exists within thirty (30) days of receipt of the invoice. Payment shall be sent to Portland State University, Center for Public Service, Attn: Office Administrator, PO Box 751 (PA-ELI), Portland, OR 97207-0751.

7. Termination

- A. This IGA may be terminated for convenience at any time by mutual consent of both parties, or by either party upon fifteen (15) days notice in writing, and delivered by facsimile transmission or electronic mail (email) during regular business hours.
- B. Termination or modification of this IGA pursuant the section above, shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination. However, upon receiving a notice of termination, the City and/or PSU shall immediately cease all activities under this IGA, unless expressly directed otherwise by the City and/or PSU in the notice of termination. Further, upon termination, the City and/or PSU shall deliver to the other party all works-in-progress and other property that are or would be deliverables had the IGA been completed.

8. Funds Available and Authorized

The City certifies that at the time the IGA is written that sufficient funds are available and authorized for expenditure to finance costs of this IGA within current appropriation and limitation. In the event of any extension or non-appropriation, the City will notify PSU its intent to terminate this IGA.

9. Choice of Venue

This IGA shall be governed construed in accordance with the laws of the State of Oregon, without resort to any jurisdiction's conflicts of law, rules or doctrines. Any litigation between PSU and the City that arise out of or relates to performance of this IGA shall occur, if in the state courts, in the Multnomah County Circuit Court, and if in the federal courts, in the United States District Court for the District of Oregon.

10. Severability

If any term or provision of this IGA is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the IGA did not contain the particular term or provision held to be invalid.

11. Access to Records

Both parties and their duly authorized representatives shall have access to the books, documents, and records which are directly pertinent to the specific IGA for the purpose of making audit, examination, excerpts and transcript.

12. Compliance with Applicable Law

Both parties shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Work under this IGA. Without limiting the generality of the foregoing, parties expressly agrees to comply with (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659.425; (iv) all regulations and administrative rules established pursuant to the foregoing laws; (v) Any applicable sections of ORS Chapter 279, and (vi) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

13. Independent Contractor Relationship/Insurance

PSU through its employees, officers and agents, will provide the services described in this IGA as an independent contractor, and nothing herein shall be interpreted or construed as creating or establishing the relationship of employer/employee, principal/agent, partnership, joint venture, association, or any other type of legal or business relationship between the City and PSU or between PSU and the City. Each Party shall be solely responsible for paying its own taxes (federal, state, and local of any type or amount); the consideration owed to its own contractors and agents; its operational expenses; the wages, salaries, benefits, withholdings, and assessments for its employees (including, for example, federal and state income taxes, Social Security, Medicare, unemployment insurance, workers compensation, pension or retirement, medical or life insurance); and the damages or settlements for claims arising from the negligent, reckless, or intentional acts of its employees or agents, all without contribution from the other Party. PSU as an agency of the Oregon University System is fully insured per State of Oregon guidelines. All PSU personnel, officers and employees, acting within the scope of their employment are covered, limited by ORS 30.270. PSU is a subject under the Oregon Workers' Compensation law in compliance with ORS 656.017, and will maintain workers' compensation insurance throughout the duration of this Agreement.

14. Force Majeure

Neither Party shall be held responsible for delay or default caused by fire, riot, acts of Nature and war which are beyond its reasonable control. The affected party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under the IGA.

15. No Third Party Beneficiary

The City and PSU and the only parties to this IGA and as such, are the only parties entitled to enforce its terms. Nothing contained in this IGA gives or shall be construed to give or provide any benefit, direct, indirect, or otherwise to third parties unless third parties are expressly described as intended to be beneficiaries if its terms.

16. Contribution

If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified

Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which the State is jointly liable with the City (or would be if joined in the Third Party Claim), PSU shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the City in such proportion as is appropriate to reflect the relative fault of PSU on the one hand and of the City on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of PSU on the one hand and of the City on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. PSU's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if PSU had sole liability in the proceeding.

With respect to a Third Party Claim for which the City is jointly liable with PSU (or would be if joined in the Third Party Claim), the City shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by PSU in such proportion as is appropriate to reflect the relative fault of the City on the one hand and of PSU on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the City on the one hand and of PSU on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The City's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

17. Ownership of Work Product/Confidentiality

All new work product of PSU that results from this IGA (the Work Product) is the exclusive property of PSU. PSU gives the City of Portland an unlimited right in perpetuity to use all Work Product generated from this IGA for whatever City project or purpose is required. If the City makes any subsequent change(s) to the original PSU Work Product, the City is not required to notify PSU, but the City is required to document in writing the change(s) from the original Work Product in the revised Work Product. The City shall have the right to use all such deliverables for its own purposes, to allow third party to access and use the deliverables and to modify the deliverables at its own option.

PSU's officers, employees and agents will be expected to: refrain from using, disseminating or discussing the contents of information gained in the course of or by reason of this IGA with persons who are not involved in City matters, prior to being permitted to do so by the City or prior to when the information is non-public, privileged or

confidential; refrain from using or attempting to use City information to obtain financial gain or avoid financial detriment for him/herself, his/her relative or a member of his/her household where the gain or detriment would not otherwise be available but for the fellowship placement; not attempt to further personal gain through the use of confidential, privileged or non-public information gained in the course of or by reason of the IGA or activities on behalf of the City; avoid appearance of impropriety; and disclose to City's IGA representative any potential or actual financial conflicts of interests, and any information that would impair his or her ability to perform objectively and diligently in the projects identified in the Scope of Work for the City. Notwithstanding the above, PSU, as a State of Oregon Public Agency, is subject to ORS 192, The Oregon Public Records Law.

18. Merger Clause

This IGA constitutes the entire agreement between the parties. No waiver, consent, modification or change of terms of this IGA shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written not specified herein regarding this IGA.

This IGA may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute a single instrument. The parties agree that they may conduct this transaction, including any amendments or extension, by electronic means including the use of electronic signatures and facsimiles. THE PARTIES, BY THEIR SIGNATURES BELOW, ACKNOWLEDGE HAVING READ THIS IGA, UNDERSTAND IT, AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS.

CITY OF PORTLAND

THE STATE BOARD OF HIGHER
EDUCATION ACTING BY AND THROUGH
PORTLAND STATE UNIVERSITY

Mayor Date

Phil Keisling, Director Date
Center for Public Service

Approved as to form

City Attorney

Contract Officer Date
Contracting & Procurement Services

Statement of Work
Assist with the Implementation of the FY 2013-14 Innovation Fund Proposals

Introduction

Portland State University's Center for Public Service (PSU-CPS), working in collaboration with the City Budget Office, shall assist selected bureaus, whose proposals were funded by the City's Innovation Fund, to help ensure the effective implementation and evaluation of their proposals while enhancing the City of Portland's capacity to promote and encourage innovation throughout City. PSU-CPS will also work with selected bureaus, whose proposals were not initially funded, by assisting them with improving their proposals for future consideration and/or identifying other innovation-related initiatives.

As part of this engagement, and in consultation with the PSU-CPS team, a common definition of innovation and/or its main principles will be approved by the Office of the Mayor and/or the Innovation Task Force prior to the start of this Statement of Work.

PSU-CPS shall provide assistance under the conditions and with the tasks and deliverables as described below.

PSU-CPS Tasks

As outlined in the Innovation Fund Framework, it is expected that some proposed projects submitted to the Innovation Fund Task Force will be recommended for immediate funding, while others will be targeted for additional work and potential resubmission. PSU-CPS and the City will develop a work plan that identifies which proposed projects will be part of tasks 1 and 2, as described below, and then allot the number of PSU-CPS hours per task and project.

PSU-CPS will collaborate and work directly with selected bureaus during the term of this agreement to help ensure the effective implementation and evaluation of the innovation proposals chosen for funding. PSU-CPS will also work with selected bureaus to develop new and/or improved proposals that could better meet the innovation-related goals and objectives of the City of Portland and potentially merit consideration for future funding.

1. Proposals recommended for immediate funding

For bureaus whose proposals were accepted, PSU-CPS shall collaborate with bureaus through such means as facilitated work groups and peer-to-peer learning activities to help them:

- a. Develop specific objectives and actions to optimize innovative outcomes;
- b. Understand and include "critical innovation success factors" in their innovation work;
- c. Identify appropriate tools and measurement strategies to ensure the effective implementation, monitoring, and evaluation of funded innovations;
- d. Identify other resources, including possible nonprofit, governmental and private partners within the community, whose resources and assistance could be leveraged to further improve project proposals and outcomes.

2. Proposals not recommended for immediate funding

At the request of the Innovation Fund Task Force, PSU-CPS shall collaborate with selected

bureaus, whose submitted proposals were not immediately funded, to:

- a. Identify the relevant conditions, challenges, and opportunities that will inform and determine how an improved and re-submitted proposal might better meet the criteria for successful funding from the Innovation Fund or other sources;
- b. Where appropriate, work with the selected bureaus to submit new or improved proposals for future funding, or help identify alternative strategies (e.g., using current bureau or city resources, or pursuing new policies or approaches);
- c. Where appropriate, identify new potential initiatives that might qualify for future Innovation Fund support or resources from other sources.

3. *Proposal Implementation Evaluation*

PSU-CPS will work with the City to devise and apply performance evaluation and measurement tools during the first six months of implementation that can be used to build capacity and capability within the agencies to evaluate funded proposals throughout the life of the project. Such tools or guidance will include a reporting structure and (where appropriate) proposed metrics for key concepts such as “return on investment” or expanded capacity/capability; actual costs and demonstrated savings; customer satisfaction levels; service quality improvements; and increased trust and legitimacy with stakeholders and city residents. Once these measurement tools are designed, the Center for Public Service team, in consultation with the City Budget Office, will work with the selected bureaus to apply these evaluation and performance measurement tools to the funded innovation proposals. Where appropriate, PSU-CPS will provide a reframed definition of innovation and/or its main principles for the City, and work with the City on appropriate criteria for future innovation funding efforts.

Deliverables

PSU-CPS shall provide the City and Innovation Fund Task Force with a report that summarizes its work with the City and the bureaus, including details of the tasks described above. In addition to the proposal guidance activities described in Tasks 1 and 2, PSU-CPS shall also provide a proposed framework that includes instructions for how bureaus can effectively apply, monitor, and continue to improve the evaluation and performance measurement tools -- as described under the Task 3 “Proposal Implementation Evaluation” portion of this agreement -- once this particular engagement is completed.

Timeline

Upon effective execution of the IGA, PSU-CPS shall begin its tasks, as described in this Statement of Work, immediately following the selection of proposals by the Innovation Fund Task Force. Direct work with the selected bureaus is expected to begin in February 2014 and continue through September 2014. PSU shall deliver its final report to the City no later than December 1, 2014.

Cost of Service

The fee for these services and deliverables as described above shall not exceed \$60,000 for this intergovernmental agreement (IGA), unless authorized by a written Amendment to the Task Order. The price for these services and deliverables as described above shall be based upon the hourly rate of \$160/hour for faculty for an estimated 300 hours and \$30/hour for graduate students for an estimated 400 hours. Allotment of hours to tasks and proposals shall be described in the work plan.