



# *Executive Committee Meeting Notice*

**Thursday, October 26, 2023 ♦ 11:15 a.m.**

**Midlands Technical College – Harbison Campus (in person)**

**7300 College Street, Irmo, SC 29063**

**Continuing Education Center, Room 113 and Zoom Meeting (Virtual)**

**<https://us02web.zoom.us/j/89498278795?pwd=QnpOWEM1b0FJSWtzZGVUTGtlWHFuQT09>**

**Meeting ID: 894 9827 8795 ♦ Passcode: 193896 ♦ Dial-In Number (929) 205-6099**

**DATE: October 19, 2023**

**TO: CMCOG Executive Board Members:**

Will Brennan, City of Columbia, Chairman  
Annie McDaniel, Fairfield County, Vice-Chairperson  
Foster Senn, City of Newberry, Immediate Past Chairman  
Todd Cullum, Lexington County  
Clarence Gilbert, Fairfield County  
Darrell Hudson, Lexington County  
Paul Livingston, Richland County  
Steve MacDougall, Town of Lexington  
Walt McLeod, Newberry County  
John McMeekin, Town of Winnsboro  
Chakisse Newton, Richland County  
Elise Partin, City of Cayce  
Peter Brown, City of Columbia  
Howard Duvall, City of Columbia  
Vina Abrams, Newberry County

**FROM: Will Brennan, CMCOG Board Chair**

**SUBJECT: Executive Committee Meeting – October 26, 2023 at 11:15 A.M**

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Please be advised that the next meeting of the Executive Committee of Central Midlands Council of Governments will be held on **Thursday, October 26, 2023 at Midlands Technical College Harbison Campus, Continuing Education Center, Room 113. See attached map of the campus for additional information.**

The meeting will start promptly at 11:15 A.M., so please connect to the call early so we can start the meeting on time.

Please remember if we do not hear from you, we expect that you will be attending the meeting.

Enclosures

*Serving Local Governments in South Carolina's Midlands*

236 Stoneridge Drive, Columbia, SC 29210 ♦ (803) 376-5390 ♦ FAX (803) 376-5394 ♦ Web Site: <http://www.centralmidlands.org>



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**OVERALL AGENDA**

**ACTION**

**A. Call to Order and Introductions**

**Will Brennan,  
Chair**

1. Determination of a Quorum
2. Approve Order and Contents of the Overall Agenda

**B. Consent Agenda**

**C. Regular Agenda**

1. Monthly Financial Status Report (August 2023) (*Enclosure 2*) **Melissa Labbe**
2. CMCOG Procurement Policy (*Enclosure 3*) **Britt Poole**
3. \*2020 – 2027 TIP Amendment – Guideshare Increase (*Enclosure 4*) **Reginald Simmons**
4. \*2020 – 2027 TIP Amendment – Match & Maintenance Guidance (*Enclosure 5*) **Reginald Simmons**

**INFORMATION**

**D. Announcements / Committee or Staff Reports / Correspondences**

1. CMCOG Committee Reports **Britt Poole**
2. Executive Director's Report **Britt Poole**

**E. Old/New Business**

**F. Other Business**

**G. Adjourn**

**REMINDER: The next Executive Committee Meeting will be held on Thursday, December 14, 2023**

**Note: Full Agenda packets can be found on the CMCOG website at [www.cmcog.org](http://www.cmcog.org).**

**\*Denotes item is an Metropolitan Planning Organization (MPO) Urbanized Area Request**



# *CMCOG Meeting Notice*

**Thursday, October 26, 2023 ♦ 12:00 P.M.**

**Midlands Technical College – Harbison Campus (in person)**

**7300 College Street, Irmo, SC 29063**

**Continuing Education Center, Room 113 and Zoom Meeting (Virtual)**

**<https://us02web.zoom.us/j/82725402522?pwd=M1B6ZmJ0T2FjQmxVNVhEZHIcEtOQT09>**

**Meeting ID: 827 2540 2522 ♦ Passcode: 255621 ♦ Dial-In Number (929) 205-6099**

**DATE: October 19, 2023**

**TO: CMCOG Board of Directors**

**FROM: Will Brennan, CMCOG Board Chair**

**SUBJECT: CMCOG Board Meeting – October 26, 2023 at 12:00 P.M.**

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Please be advised that the next meeting of the Central Midlands Council of Governments Board of Directors will be held on **Thursday, October 26, 2023 at Midlands Technical College Harbison Campus, Continuing Education Center, Room 113. See attached map of the campus for additional information.**

The meeting will start promptly at 12:00 P.M., so please arrive on time. We need a quorum to conduct business, so it is very important for you to plan to attend each meeting. The meeting packet has been mailed and emailed to you.

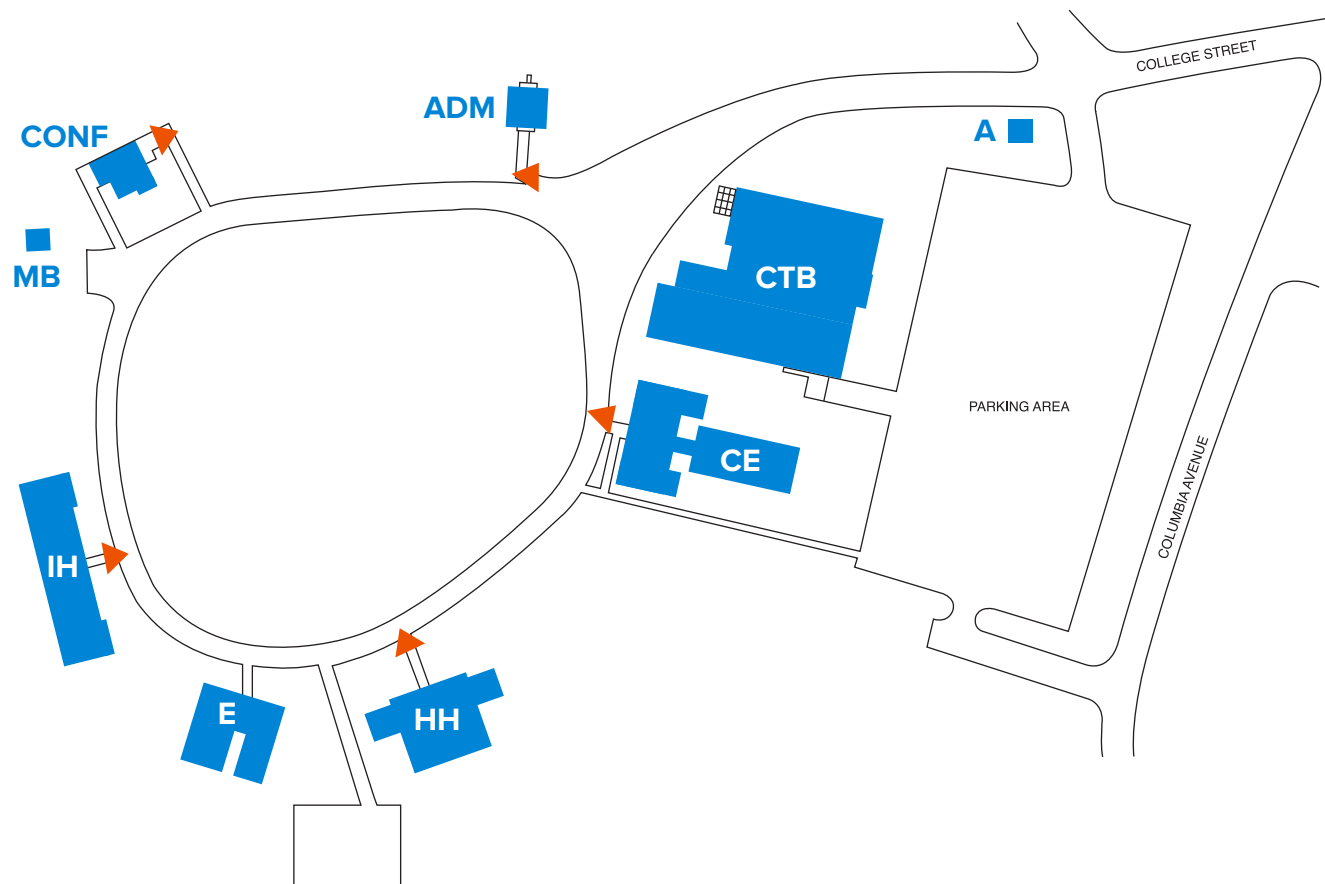
I thank you for your time and service to the Central Midlands Council of Governments.

Enclosures

## BUILDING LOCATION MAP HARBISON CAMPUS



7300 College Street  
Irmo, SC 29063



### Building Legend Harbison Campus

- A - Guard Station
- ADM - Administration
- CONF - Conference Center
- IH - Irmo Hall
- E - Storage
- HH - Harbison Hall
- CE - Continuing Education Center
- MB - Maintenance Building
- CTB - Classroom and Theatre Building

▲ Curb access ramps for students with disabilities



**Board of Directors Meeting**

**Thursday, October 26, 2023 ♦ 12:00 p.m.**

**Midlands Technical College – Harbison Campus (in person)**

**7300 College Street, Irmo, SC 29063**

**Continuing Education Center, Room 113 and Zoom Meeting (Virtual)**

**<https://us02web.zoom.us/j/82725402522?pwd=M1B6ZmJ0T2FjQmxVNhVhEZHILcEtOQT09>**

**Meeting ID: 827 2540 2522 ♦ Passcode: 255621 ♦ Dial-In Number (929) 205-6099**

**OVERALL AGENDA**

ACTION	<b>A. <u>Call to Order and Introductions</u></b>	<b>Will Brennan, Chair</b>
	1. Determination of a Quorum	
	2. Approve Order and Contents of the Overall Agenda	
	3. Invocation	
	4. Introduction of Guests	
	5. Chairman's Introduction	<b>Will Brennan</b>
	Good News from CMCOG – Around the Region	<b>Will Brennan</b>
	<b>B. <u>Consent Agenda</u></b>	
	1. Approval of the September 28, 2023 Board Meeting Minutes ( <i>Enclosure 1</i> )	
	<b>C. <u>Regular Agenda</u></b>	
INFORMATION	1. Monthly Financial Status Report (August 2023) ( <i>Enclosure 2</i> )	<b>Melissa Labbe</b>
	2. CMCOG Procurement Policy ( <i>Enclosure 3</i> )	<b>Britt Poole</b>
	3. *2020 – 2027 TIP Amendment – Guideshare Increase ( <i>Enclosure 4</i> )	<b>Reginald Simmons</b>
	4. *2020 – 2027 TIP Amendment – Match & Maintenance Guidance ( <i>Enclosure 5</i> )	<b>Reginald Simmons</b>
	<b>D. <u>Announcements / Committee or Staff Reports / Correspondences</u></b>	
	1. Carbon Reduction Program Overview ( <i>Enclosure 6</i> )	<b>Reginald Simmons</b>
	2. Congestion Management Plan (CMP) Project Overview	<b>Jonathan Guy</b>
	3. CMCOG Committee Reports	<b>Britt Poole</b>
	4. Executive Director's Report	<b>Britt Poole</b>
	<b>E. <u>Old/New Business</u></b>	
	<b>F. <u>Other Business</u></b>	
	<b>G. <u>Adjourn</u></b>	

**REMINDER: The next CMCOG Board Meeting will be held on Thursday, December 14, 2023**

**Note: Full Agenda packets can be found on the CMCOG website at [www.cmcog.org](http://www.cmcog.org).**

\*Denotes item is an Metropolitan Planning Organization (MPO) Urbanized Area Request



**Board of Directors Meeting of the  
Central Midlands Council of Governments  
Thursday, September 28, 2023 ♦ 12:00 p.m. ♦ Midlands Technical College  
Harbison Campus – 7300 College Street, Irmo, SC 29063  
Continuing Education Center, Room 113 and Zoom Meeting (Virtual)  
Meeting ID: 854 3029 6807 ♦ Passcode: 762824 ♦ Dial-In Number (929) 205-6099**

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**BOARD MEMBERS PRESENT:**

Vina Abrams, Newberry County  
Todd Beasley, Richland County  
***Will Brennan, CHAIR, City of Columbia***  
Paul Lawrence “Larry” Brigham, Jr., Lexington  
County Council  
Susan Brill, Richland County  
Peter Brown, City of Columbia  
John Carrigg, Lexington County  
Brian Carter, City of West Columbia  
Kyle Crager, Fairfield County  
Rebecca Connally, Lexington County  
Glen Conwell, Lexington County Council  
Todd Cullum, Lexington County Council  
Smokey Davis, Lexington County  
William “Bill” Danielson, Town of Irmo  
William “Rusty” DePass, City of Columbia  
Bill Dukes, SCDOT Commissioner  
Howard Duvall, Jr., City of Columbia  
Amadeo Geere, City of Columbia  
Clarence Gilbert, Fairfield County Council  
Bob Hall, Batesburg-Leesville  
Darrell Hudson, Lexington County Council  
Haskell Kibler, Forest Acres  
Robert Liming, City of Columbia  
Paul Livingston, Richland County Council  
Steve MacDougall, Town of Lexington  
***Annie McDaniel, Vice-Chair, Fairfield County  
Del.***  
Walton McLeod, Newberry County  
John McMeekin, Mayor, Town of Winnsboro  
Joe Mergo III, Lexington County  
Chakisse Newton, Richland County Council  
Stephanie O’Cain, Richland County  
Foster Senn, Mayor, City of Newberry

William Simon, Richland County

**GUESTS PRESENT:**

Samantha Carr, SCDOT  
Jim Walden, SCDOT  
Courtney Dennis, Town of Irmo  
Joe Martin, District 85  
Brett McCutchan, Stantec  
Fearn Gupton, SC Dept. of Commerce  
Sarah Neff, HDR  
Adam Humphries, SCDOT  
Bill Jordan, AECOM  
Joey McIntyre, SCDOT  
Michelle Ransom, The Comet, CMRTA  
Will Dillard, Belser Law Firm

**STAFF MEMBERS PRESENT:**

Fretria Addison, LTC Ombudsman Volunteer  
Coordinator/Information Support Specialist  
Roland Bart, Senior Planner  
Shelia Bell-Ford, SHIP Coordinator  
Tammy Beagan, Workforce  
Aleigha Chee-you, Ombudsman Program  
Assistant  
Anna Harmon, Director, LTCOP  
Jason Kent, GIS Manager  
Missi Labbe, Finance Director  
Britt Poole, Executive Director  
Reginald Simmons, Deputy Executive Director/  
Transportation Director  
Gregory Sprouse, Director, Planning, Research  
Lilnora White, HR Manager

**A1. CALL TO ORDER**

Chairman Will Brennan called the meeting to order at 12:08 p.m. on September 28, 2023.

**A2. Approve Order and Contents of the Overall Agenda**

Chairman Brennan stated that a quorum was present.

**MOTION, approved**

**Darrell Hudson moved for approval, seconded by Robert Liming to approve the Order and Contents of the Overall Agenda. The motion was approved.**

**A3. Invocation**

The invocation was given by Smokey Davis.

**A4. Introduction of Guests and New Staff**

Chairman Brennan welcomed and introduced our guests for today's meeting. He also introduced a new board member Mr. Bill Danielson who will be representing The Town of Irmo.

Britt Poole introduced Ms. Lilnora White who has been hired as CMCOG's new HR Manager.

**A5. Chairman's Introduction**

**Chairman Brennan gave the following good news from CMCOG – Around the Region:**

- Meeting Street & US 1 Improvements – The City of West Columbia announced plans for transformative improvements enhancing both aesthetics and access on Meeting Street and the US-1 corridor, funded by the American Rescue Plan Act and in partnership with SCDOT. Beginning early next year, plans will include: on-street parking, dedicated turn lanes, pedestrian crosswalks, shared-use paths, stamped crosswalks and mast arm traffic signals for pedestrian safety as well as concrete and landscaped medians.
- Richland County through their support for small businesses, hosted their 5<sup>th</sup> Annual Small Business Conference. The Conference was free to attend and featured panel discussions, workshop sessions, wisdom and insights from keynote speaker, Matt Vaadi, CEO of GUHROO.
- Groundbreaking Ceremony for Finlay Park – The City of Columbia held a Groundbreaking Ceremony for Finlay Park. The revitalization efforts will include: Repairing the iconic spiral fountain, Accessibility upgrades, constructing multi-use structures for events and park activation, including a new band stage, new amenities such as strolling gardens, multiple walkways, an overlook plaza, restrooms, a shade shelter, a destination playground and so much more.
- Darby Nursing & Health Science Center Ribbon Cutting – Mayor Foster Senn and Senator Ronnie Cromer welcome Newberry's College new Nursing and Health Science Center. The 11,000 square foot facility will be the state-of-the-art home of the College's growing healthcare programs. The

daytime clinic will not only serve as an urgent care center of the community, but as a prime location for students to get hands-on experience without leaving campus.

**B. CONSENT AGENDA**

**B1. Approval of the August 24, 2023 Board Meeting Minutes.**

**MOTION, approved**

**Robert Liming moved for approval, seconded by John McMeekin to approve Consent Agenda. The motion was approved.**

**C. REGULAR AGENDA**

**C1. Monthly Financial Status Report (August 2023)**

Missi Labbi gave presentation regarding the Monthly Financial Status Report (August 2023). A brief discussion took place.

**MOTION, approved**

**Smokey Davis moved for approval of the Monthly Financial Status Report (August 2023). The motion was seconded by Chakisse Newton. The motion was approved.**

**C2. Resolution on the CMCOG Board of Directors Bylaws**

Will Dilliard, Attorney, presented a resolution for the adoption of the updated CMCOG Board of Directors Bylaws. Several changes were requested after the August Board Meeting. Mr. Dillard highlighted those changes for the Board. He noted that all the requested changes have been addressed.

A brief discussion took place.

**MOTION, approved**

**Chakisse Newton moved for adoption of the Resolution on the updated CMCOG Board of Directors Bylaws. The motion was seconded by Walt McLeod. The motion was approved.**

**Bob Hall voted NO.**

**C3. Resolution to apply for Federal and State Grants**

Reginald Simmons requested a recommendation of approval to adopt a resolution that will allow the Executive Director to apply for and execute federal and state grants. CMCOG receives grant opportunities for FHWA, FTA, and SCDOT. CMCOG uses these grant funds to develop and implement transportation planning projects. These grants are also used to support the transportation planning staff. Projects identified with these grant funds are included in the COG RPWP and/or MPO UPWP and/or the urban and rural TIPs. In order to continue our transportation planning efforts, we request approval of this resolution.



**MOTION, approved**

**Smokey Davis moved for approval, seconded by Chakisse Newton to approve the Resolution to apply for Federal and State Grants. The motion was approved.**

**D. Announcements / Committee or Staff Reports / Correspondences**

**D1. Status updates on Transportation Projects**

Joey McIntyre of SCDOT provided an overview of the current active transportation projects within the CMCOG region. The project categories included:

- COATS/CMCOG Widenings
- COATS/CMCOG Intersections
- COATS/CMCOG Interchange
- Bridge Replacement Projects
- Interstate Rehabilitation Projects
- Interstate Widening Projects

The status of preliminary engineering, right-of-way acquisition, and construction was presented for each project.

There was a brief discussion.

**D2. Executive Directors Report**

Britt Poole gave the following report:

Mr. Poole thanked everyone who were able to attend the new board member orientation whether in person or via Zoom. He will continue to refine this training in the future.

**AAA**

- Since the last board meeting the AAA has held 5 more COVID outreach events directed with an emphasis on health hygiene practices. Total attendance at all events was over 400. Additionally, we have distributed 528 bags containing health-related goodies.
- I also need to report an unfortunate event. On September 13<sup>th</sup>, Dowdy Community Care Home, a facility that is under the preview of the Central Midlands Ombudsman Program, had to close due to an emergency. LaToya Buggs-Williams and Fretoria Addison went on-site and were able to assist and advocate for the residents to be relocated that day by finding beds for those impacted within Richland County. We would also like to thank the State Ombudsman Program as well as SC DHEC for their assistance.

## **Research, Planning, and Development**

- Staff completed and closed a Community Development Block Grant project for the City of Newberry. The \$431,664 grant was used to demolish 31 vacant and dilapidated houses in the West End neighborhood. Staff also submitted a new \$268,500 CDBG application for the City of Newberry to demolish an additional 12 vacant and dilapidated houses in the Wise Street neighborhood.
- We also received word this month that the Southeast Crescent Regional Commission has awarded CMCOG a capacity-building grant for \$22K to assist in regional planning. We expect other grant opportunities to come from the commission in the future some may be direct to the jurisdictions. We will work with member jurisdictions to apply for those opportunities as they become available.

## **Finance**

- The audit for FY 23 will begin in mid-October. The goal is to have a completed audit presented to the Board by December.

## **Transportation**

- A notice of grant award was received from FTA in the amount of \$509k to assist with the purchase of vehicles for human service-type agencies.

## **Workforce**

- On September 20<sup>th</sup> a job fair was hosted at Dutch Square. The turnout was awesome. We had 82 employers and well over 1000 job seekers. Employers reported 595 potential hires so far from the event.
- In October we will have the Midlands apprenticeship fair. This will be back at Dutch Square Center on **October 12<sup>th</sup> from 9-1:30**.

## **Announcements**

- After much struggle, Facebook has finally allowed us back into the CMCOG Facebook page. I encourage any board members that haven't to like the page.
- In partnership with the Municipal Association and Association of Counties, Central Midlands will be hosting a City/County Administrators Managers Network Gathering on **November 2, 2023, starting at 11:15**
- If you haven't done so already, please complete a board contact form. We have a number of hard copies today if you would rather not complete the digital form.
- You should have received a registration form for the **SC COG's Annual Conference** via email today. Please complete the form if you wish to attend the conference. We need these returned by **Monday, October 9<sup>th</sup>**. We cannot guarantee rooms in the block after this date. Forms can be

returned to Lilnora White via email at [LWhite@CentralMidlands.org](mailto:LWhite@CentralMidlands.org). The conference is **Sunday, November 19-21 at the Embassy Suites in Myrtle Beach.**

**Mr. Poole welcomed and recognized the new hires since the last Board meeting:**

- Garry Baxley                      Aging Finance Manager
- Kenya Boatwright          Family Caregiver Advocate
- Lilnora White                    Human Resource Manager
- Sandra Eskew                  Ombudsman Investigator
- Kelli Ham                        Workforce Financial Analyst

As well as new interns:

- Jannie Davis
- Fanasia McCreary
- Monica Samuel

Finally, some sad news, Mr. Joe Perry an employee who has been on leave for some time passed away, His service is being conducted today in Sumter, SC. Joe last worked in the aging department and was well-loved by those who knew him.

**E.     OLD / NEW BUSINESS**

**E1.**    None

**F.     OTHER BUSINESS**

Next Meeting is scheduled for October 26<sup>th</sup>.

**G.     Adjourn**

There being no further business, the meeting adjourned at 12:46 pm.

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Britt Poole, Secretary-Treasurer

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Will Brennan, Chairman

**Financial Statement-CMCOG**  
**August 31, 2023**

	<u>Approved Budget</u>	<u>Y-T-D Actual</u>	<u>Percent of Budget</u>
<b>Revenue</b>			
Local Revenue			
Member Governments	863,744.00	167,193.01	19%
State Aid	125,102.00	31,275.50	25%
Interest	150.00	0.00	0%
Fringe Recovery	1,227,820.00	183,045.17	15%
Indirect Cost Recovery	481,885.00	73,163.05	15%
Total Local Revenue	<u>2,698,701.00</u>	<u>454,676.73</u>	<u>17%</u>
Program Revenue			
Aging Planning & Administration	4,824,168.00	847,949.18	18%
Ombudsman Program	572,127.00	73,951.53	13%
Midlands Workforce Development Board	3,751,750.00	649,300.53	17%
Transportation	2,550,830.00	51,366.93	2%
Regional Planning	120,000.00	2,043.47	2%
Community Development	183,000.00	55,057.35	30%
Economic Development Administration	287,625.00	11,359.51	4%
Local Contracts	35,500.00	8,713.59	25%
Total Program Revenue	<u>12,325,000</u>	<u>1,699,742.09</u>	<u>14%</u>
Total Revenue	<u>15,023,701</u>	<u>2,154,418.82</u>	<u>14%</u>
<b>Expenses</b>			
Operating Expenses			
Personnel Costs	3,404,431	613,664.75	18%
Fringe and Indirect Cost Allocation	1,709,705	256,208.22	15%
Operations and Maintenance	870,964	103,710.72	12%
Employee Training & Development	76,200	8,995.76	12%
Travel, Transportation & Board Expense	108,400	2,973.54	3%
Consultants and Contracts	7,980,004	1,082,221.42	14%
Capital Outlays	83,383	0.00	
Transfer To/(From) Other Programs	567,166	1,894.10	2%
Total Expenses	<u>14,800,253</u>	<u>2,069,668.51</u>	<u>14%</u>
<b>Revenue Over/(Under) Expenses</b>		<u>84,750.31</u>	



# CMCOG POLICY AND PROCUREMENT MANUAL

Central Midlands Council of  
Governments

October 26, 2023





## TABLE OF CONTENTS

### Contents

1. Purpose/Scope .....	6
2. Roles and Responsibilities .....	6
3. Authority .....	6
4. Delegation of Authority .....	6
4.1 Board of Directors:.....	7
4.2 Executive Director: .....	7
4.3 Department Heads:.....	7
5. Delivery Point.....	7
6. Duplicative Purchases .....	7
7. Fraud, Waste & Abuse .....	8
8. Procurement History .....	8
8.1 Independent Cost Estimate(ICE).....	9
8.2 Price Analysis.....	9
8.3 Cost Analysis.....	9
9. Funding.....	9
10. Procurement Types .....	9
10.1 Micro-Purchases (under\$10,000).....	10
10.2 Small Purchases (\$10,001 to\$249,999).....	10
10.3 Large Purchases (\$250,000 and Above) .....	11
10.4 Joint and Piggyback Procurements .....	12
10.5 Intergovernmental Procurement Agreements .....	12
10.6 Real Estate.....	12
10.7 Construction .....	13
10.7.1 The Brooks Act.....	13
10.8 Procurement by Noncompetitive Proposals - Sole Source (Federal and State).....	13
10.9 Best Value.....	14
10.10 Sealed Bids/Invitation for Bid (IFB).....	15
10.11 Request for Proposal (RFP).....	16
10.12 Request for Qualifications (RFQ) .....	16
10.13 Request for Information (RFI).....	16

---

10.14 Awards to Responsible and Responsive Contractors .....	16
10.15 Changes and Modifications .....	16
11. Bid Selection Process.....	17
11.1 Issue the Invitation for Bids and Provide Public Notice Thereof.....	17
11.2 Conduct Pre-bid Conferences or Site Visits, if Warranted.....	17
11.3 The Submittal of Bids.....	18
11.4 The Receipt of Bids.....	18
11.5 The Opening of Bids .....	19
11.6 The Evaluation of Bids .....	20
11.7 The Contract Award .....	20
12. Contract Period of Performance Limitation.....	21
13. Full and Open Competition .....	21
14. Written Procurement Selection Procedures .....	21
15. Pre-Qualification Criteria.....	22
16. Options .....	22
17. Ensuring Most Efficient and Economic Purchase .....	22
18. Out of Scope Changes.....	23
19. ForceAccounts .....	23
20. RFP Confidentiality.....	23
21. Capital Assets.....	23
22. Liability/Insurance Coverage .....	24
23. Disadvantaged Business Enterprise (DBE) .....	24
24. Property Disposal .....	24
25. Contract Administration.....	24
25.1 Acceptance and Payment.....	25
25.2 Advance or prepayments .....	25
25.3 Progress payments.....	25
25.4 Liquidated damages.....	25
25.5 Change Orders .....	25
26. Bid or Proposal Security.....	26
27. Ethics in Public Contracting .....	26
27.1 General .....	26
27.2 Conflicts of Interest.....	26
27.3 Gratuities, Kickbacks, and Use of Confidential Information.....	27



---

27.4	Prohibition Against Contingent Fees .....	27
27.5	Members of the Board of Directors .....	27
28.	Contract Appeal Procedures .....	27
29.	Suspension and Debarment .....	28
30.	Subrecipient Oversight .....	28
31.	Written Protest Procedures .....	28
31.1	General - Definitions .....	28
31.2	Filing of Protests .....	29
31.3	Hearing Procedure .....	30
32.	Appendix .....	31
	Appendix One - Sample Procurement History .....	32
	Appendix Two - Buy America Certification .....	33
	Appendix Three - 49 CFR PART 20-Certification Regarding Lobbying .....	35
	Appendix Four – Certificate of Non-Collusion .....	36
	Appendix Five – Certification of Primary Participant Regarding Debarment, .....	37
	Suspension, and Other Responsibility Matters .....	37
	Appendix Six – Certification of Applicant .....	38
	Appendix Seven – Disclosure of Potential Conflict of Interest Certification .....	39
	Appendix Eight – Independent Cost Estimate .....	40
	Appendix Nine – Responsibility Determination Form .....	41
	Appendix Ten – Sole Source Justification Form .....	42
	Appendix Eleven – Cost Analysis Form .....	43
	Appendix Twelve – Price Analysis .....	46
	Appendix Thirteen – Procurement Summary .....	47
	Appendix Fourteen – Change Order Review Checklist .....	48
	Appendix Fifteen – Piggybacking Checklist .....	49
	Appendix Sixteen – Procurement File Checklist .....	50

## **1. Purpose/Scope**

In accordance with the Central Midlands Council of Governments Board of Directors, the Central Midlands Council of Governments (CMCOG) has developed this procurement manual for all recipients utilizing CMCOG monies.

This manual does not govern all procurement activities under the federal and state grant programs administered by CMCOG. Procurement standards for federal and state programs shall be followed and implemented in accordance with the required funding. If there is a conflict between these written procurement procedures and the State Law, the latter will prevail. If there is a conflict between State Law and Federal Law, the latter will prevail.

The CMCOG Procurement regulations listed below set forth the requirements CMCOG staff must adhere to in the solicitation, award and administration of its third-party contracts. These requirements are based on the common grant rules, federal statutes, Executive Orders and their implementing regulations, and State policy.

When an entity applies for and accepts funds they also accept the responsibility of maintaining oversight of the procurement process and assuring its compliance.

State and federal regulations regarding procurement of goods and services are complex, detailed, and often change to reflect changes in legislation. The process for each type of procurement is documented in the toolkits with the associated appendices.

## **2. Roles and Responsibilities**

For ease of use of this manual, CMCOG staff is referred to as CMCOG. Minor deviations in the process steps for CMCOG are noted throughout the manual.

When CMCOG conducts a procurement of goods or services, it is the responsibility of CMCOG to manage the entire procurement process and contract administration to ensure its compliance with relevant state and federal requirements.

## **3. Authority**

This procedure manual derives its authority from *CMCOG's* Procurement Policy and in accordance with the laws and regulations that form that policy.

## **4. Delegation of Authority**

CMCOG makes awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. CMCOG prohibits any arbitrary action in the procurement process (e.g. in the competitive selection of

contractors). CMCOG does not place unreasonable requirements on firms in order for them to qualify to do business with CMCOG (i.e. unnecessary experience or excessive bonding requirements). CMCOG will analyze each planned acquisition in order to identify and evaluate potential organizational conflicts of interest as early in the acquisition process as possible, and avoid, neutralize, or mitigate potential conflicts of before contract award.

Authority to carry out the procurement functions is allocated between the Board of Directors and Executive Director as follows:

#### ***4.1 Board of Directors:***

- Set procurement policy
- Notified of executed procurements

#### ***4.2 Executive Director:***

- Award contracts
- Execute contracts
- Execute purchase orders
- Designate appropriate staff to execute purchase orders.

#### ***4.3 Department Heads:***

- Prepare purchase orders for Executive Director's signature using the appropriate procurement method described below.
- Procure items specific to the job duties of their respective departments as needed, which may include approving specifications.
- Sign purchase orders in the absence of the Executive Director
- Sign routine office and computer supplies purchase orders
- Oversee all formal competitive purchases (over \$250,000)
- Review bids to determine lowest, responsive, responsible bidder or most advantageous proposer.
- Prepare and sign purchase orders for equipment, inventory parts and building maintenance (micro purchases) not to exceed \$10,000.

## **5. Delivery Point**

All items delivered to CMCOG must be received at the front desk. The Receptionist shall acknowledge receipt on the packing slip, or prepare a receiving memo for all items received, if a packing slip is not provided. Such packing slip/receiving memo shall become part of the final payment transaction and be present in the file when payment is made.

## **6. Duplicative Purchases**

As a practical matter, the Director of Finance reviews all purchase orders and will ensure that an upcoming procurement does not represent an unnecessary duplication of a previous procurement. In addition, each department head will be responsible for assuring that an upcoming procurement does

not represent an unnecessary duplication of a previous procurement in their department. This is generally achieved by the division of responsibility listed above, however, should a department head need to procure outside their normal area of responsibility, he/she should check with other department heads to make sure CMCOG does not already have a contract in place for the item in question.

Department heads are expected to take reasonable efforts to consolidate purchases of common items to gain the benefit of volume pricing.

## 7. Fraud, Waste & Abuse

The Central Midlands Council of Governments will promptly **notify the proper authority** in addition to their Regional Counsel if the Central Midlands Council of Governments has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Central Midlands Council of Governments and a State or Federal agency, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Central Midlands Council of Governments. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Central Midlands Council of Governments. In this paragraph, “promptly” means to refer information without delay and without change. This notification provision applies to all divisions of the Central Midlands Council of Governments, including divisions tasked with law enforcement or investigatory functions.

## 8. Procurement History

Each department head will be responsible for completing a procurement history for each procurement. The vast majority of procurement history can be documented on the purchase order by showing a three quote method for a firm fixed price seeking the lowest price and best value for *CMCOG*, with the contract price based on the quote. The procurement history may contain the following information, depending on the type of procurement:

1. An Independent Cost Estimate (ICE) that is appropriate for the procurement method completed prior to the procurement;
2. The rationale for the method of procurement (micro-purchase, small purchase, large purchase, Request for Proposal (RFP), Invitation for Bid (IFB);
3. The selection of the contract type (firm fixed price, time and materials, labor hour, etc.);
4. The reasons for contractor selection or rejection (lowest price and/or best value);
5. The basis of the contract price (per quote, negotiated, etc.); and
6. A cost or price analysis (assurance of fair pricing).
7. **A procurement checklist (required for all procurements)**

### ***8.1 Independent Cost Estimate(ICE)***

An Independent Cost Estimate (ICE) is market research to determine the anticipated cost prior to initiating procurement. It assists CMCOG to determine the appropriate project budget and to evaluate the reasonableness or unreasonableness of a bid or proposal. Based upon the complexity of the procurement, CMCOG will either prepare an ICE in-house, or will utilize an outside vendor, with technical expertise relevant to the procurement, to prepare an ICE.

### ***8.2 Price Analysis***

A price analysis is a comparison of quoted prices to assure CMCOG is not paying an unreasonable amount for the procurement. If a price analysis cannot be performed, then a cost analysis will be completed.

### ***8.3 Cost Analysis***

A cost analysis is a comparison of offered price to the offerer's own costs and an evaluation of the difference. This analysis evaluates direct costs, indirect costs, and profit. It must be completed when any of the following occur:

- price competition is inadequate;
- only a sole source is available;
- a contract modification is required; or
- a change order is required.

CMCOG is always searching for the best value and may not always choose the lowest bid. If a department head wishes to select a vendor other than the lowest price vendor, a short rationale should be provided, documenting why the selected vendor represented the best value to CMCOG.

Generally, the more complex the procurement, the more detailed the procurement history should be. A list of potential items for a complex procurement history is in Appendix One.

CMCOG will use federal cost principles when conducting these analyses.

## **9. Funding**

Each department head will be responsible for assuring that funds for specific procurements are within their departmental budgets, or alternately, that there are funds available to pay for a prospective procurement prior to beginning the procurement process. The Executive Director, will be responsible for determining that the budgeted funds are still available based upon the progress of the budget through the year.

## **10. Procurement Types**

The source of funds can potentially affect the procurement type used. The steps below describe

methods that conform to procurement requirements, unless specifically noted otherwise. Department heads are responsible for assuring that the contracts contain the requisite local, state, and/or federal clauses. Contracts above the small purchase threshold shall contain remedies for breach of contract. Contracts in excess of \$10,000 shall have termination for cause and termination for convenience provisions.

The sections below describe methods of procurements based on their defining aspect (typically dollar threshold). This is not meant to be an exhaustive list, but those used most commonly by CMCOG staff. Procurement types not listed below can be used following the State of South Carolina Procurement Manual (available on the web). Note: Cost plus percentage type contracts are prohibited.

### ***10.1 Micro-Purchases (under \$10,000)***

1. Price is determined to be fair and reasonable by documenting that the item or service meets one or more of the following criteria:
  - a. Price was found reasonable on a recent purchase
  - b. Price was obtained from a current price list
  - c. Price was obtained from a current catalog
  - d. Commercial market sales price from advertisements
  - e. Similar item in related industry
  - f. Personal knowledge of item procured
  - g. Regulated rate (utilities)
2. Prepare a purchase order for execution with procurement history
3. Determine lowest price and/or best value for CMCOG
4. Execute the Purchase Order
5. Order item/service
6. Ensure delivered item/service meets terms, conditions, and specifications as ordered
7. Sign off on invoice when item/service has been delivered

Items bought under this format should be distributed among available suppliers, and should not be split into several sub-procurements for the sole reason that they fall under the \$10,000 threshold.

### ***10.2 Small Purchases (\$10,001 to \$249,999)***

1. Document an Independent Cost Estimate for all State and Federally Funded Projects. Local projects are driven by the available revenue. CMCOG searches for the best value that the budget supports by obtaining quotes; therefore, a formal Independent Cost Estimate may not be completed for locally funded projects.
2. Obtain three written quotes (can be from a catalog, online, fax, or email)
3. Determine lowest price and/or best value for CMCOG
4. Prepare a purchase order for execution with procurement history
5. Execute the Purchase Order
6. Order item/service
7. Ensure delivered item/service meets terms, conditions, and specifications as ordered
8. Sign off on invoice when item/service has been delivered

### ***10.3 Large Purchases (\$250,000 and Above)***

Purchases over \$250,000 shall be conducted with formal competitive procedures and the contract shall be awarded by CMCOG's Executive Director. In the case of time sensitive procurements, the Executive Director may from time to time authorize the Deputy Executive Director to award a contract to the company with the best value to CMCOG. The Board shall ratify the resolution at the next scheduled Board Meeting.

For large purchases, CMCOG utilizes one of the following formal competitive procedures: sealed bids/invitation for bids (IFB), or competitive proposals/request for proposals (RFP).

- **Sealed Bids/IFB Requirements**
  - Must be publicly advertised
  - Must allow sufficient time to prepare bids prior to bid opening
  - Must award to the lowest (best price), responsive (meets the specifications), and responsible (is qualified to perform the work) bidder
  - Must document sound business reason if any or all bids are rejected.
- **Competitive Proposals/RFP**- Proposals are publicly solicited from an adequate number of sources and the award is made to the firm whose offer is most advantageous to CMCOG with price and other factors considered. CMCOG identifies evaluation factors and indicates the relative importance that each factor has towards the award. CMCOG may convene a selection committee to evaluate technical and price proposals, establish a competitive range, and interview qualified firms.

The Department Head is responsible for determining the steps that must be completed for each formal competitive procurement and ensuring that each step is properly performed and documented.

1. Prepare an Independent Cost Estimate
2. Prepare Sealed Bid (IFB), Competitive Proposal (RFP), Request for Qualifications (RFQ)
  - The requesting department should have specifications (in electronic format, preferably) for the item or service being procured.
  - "Brand Name or Equal". CMCOG restricts the use of "Brand Name or Equal" purchase descriptions unless the following requirements are met:
    - Only when an adequate specification cannot be provided without performing an inspection and analysis in time for the acquisition under consideration, and
    - Minimum needs are carefully identified, and those salient physical and functional characteristics of the brand name product are clearly set forth in the solicitation.
3. Release IFB/RFP with advertising once a week for two consecutive weeks in at least one newspaper of general circulation within the general vicinity of CMCOG. -
4. Hold pre-bid conference (if necessary)
5. Consider clarifications and requests for Approved Equals (if necessary)
6. Collect bids/proposals
7. Evaluate bids/proposals per criteria outlined in IFB/RFP
8. Recommend award to the Board based upon lowest price and/or best value for CMCOG Board awards contract
9. Prepare contract documents for General Manager's authorized signature

10. General Manager, or designee, executes contract
11. Collect necessary documents from contractor (insurance, bonding, etc.)
12. Provide contractor with notice to proceed
13. Administer the contract
14. Close out the contract when complete

### ***10.4 Joint and Piggyback Procurements***

Joint purchases with other agencies are encouraged to increase quantities and obtain lower prices. The project manager for the procurement is responsible to ensure that all of State and Federal requirements are met.

State and Federal agencies generally have provisions that enables others to piggy-back into its contracts.

Participation in the joint and/or piggybacking procurements does not remove the responsibility to comply with State and Federal rules. CMCOG must do the following with any purchase it makes under any joint and/or piggyback procurement:

1. Obtain a performance bond.
2. Obtain DBE participation rates.
3. Obtain the vendors signature on all mandated certifications.

### ***10.5 Intergovernmental Procurement Agreements***

To foster greater economy and efficiency, CMCOG is encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services. The requirements and standards of each respective State and/or Federal agency applies to procurements entered into under such agreements using State and Federal funds.

### ***10.6 Real Estate***

Real property is defined as "land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment." The acquisition of easements and rights of way are considered real estate acquisitions and the requirements discussed herein pertain to these types of acquisitions.

CMCOG does not have in-house staff that is familiar with real estate purchases. *CMCOG* will consult with a third party that is familiar with the laws and regulations above when considering a real estate purchase.



## ***10.7 Construction***

### ***10.7.1 The Brooks Act***

Architectural and engineering services will be procured using a qualifications-based process in accordance with the Brooks Act. Services subject to this requirement are program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, and related services which lead to constructions. Unlike other two-step procurement procedures, in which price is an evaluation factor, an offerer's qualifications are evaluated to determine contract award.

For procurement of A&E services, CMCOG shall:

- Evaluate qualifications excluding price as a factor;
- Negotiate only with the most qualified offerer, and
- Failing agreement of price, negotiate with the next most qualified offeror until agreement is reached on a price that is determined to be fair and reasonable.

Construction of new facilities or renovations of existing facilities are subject to special requirements. The applicable federal clauses and conditions (examples includes Davis Bacon Act, Copeland Anti-Kickback Act, Contract Work Hours and Safety Standards Act, 100% Performance and Payment Bonding, and Seismic Safety).

Procurement of construction management services are subject to SC Code\_\_\_\_\_.

CMCOG encourages the use of value engineering on construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic analysis of each contract item or task to ensure that its essential function is provided at the overall lowest cost.

## ***10.8 Procurement by Noncompetitive Proposals - Sole Source (Federal and State)***

It is a tenet of CMCOG procurement rules, stated in the Common Grant Rule, that the best price is accomplished through full and open competition. Department heads will make all reasonable efforts to acquire adequate competition and avoid sole source procurements. The relevant section is produced below:

Procurement By Noncompetitive Proposals. Sole source procurements are accomplished through solicitation or acceptance of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. It is important to review the specifications to ensure that they are not unduly restrictive. A contract amendment or change order that is not within the scope of the original contract is considered a sole source procurement that must comply with this subparagraph.

- 1) Procurement by noncompetitive proposals may be used only when the award of a contract is not feasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances applies:
  - a) The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold
  - b) The item is available only from a single source;
  - c) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
  - d) CMCOG authorizes noncompetitive negotiations;
  - e) The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity;
  - f) After solicitation of a number of sources, competition is determined inadequate.
- 2) A cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profit, is required.

CMCOG allows sole source procurements in nine specific circumstances:

- 1) Emergency, as determined by a two-thirds affirmative vote of the Board of Directors
- 2) Reasonable inquiry finds that only one source is available for the good or service
- 3) Renewal or renegotiation of a lease, license, or upgrade of telecommunications or electronic data processing equipment, services or systems, or the maintenance thereof as supplied by the original source
- 4) Purchase from another political subdivision of the state
- 5) Purchase substantially involves services of a personal, professional, highly technical, or scientific nature, including but not limited to the services of an attorney, physician, surveyor, appraiser, investigator, court reporter, adjuster, advertising consultant, or licensed broker, or involves the special skills or proprietary knowledge required for the servicing of specialized equipment owned by the CMCOG
- 6) Services or supplies available from a qualified non-profit agency
- 7) Purchase of a product or service from a public utility
- 8) Purchase for the services of individuals with disabilities to work in CMCOG's offices.

A department head who creates a purchase order for a sole source purchase must include the federal or state justification for the sole source in the procurement history.

## ***10.9 Best Value***

Best Value is a selection process in which proposals contain both price and qualitative components, and award is based upon a combination of price and qualitative considerations. Qualitative considerations may include technical design, technical approach, quality of proposed personnel, and /or management plan. The award selection is based upon consideration of a combination of technical and price factors to determine the offer deemed most advantageous and of the greatest value to the CMCOG.

### ***10.10 Sealed Bids/Invitation for Bid (IFB)***

Bids are publicly solicited, and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price.

Note: Sealed bids are evaluated by the procuring department for compliance with bid specifications, responsible and responsive bidders, verification of pricing, fund availability, etc. The procuring department transmits an award recommendation to the Purchasing Department, which conditionally awards a contract.

- 1) In order for sealed bidding to be feasible, the following conditions should be present:
  - a. A complete, adequate, and realistic specification or purchase description is available;
  - b. Two or more responsible bidders are willing and able to compete effectively for the business;
  - c. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
  - d. No discussion with bidders is needed.
- 2) If this procurement method is used, the following requirements apply:
  - a. The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time to prepare bids prior to the date set for opening the bids;
  - b. The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services sought in order for the bidder to properly respond;
  - c. All bids will be publicly opened at the time and place prescribed in the invitation for bids;
  - d. The Bid Summary Sheet and Bid Checklist will be completed by the procuring department and forwarded to the Purchasing Department for review - to be placed in the master file;
  - e. A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. When specified in bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining which bid is the lowest;
- 3) Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- 4) The Purchasing Agent may reject any or all bids, or the procuring department requesting the procurement action, if there is a sound documented business reason. The Purchasing Agent or procuring department rejecting lower bids than the bid being accepted for award must provide a detailed written Determination of Findings outlining the reasons for rejection to the Purchasing Department for inclusion in the master file.
- 5) The sealed bid method is the preferred method for procuring construction if the conditions in paragraph (1) above apply.

In determining which proposals is most advantageous, grantees may award (if consistent with State law) to the proposer whose proposals offer the greatest business value to the Agency based upon an analysis of a

tradeoff of qualitative technical factors and price/cost to derive which proposal represents the “best value” to the Procuring Agency. If the grantee elects to use the best value selection method as the basis for award, however, the solicitation must contain language which establishes that an award will be made on a “best value” basis.

### ***10.11 Request for Proposal (RFP)***

The *Request for Proposal* (RFP) is a competitive procurement method when a general, rather than specific, description of goods and/or services is used. This method allows for the procurement of goods and/or services in which every detail of the work to be done cannot be specified and/or when creativity on the part of the proposer is desired.

### ***10.12 Request for Qualifications (RFQ)***

The *Request for Qualifications* (RFQ) process provides information on the background and experience of the proposer. This process is followed by an RFP process, if more than one qualified bidder is available. Frequently, the RFQ and RFP processes are combined into a single “RFP” document. This is used most frequently for A & E solicitations.

### ***10.13 Request for Information (RFI)***

The *Request for Information* (RFI) process provides technical information on a commodity and allows the recipient to determine if an item is available in the market place. In instances in which information on commodities are not readily available, recipients may contact vendors to provide information that can be incorporated into the specifications.

### ***10.14 Awards to Responsible and Responsive Contractors***

Recipients shall make awards only to responsible and responsive contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as conforming to the requirements of the solicitation, contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. All procurements must include a printout from [www.sam.gov](http://www.sam.gov). The date of the printout must be on the bottom of the page.

### ***10.15 Changes and Modifications***

Recipients shall have written changes and modifications procedures to handle and resolve issues, clarifications, errors and corrections relating to their procurements and shall in all instances disclose such information to CMCOG. All changes and modifications to a procurement must be documented.

## 11. Bid Selection Process

### *11.1 Issue the Invitation for Bids and Provide Public Notice Thereof*

Public notice of an invitation for bids shall be given as provided below:

- a. Manner of giving public notice: The procuring department shall provide public notice of an invitation for bids by posting in a designated public area, or publication in a newspaper of general circulation, or both. Public notice may also be published on the South Carolina Business Opportunities electronic procurement website and other appropriate websites. In addition, the procuring department may solicit bids directly from potential vendors and shall include businesses selected from a bidders list.
- b. Notice period: The public notice shall be given at least ten days prior to the date set for receipt of bids.
- c. Contents of the notice: The notice shall contain, at a minimum, the following information: (1) the name of the purchasing entity; (2) a brief description of the goods or services to be procured; (3) the date and time of the bid submittal; (4) the requisite qualifications for bidders, if applicable; (5) the date and time of the pre-bid conference, if applicable; (6) the name of the procuring department; (7) the location where bid documents can be obtained; and (8) the legal authority for the procurement.

These are minimum requirements, and the procuring department may provide any additional notice that it deems appropriate.

### *11.2 Conduct Pre-bid Conferences or Site Visits, if Warranted*

A pre-bid conference is a meeting among the procuring department and prospective vendors during which the procuring department reviews the specifications in detail, explain the scope, objectives and techniques of the procurement, emphasize critical elements of the invitation for bids, and encourage input from the vendors. A site visit allows the vendors to observe physical characteristics of the land or of structures that are relevant to the procurement. A pre-bid conference and site visit are hereafter collectively referred to as a “pre-bid conference.”

A pre-bid conference may resolve ambiguities, unforeseen and nonessential restrictiveness in the specifications, or technical errors. For purposes here, a pre-bid conference includes a site visit.

- a. When a pre-bid conference should be held: Pre-bid conferences may be particularly advisable when the CMCOG seeks to procure goods that are highly technical or complex or for consultant services contracts.
- b. Notice of the pre-bid conference: If a pre-bid conference is conducted, the invitation for bids must provide the time, date and location of the conference. The conference should be held as soon as possible after the invitation for bids is issued.

- c. Attendance at a pre-bid conference: Attendance of vendors at pre-bid conferences should be discretionary, not mandatory, in order to assure that qualified vendors who are unable to attend are not excluded from bidding. If attendance is mandatory, only those bids from vendors represented at the pre-bid conference shall be accepted.
- d. Oral representations at the pre-bid conference: The procuring department should make a written note of all inquiries and points of contention raised by the prospective bidders. Clarification may be provided at the pre-bid conference so long as the specifications or conditions are not altered. Oral representations made at the pre-bid conference by the procuring department shall not be binding on the CMCOG. All material clarifications of any provision of the invitation for bids, or the amendment of a specification or condition of the invitation for bids, shall be made only in writing as an addendum, as provided herein.

These are minimum requirements. The procuring department may add any additional requirements to a pre-bid conference that they deem appropriate.

### ***11.3 The Submittal of Bids***

Bids submitted shall comply with the following:

- a. Use of bid form: All bidders shall use the bid form included in the invitations for bids when submitting their bid prices.
- b. Changes to the Bid Form: All erasures, interpolations, and other changes in the bid form shall be signed or initialed by the bidder.
- c. Oral, Telephonic, or Faxed Bids not Acceptable: The procuring department shall not accept oral bids nor bids received by telephone, fax, or other form of electronic transmission.
- d. Deviations: Bids containing conditions, omissions, erasures, alterations, or items not called for in the bid may be rejected by the CMCOG as being incomplete.
- e. Bid Form must be Signed: The bid form must be signed in order to be considered. If the bidder is a corporation, the bid must be submitted in the name of the corporation, not the corporation's trade name. The bidder must indicate the corporate title of the individual signing the bid.
- f. Bid must be Submitted in Sealed Opaque Envelope: The bid form and all other documents required to be submitted as part of the bid shall be enclosed in a sealed opaque envelope. The envelope containing the bid should be sealed and marked with the invitation for bids number, the hour and date upon which the bid must be received.

### ***11.4 The Receipt of Bids***

The purchasing agent shall receive bids only as provided as follows:

- a. Bids must be Timely Received in Purchasing Office: All sealed bids shall be received in person, through the mail, or by parcel service, in the purchasing office, until, but no later than, the time and date set for the receipt of bids in the invitation for bids. The time stamp clock shall be the sole clock used to determine whether a bid is timely received.
- b. Timely Receipt of Bids Sole Responsibility of Vendors: It shall be the sole responsibility of the vendor under all circumstances to assure that its bid is timely received. The CMCOG assumes no responsibility in assuring that bids and proposals sent by mail or by parcel service and delivered to the CMCOG Office Building will be timely received, dated and time-stamped.
- c. Bids must be Date and Time Stamped: The time for the receipt of bids shall be determined by the time clock stamp when it's received. Vendors are responsible for assuring that their bids are stamped by office personnel by the time and date for which bids are to be received.
- d. Bids must be kept in Secure Location Until Opened: All bids received are date and time stamped and kept in a secure location until the time and date set for the opening of bids.
- e. Identity of Bidders Confidential: Prior to the time and date of opening, the identity of the vendors submitting bids and the number of bids received is confidential and may be disclosed only to CMCOG officials only when disclosure is considered necessary for the proper conduct of the bidding process.
- f. Inadvertent Opening of Bid: If a bid envelope does not contain the proper identification, and it is inadvertently opened in advance of the prescribed bid opening, the procuring department should write an explanation of the inadvertent opening on the envelope, with the invitation number, time and date of opening. The envelope should be resealed and deposited with the other bids.
- g. Late Bids: Late bids shall not be considered under any circumstances. Late bids will be date and time stamped and shall be returned unopened to the sender.

## ***11.5 The Opening of Bids***

The procuring department shall open bids according to the following procedure:

- a. Bids Opened and Read Aloud: Except for bids for construction contracts, all bids timely received shall be opened and publicly read aloud at the time and date established for such opening in the invitation for bids. Bids for construction contracts may be opened one day following the date and time established for the receipt of bids, if provided for in the invitation for bids.
- b. Information Recorded: The procuring department shall record the following information for each competitive sealed bid received and opened: (1) name of vendor; (2) bid prices, delivery, and payment terms; (3) acknowledgment of addenda, if any; (4) bid security received or not, if required; (5) contractor registration number, if required; (6) exceptions taken by the vendor, if allowed; and (7) any other information the procuring department deems pertinent.

- c. Transmittal of Bids: The procuring department shall promptly transmit the recorded information for each bid and at least one copy of each bid received for evaluation. The procuring department should allow sufficient time for the evaluation of the bids, which should be based upon the number of bids received, the complexity or number of items being evaluated and any time constraints that have to be met.

## ***11.6 The Evaluation of Bids***

The bids timely received shall be examined by the procuring department for compliance with the requirements set forth in the invitation for bids. The procuring department should first review each bid to determine whether it has facial deficiencies that preclude it from being further considered.

Bids are evaluated to determine the lowest responsive and responsible bidder. The evaluation is based upon the requirements set forth in the invitation for bids, which may include special qualifications of potential vendors, life cycle costing, value analysis, and any other criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, which are helpful in determining acceptability.

## ***11.7 The Contract Award***

After the bids have been evaluated, the contract is awarded to the lowest responsive and responsible bidder according to the following procedure:

- a. Notice of Intent to Award: The procuring department shall post in a public place a written announcement of the decision to award, which may be identified as a notice of intent to award. The notice of intent to award shall also include a statement that the public records pertaining to the procurement have been and are available for inspection by those vendors participating in the procurement process. The procuring department is not required to provide individual notice of the intent to award to any participating vendor; rather, it is each vendor's duty to ascertain when the notice of intent to award is issued and posted.
- b. Protest Period: The receipt of the notice of intent to award by a vendor shall commence a ten (10) working day period in which a vendor who desires to protest the decision to award a contract may do so as specified in the written protest procedures.
- c. Contract Award if no Timely Protest Received: The procuring department shall not award a contract until the protest period has expired. After the protest period has expired, and if no vendor has protested the decision to award, the procuring department shall award the contract to the vendor identified in the notice of intent to award.
- d. Contract Award if Timely Protest Received: If a written bid protest is timely received, the procuring department shall take no further action to award the contract unless, upon prior consultation with the attorney, the procuring department determines in writing that proceeding without delay is necessary to protect the public interest or unless the bid would expire. The written determination shall be placed in the contract file.



- e. Contract Award if Legal Action Brought: If a legal action is brought by a vendor, actual or prospective, the procuring department shall take no further action to award the contract unless, upon prior consultation with the attorney, the procuring department determines in writing that proceeding without delay is necessary to protect the public interest or unless the bid would expire. The written determination shall be placed in the contract file.

In his discretion, and if time is of the essence, the procuring department may award a contract without first posting a notice of intent to award. The procuring department may consult with the attorney as to any matter pertaining to the decision to award a contract.

## **12. Contract Period of Performance Limitation**

CMCOG shall not enter into any contract with period of performance exceeding five (5) years inclusive of options without prior written CMCOG Board approval.

## **13. Full and Open Competition**

All procurement transactions will be conducted in a manner providing full and open competition. Some of the situations considered to be restrictive of competition include, but are not limited to:

- Unreasonable requirements placed on firms in order for them to qualify to do business;
- Unnecessary experience and excessive bonding requirements;
- Noncompetitive pricing practices between firms or between affiliated companies;
- Noncompetitive awards to any person or firm on retainer contracts;
- Organizational conflicts of interest. An organizational conflict of interest means that because of other activities, relationships, or contracts, a contractor is unable, or potentially unable, to render impartial assistance or advice to the grantee; a contractor's objectivity in performing the contract work is or might be otherwise impaired; or a contractor has an unfair competitive advantage;
- The specification of only a "brand name" product without listing its salient characteristics and not allowing "an equal" product to be offered; and
- Any arbitrary action in the procurement process.

## **14. Written Procurement Selection Procedures**

CMCOG shall have written selection procedures for procurement transactions. All solicitations shall:

- Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.
- Use a "brand name or equal" description only when it cannot provide an adequate specification or more detailed description, without performing an inspection and analysis, in time for the acquisition under consideration. A recipient wishing to use "brand name or

equal" must carefully identify its minimum needs and clearly set forth those salient physical and functional characteristics of the brand name product in the solicitation.

- Identify all requirements that vendors must fulfill and all other factors to be used in evaluating bids or proposals.

## 15. Pre-Qualification Criteria

CMCOG shall ensure that all lists of prequalified persons, firms or products that are used in acquiring goods and services are current and include enough qualified sources to ensure maximum full and open competition. Also, recipients shall not preclude potential bidders/proposers from qualifying during the solicitation period, which is from issuance of the solicitation to its closing date.

## 16. Options

CMCOG may include options in contracts. An option is a unilateral right in a contract by which, for a specified time, a recipient may elect to purchase additional equipment, supplies, or services called for by the contract, or may elect to extend the term of the contract. If a recipient chooses to use options, the requirements below apply:

- **Evaluation** of Options:
  - The option quantities or periods contained in the contractor's bid or offer must be evaluated in order to determine contract award. When options have not been evaluated as part of the award, the exercise of such options will be considered a sole source procurement.
- **Exercise** of Options:
  - The exercise of an option must be in accordance with the terms and conditions of the option stated in the initial contract awarded.
  - An option may not be exercised unless the recipient has determined that the option price is better than prices available in the market or that the option is the more advantageous offer at the time the option is exercised.
  - At the time options are signed, it is imperative to include the updated clauses. The contractor should have signed copies of the clauses for every year of the contract.

## 17. Ensuring Most Efficient and Economic Purchase

During its annual budget process, CMCOG should determine the procurement actions necessary to sustain their operations through the fiscal year. A list of these procurement actions should be identified for each department annually.

Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase and to avoid purchase of unnecessary or duplicative items. Where appropriate, an analysis will be

made of lease versus purchase alternatives and any other appropriate analysis to determine the most economical approach.

## **18. Out of Scope Changes**

An “out of scope change” is a contract amendment or change order that is not within the scope of the original contract is considered a sole source procurement. Please use the sole source policies for this type of action.

## **19. Force Accounts**

CMCOG does not use its own labor force for preventive maintenance work on its vehicles and/or buildings for the safety and efficiency of its operations.

## **20. RFP Confidentiality**

Prior to Award - Responses to a Request for Proposal are never publicly opened, nor is information given out about proposals - not even how many were received - until after *CMCOG* awards a contract or rejects the proposals. This practice ensures the integrity of the negotiation process that follows. The Federal Acquisition Regulation and the Federal Acquisition Streamlining Act of 1994 addresses this as follows:

"After receipt of proposals, none of the information contained in them or concerning the number or identity of offerors shall be made available to the public or to anyone in the Government [15.207(b)] other than a person authorized by the agency head or contracting officer to receive such information [3.104-3(c)]J."

Following Award - CMCOG is a public office subject to the South Carolina Public Records Law. Following award of a contract, public record information contained in proposals and contracts will be subject to release when a request is made for such records in accordance with state policy.

Parties to a public contract cannot nullify the State’s law of public access to public records. Absent a statutory exception, a public entity cannot enter into enforceable promises of confidentiality with respect to public records.

## **21. Capital Assets**

CMCOG defines a capital asset as any item or group of related items costing more than \$5,000 and with an expected useful life of more than one year. Such assets will be tagged with an inventory control number (if feasible) and tracked from purchase to disposal.

## 22. Liability/Insurance Coverage

Each department head will be responsible for ensuring that proper liability limitations and insurance are part of their respective purchases.

## 23. Disadvantaged Business Enterprise (DBE)

Every department head must ensure DBE's are given equal opportunity to compete by including them on bid lists and soliciting quotes from them. CMCOG has developed and will follow the DBE program guidelines.

CMCOG participates in the South Carolina Unified Certification Program (UCP). DBE firms should be noted as such on their quotes and on the purchase order.

## 24. Property Disposal

CMCOG primarily disposes of equipment at the end of its useful life. Full and open competition for the used equipment that has any residual value is assured through the use of a public auction process. In the event CMCOG disposes of federally funded property before the end of its useful life, CMCOG staff will adhere to the relevant circulars for the type of property being disposed.

If property purchased with federal funds is sold for \$5,000 or more, the federal government shall receive the same percentage of proceeds as it did in the initial purchase (80% of the total sales price less the cost of disposal). Alternately, the Executive Director can write to the responsible agency to ask permission to use the funds to purchase replacement equipment that will be used for the same purpose. If the agency grants permission, the funds shall be treated as 80% federal funds and 20% local funds.

## 25. Contract Administration

Each department head will be responsible for the contract administration of procurements made by their respective department. This includes maintaining oversight of the contractor to ensure performance in accordance with the terms, conditions, and specifications of their contracts or purchase orders by assuring that:

- the supplier performs the work for which the contract calls;
- satisfactory quality;
- timeliness of performance;
- performance within available funds; and
- the agency has documented history of the contracting activities.

A department head that finds a contractor out of compliance with the contract should attempt to remediate the deficiency with the contractor, documenting the effort for potential remedial action. Documentation of the efforts and resolution should be forwarded to the Executive Director. The

Executive Director will make a final decision regarding the appropriate measures, up to, and including, termination of the contract and pursuing legal action.

### ***25.1 Acceptance and Payment***

Payment for delivered items or completed services shall only be made when each of the following steps has been completed:

- 1) The item has been received, inspected and accepted by the Department Head to ensure compliance with specifications and that all spare parts, manuals and training have been received, or
- 2) The service has been invoiced and approved by the Department Head who ordered the same to ensure that the service has been performed in compliance with the scope of work and all deliverables received, and
- 3) The Purchase Order, packing slip/receiving memo (if applicable), and signed invoice has been delivered to the office of the Director of Finance.

### ***25.2 Advance or prepayments***

Advance or prepayments shall only be made for sound business reasons and in compliance with appropriate state and/or federal guideline. Advance payments require prior written concurrence from the Executive Director.

### ***25.3 Progress payments***

Progress payments may only be made on the basis of costs incurred (or, in the case of construction contracts only, on the basis of percentage of completion). CMCOG will obtain adequate security for which progress payments are made. Adequate security may include taking title, letters of credit or equivalent means to protect CMCOG's interest.

### ***25.4 Liquidated damages***

A liquidated damages assessment, if applicable, must be at a specific rate per day for each day of overrun and must be specified in the contract. Any damages recovered must be credited to the project involved unless the Executive Director permits otherwise.

### ***25.5 Change Orders***

All change orders will be:

- Numbered and in writing;
- Signed by the Executive Director, or designee;
- Quoted or treated as a sole source procurement; and
- Include a cost analysis, with supporting documentation.

## 26. Bid or Proposal Security

For those construction or facility improvement contracts or subcontracts exceeding \$100,000, CMCOG may accept the bonding policy and requirements of the vendor, provided CMCOG determined that the policy and requirements adequately protect the CMCOG's interest. CMCOG has determined that vendor policies and requirements that meet the following minimum criteria adequately protect the CMCOG's interest. Please refer to the Bonding Requirements, as cited below.

- a. A bid guarantee from each bidder equivalent to five (5) percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified;
- b. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract; and
- c. A payment bond on the part of the contractor. A payment bond is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract. Payment bond amounts determined to adequately protect the federal interest are as follows:
  - 1) Fifty percent of the contract price if the contract price is not more than \$1 million;
  - 2) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
  - 3) Two and a half million dollars if the contract price is more than \$5 million.
- d. A vendor may seek CMCOG approval of its bonding policy and requirements if they do not comply with these criteria.

## 27. Ethics in Public Contracting

### 27.1 *General*

The CMCOG hereby establishes this code of conduct regarding procurement issues and actions and shall implement a system of sanctions for violations.

### 27.2 *Conflicts of Interest*

1. No employee, officer, Board member, or agent of the CMCOG shall participate directly or indirectly in the selection, award, or administration of any contract if a conflict of interest, either real or apparent, would be involved. This type of conflict would be when one of the persons listed below has a financial or any other type of interest in a firm competing for the award:
2. An employee, officer, Board member, or agent involved in making the award;

3. His/her relative (including father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister);
4. His/her partner; or an organization which employs or is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

### ***27.3 Gratuities, Kickbacks, and Use of Confidential Information***

No officer, employee, Board member, or agent shall ask for or accept gratuities, favors, or items of more than \$25 in value from any contractor, potential contractor, or party to any subcontract, and shall not knowingly use confidential information for actual or anticipated personal gain.

### ***27.4 Prohibition Against Contingent Fees***

Contractors wanting to do business with the CMCOG must not hire a person to solicit or secure a contract for a commission, percentage, brokerage, or contingent fee, except for bona fide established commercial selling agencies.

### ***27.5 Members of the Board of Directors***

The Board of Directors shall not engage in conduct resulting in a real, potential, or apparent conflict of interest. A potential conflict of interest may arise when action by a Board member, whether isolated, recurring, or continuous, is to the direct financial advantage of this individual, or their spouse, parent, or child. As appropriate, the Executive Director will be responsible for reporting any ethics violations for review.

## **28. Contract Appeal Procedures**

The Central Midlands Council of Governments will provide an opportunity to appeal to:

1. Any firm/agency whose offer/bid to provide a specified product or service is denied, or whose contract is terminated or not renewed, except as provided in this chapter.
2. Any contractor whose funding request is disapproved.
3. Any contractor whose audit report results in the Central Midlands Council of Governments making post-budget-year adjustment with which the contractor disagrees.

An appeal must be in writing and must be received by the Executive Director within ten (10) working days following its receipt of the notice of adverse action. An appeal must set forth both the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided.

The Central Midlands Council of Governments appeals procedures are designed to meet the following standards:

1. Timely written notice of the reasons for which the Central Midlands Council of Governments action is being appealed and the evidence on which the action is based;
2. An opportunity to review any pertinent evidence on which the Central Midlands Council of Governments' action was based;
3. An opportunity to submit a written appeal to refute the basis for the decision;

A written decision will be provided to the appealing party by the Council of Governments which:

1. Sets forth the reasons for the decision;
2. References the evidence on which the decision is based; and
3. Represents the final position of the Central Midlands Council of Governments.

The Council of Governments may provide additional appeal opportunities or procedures if so required by any grant conditions or regulations governing the funding source involved in the contract appeal.

## **29. Suspension and Debarment**

Before entering into any contract agreement with a supplier, vendor, service provider or contractor, CMCOG will certify that neither the supplier, vendor, service provider or contractor, nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in that transaction nor from federal financial or non-financial assistance, nor are any of the participants involved in the execution of that purchase suspended, debarred, or voluntarily excluded by any federal department or agency in accordance with Executive Order 12549 (Debarment and Suspension) and CFR 44 Part 17, or are on the disbarred vendors list at [www.sam.gov](http://www.sam.gov). Further, CMCOG will notify the appropriate federal or non-federal agency by certified mail should it or any of its agents become debarred, suspended, or voluntarily excluded during the term of that purchase.

## **30. Subrecipient Oversight**

This compliance requirement establishes that any non-Federal recipient of Federal assistance that passes that assistance, whether in part or in total, to another recipient (known as pass-through entities and subrecipients, respectively) is responsible to monitor the Federal assistance activities of that subrecipient, as well as assure that they are both complying with laws and regulations. This requirement is based on the fact that they are both equally responsible for Federal funds received. CMCOG understands this requirement and will provide oversight to its subrecipients. This oversight may consist of site visits, regular contact, interviews, meetings and examinations of the subrecipient, as well as requiring that the subrecipient be subject to an annual single audit.

## **31. Written Protest Procedures**

### ***31.1 General - Definitions***

1. The procedures established hereunder shall be available to contractors for the purpose of handling and resolving disputes relating to procurements hereunder. A protestor must exhaust all administrative remedies hereunder before pursuing a protest in any court of law. Where applicable,



any information received under such procedures shall be disclosed to the Executive Director and a protestor must exhaust all administrative remedies before pursuing a protest with the Executive Director.

2. The term “contractor” means any person, firm, or corporation, which has contracted or seeks to contract with the Central Midlands Council of Governments.
3. The term “hearing officer” shall mean a person, appointed by the Executive Director, to hear and decide allegations made by any contractor relating to procurements hereunder.
4. A “pre-bid or solicitation phase protest” is a written protest received prior to the bid opening or proposal due date.
5. A “pre-award protest” is a protest against making an award and is received after receipt of proposals or bids, but before award of a contract.
6. A “post-award protest” is a protest received after award of a contract.

### ***31.2 Filing of Protests***

#### **1. Pre-Bid Protest**

Any Contractor may file a written protest of the procurement procedures involved herein, with the CMCOG’s Procuring Department at least five (5) working days before the bid opening or proposal due date.

#### **2. Pre-Award Protest**

Any Contractor may file a written protest against the CMCOG’s making of the award after the CMCOG receipt of bids or proposals, but at least five (5) working days before the conditional award of a contract by the CMCOG.

#### **3. Post-Award Protest**

Any contractor may file a written protest of the procurement procedures involved herein, with the CMCOG’s Procuring Department, at least ten (10) working days after the date of the decision regarding a selection of a contractor with respect to any Bid/RFP/RFQ.

#### **4. Each protest must clearly state:**

- a. The name, address, and telephone number of the protester;
- b. The solicitation/contract number or description thereof.
- c. A statement of all of the grounds upon which the protest is made.

#### **5. Protests are to be filed by certified mail, return receipt requested or by personal delivery by 4:30pm on or before the due date at:**

Central Midlands Council of Governments  
Executive Director  
236 Stoneridge Drive  
Columbia, SC 29210

If protests are filed by personal delivery, the protestor must obtain a time-stamped copy of the protest from the receptionist as proof of the date and time of the filing of the protest. It is the Protester's sole responsibility to provide said copy at the time of filing.

### ***31.3 Hearing Procedure***

1. A hearing shall be conducted in accordance with South Carolina State Law, which are incorporated herein, provided that if there is a conflict between these Written Protest Procedures and the State Law, the latter will prevail. The hearing officer shall issue a written decision within ten (10) days of the last date of such hearing and state in the decision the reasons for the action taken. The Hearing Officer, shall respond in detail, to each substantive issue raised in the protest. The Hearing Officer shall be the responsible official who has the authority to make the final determination of the protest.
2. The Hearing Officer shall address, in his determination, each material issue raised in the protest.
3. The Hearing Officer's determination shall be final and binding upon all parties upon issuance.
4. Within (5) working days from its receipt of the decision of the Hearing Officer, a protester may request reconsideration of the decision, using the same procedure described in Section B.5 above. The request for reconsideration shall be addressed to the Hearing Officer, in care of the Executive Director, Central Midlands Council of Governments, 236 Stoneridge Drive, Columbia, SC 29210. The request for reconsideration shall set forth all of the grounds upon which the request is made.
5. The Hearing Officer shall issue a written decision on the request for recommendation within ten (10) days of receipt thereof and state in the decision the reasons for the granting or denial of the request.

## 32. Appendix

See the appendixes for samples of the following documents

- Appendix One – Sample Procurement History
- Appendix Two – Buy America Certification
- Appendix Three – 49 CFR Part 20 Certification Regarding Lobbying
- Appendix Four – Certificate of Non-Collusion
- Appendix Five – Certification of Primary Participant Regarding Debarment, Suspension, and Other Responsibility Matters
- Appendix Six – Certification of Applicant
- Appendix Seven – Disclosures of Potential Conflict of Interest Certification
- Appendix Eight – Independent Cost Estimate
- Appendix Nine – Responsibility Determination Form
- Appendix Ten – Sole Source Justification Form
- Appendix Eleven – Cost Analysis Form
- Appendix Twelve – Price Analysis
- Appendix Thirteen – Procurement Summary
- Appendix Fourteen – Change Order Review Checklist
- Appendix Fifteen – Piggybacking Checklist
- Appendix Sixteen – Procurement File Checklist

## Appendix One - Sample Procurement History

### Complex Procurement History

- Purchase request, acquisition planning information, and other pre-solicitation documents;
- Independent cost estimate;
- Evidence of availability of funds;
- Rationale for the method of procurement (negotiations, formal advertising);
- List of sources solicited;
- Statement of work/scope of services;
- Copies of published notices of proposed contract action;
- Copy of the solicitation, all addenda, and all amendments;
- Liquidated damages determination;
- An abstract of each offer or quote;
- Contractor's contingent fee representation and other certifications and representations;
- Source selection documentation;
- Contracting Officer's determination of contractor responsiveness and responsibility; Cost or pricing data;
- Determination that price is fair and reasonable including an analysis of the cost and price data, required internal approvals for award;
- Notice of award;
- Notice to unsuccessful bidders or offerors and record of any debriefing;
- Record of any protest;
- Bid, Performance, Payment, or other bond documents, and notices to sureties;
- Required insurance documents, if any; and
- Notice to proceed.

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## Appendix Two - Buy America Certification

### **Certification requirement for procurement of steel, iron, or manufactured products.**

Certificate of Compliance with 49 U.S.C. 5323(j)(1)

The bidder or offeror hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 CFR Part 661.5.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

Certificate of Non-Compliance with 49 U.S.C. 5323(j)(1)

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1) and 49 C.F.R. 661.5, but it may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

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## Buy America Certification (Continued)

Certification requirement for procurement of buses, other rolling stock and associated equipment.

Certificate of Compliance with 49 U.S.C. 5323(j)(2)(C).

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and the regulations at 49 C.F.R. Part 661.11.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

Certificate of Non-Compliance with 49 U.S.C. 5323(j)(2)(C)

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11, but may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

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## Appendix Three - 49 CFR PART 20-Certification Regarding Lobbying

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.* )]
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]**

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_ Signature of Contractor's Authorized Official

\_\_\_\_\_ Name and Title of Contractor's Authorized Official

\_\_\_\_\_ Date

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## Appendix Four – Certificate of Non-Collusion

By submission of an application, each person signing on behalf of any applicant certifies, and in the case of a joint application, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief:

- 1) The application is submitted without collusion, consultation, communication, or agreement for the purpose of restricting competition, with any other bidder or with any competitor;
- 2) No attempt has been made or will be made by the applicant to induce any other person, partnership or corporation to submit or not to submit an application for the purpose of restricting competition.

\_\_\_\_\_  
Company Name

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

\_\_\_\_\_  
Date

SWORN AND SUBSCRIBED before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_.

My commission expires \_\_\_\_\_.

\_\_\_\_\_  
Notary Public



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## **Appendix Five – Certification of Primary Participant Regarding Debarment, Suspension, and Other Responsibility Matters**

The applicant, \_\_\_\_\_ certifies to the best of its knowledge and belief, that it and its principals:

- 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- 2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
- 4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or Local) terminated for cause or default.

If the applicant is unable to certify to any of the statements in this certification, the applicant shall attach an explanation to this certification.

The applicant, \_\_\_\_\_ certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Sections 3801 et seq, are applicable thereto.

\_\_\_\_\_  
Signature and Title of Authorized Official

\_\_\_\_\_  
Date

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## Appendix Six – Certification of Applicant

I hereby certify that I am the duly authorized representative of the APPLICANT and that neither I nor the above APPLICANT I here represent has:

- a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above APPLICANT) to solicit or secure this contract;
- b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract, or
- c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above APPLICANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the contract except as here expressly stated (if any);
- d) either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action, in restraint of free competitive bidding in connection with the submitted proposal.

By execution of this Agreement, the APPLICANT certifies the APPLICANT and all contractors, employees and agents will comply with South Carolina's Ethics, Government Accountability, and Campaign Reform Act of 1991, as amended. The following statutes require special attention: (a) Offering, giving, soliciting, or receiving anything of value to influence action of public employee - §8-13-790, 8-13-705, 8-13-720; (b) Recovery of kickbacks - §8-13-790, (c) Offering, soliciting, or receiving money for advice or assistance of public official - §8-13-720, (d) Use or disclosure of confidential information - §8-13-725, (e) Persons hired to assist in the preparation of specifications or evaluation of bids - §8-13-1150, (f) Solicitation of state employees - §8-13-755, §8-13-760 and §8-13-725. The state may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision.

I acknowledge that this certificate is to be furnished to the Department, the Federal Highway Administration, and the U. S. Department of Transportation, and is subject to applicable State and Federal laws, both criminal and civil.

APPLICANT

\_\_\_\_\_  
Name of APPLICANT

By: \_\_\_\_\_

Date: \_\_\_\_\_

Its: \_\_\_\_\_

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## Appendix Seven – Disclosure of Potential Conflict of Interest Certification

Applicant hereby indicates that it has, to the best of its knowledge and belief has:

\_\_\_\_\_ Determined that no potential organizational conflict of interest exists.

\_\_\_\_\_ Determined a potential organizational conflict of interest as follows:

Attach additional sheets as necessary.

1. Describe nature of the potential conflict(s):

2. Describe measures proposed to mitigate the potential conflict(s):

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Company

If a potential conflict has been identified, please provide name and phone number for a contact person authorized to discuss this disclosure certification with Department of Transportation contract personnel.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Company

---

## Appendix Eight – Independent Cost Estimate

*Contract Type:*

*Date of Estimate:*

*Description of Goods / Service:*

*Method of Obtaining the Estimate:*

I have obtained the following estimate from....

- ☐ Published Price List / Past pricing (date)\_\_\_\_\_
- ☐ Engineering or technical estimate
- ☐ Independent Third Party estimate
- ☐ Other (specify)\_\_\_\_\_

*Cost Estimate Details:*

Through the method stated above it has been determined that the total cost of the goods/services is expected to be: \$\_\_\_\_\_. Details are shown below.

### Cost of Standard Items

A

Product	Cost (\$/ea)	Cost (\$/ea)	Notes / Data Source
	Delivered	No Freight	

### Cost of Services, Repairs, or Non-Standard Items

B

Item / Task:							
Materials	Other Direct Costs	Labor (rate, hours)	Labor Class	Allocated overhead	SG&A	Profit	Total

***Signature of Preparer:***

The preceding cost estimate was obtained or prepared by: \_\_\_\_\_

[For complex items or tasks, attach detailed spreadsheet(s) explaining rationale.]

---

## Appendix Nine – Responsibility Determination Form

**Bid/RFP No:** \_\_\_\_\_  
**Supplier:** \_\_\_\_\_  
**Date:** \_\_\_\_\_

For each of the areas described below, check that the appropriate research has been accomplished and provide a short description of the research and the results.

	Acceptable	Comment
1. Appropriate financial, equipment, facility, and personnel	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____ _____ _____ _____
2. Ability to meet the delivery schedule	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____ _____ _____ _____
3. Satisfactory period of performance	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____ _____ _____ _____
4. Satisfactory record of integrity, not on debarred or suspended listings	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____ _____ _____ _____
5. Receipt of all necessary data from supplier	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____ _____ _____ _____

---

## Appendix Ten – Sole Source Justification Form

Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances applies:

**Check one:**

\_\_\_\_\_ The item is available only from a single source (sole source justification is attached).

\_\_\_\_\_ The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation (documented emergency condition is attached).

\_\_\_\_\_ CMCOG authorizes noncompetitive negotiations (letter of authorization is attached).

\_\_\_\_\_ After solicitation of a number of sources, competition is determined inadequate (record of source contacts is attached).

\_\_\_\_\_ The item is an associated capital maintenance item as defined in 49 U.S.C. §5307(a)(1) that is procured directly from the original manufacturer or supplier of the time to be replaced (price certification attached).

Comments:

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\_\_\_\_\_ Independent Estimate and Cost Analysis are attached.

\_\_\_\_\_  
Procuring Department

\_\_\_\_\_  
Senior Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## Appendix Eleven – Cost Analysis Form

PAGE      OF

<b>COST ANALYSIS SUMMARY</b> (For New Contracts Including Letter Contracts) (See Instructions below)								
SOLICITATION #				SUPPLIES AND/OR SERVICES TO BE FURNISHED				
PREPARER'S NAME, DEPARTMENT, TITLE, PHONE								
DIVISION(S) AND LOCATION(S) WHERE WORK IS TO BE PERFORMED				APPROVAL SIGNATURE				
<b>DETAIL DESCRIPTION OF COST ELEMENTS</b>								
1. DIRECT MATERIAL				Vendor A Proposal	Vendor B Proposal	Independent Estimate	Analysis	
A. PURCHASED PARTS								
B. SUBCONTRACTED ITEMS								
C. OTHER - (1) RAW MATERIAL								
(2) STANDARD COMMERCIAL ITEMS								
TOTAL DIRECT MATERIAL								
2. MATERIAL OVERHEAD (RATE % x \$ BASE *)								
3. DIRECT LABOR			ESTIMATE D HOURS	RATE/ HOUR	Vendor A (\$)	Vendor B (\$)	Independent Estimate	Variance
TOTAL DIRECT LABOR								
4. LABOR OVERHEAD					Vendor A (\$)	Vendor B (\$)	Independent Estimate	Variance
OH Rate								
X BASE (labor total above)								
TOTAL LABOR OVERHEAD								
5. OTHER DIRECT COSTS					Vendor A (\$)	Vendor B (\$)	Independent Estimate	Variance
A. SPECIAL TOOLING/EQUIPMENT								
TOTAL SPECIAL TOOLING/EQUIPMENT								
B. TRAVEL								
(1) TRANSPORTATION								
(2) PER DIEM OR SUBSISTENCE								

		<i>TOTAL TRAVEL</i>				
		<b>DETAIL DESCRIPTION OF COST ELEMENTS (continued)</b>	Vendor A (\$)	Vendor B (\$)	Independent Estimate	Variance
		C. INDIVIDUAL CONSULTANT SERVICES				
		<i>TOTAL INDIVIDUAL CONSULTANT SERVICES</i>				
		D. OTHER				
		<i>TOTAL OTHER</i>				
		<i>E. SUBTOTAL DIRECT COST AND OVERHEAD</i>				
		6. GENERAL AND ADMINISTRATIVE (G&A) RATE %				
		X \$ BASE (Use 5.E above)				
		7. ROYALTIES (if any)				
		<i>8.SUBTOTAL ESTIMATED COST</i>				
		9. CONTRACT FACILITIES CAPITAL AND COST OF MONEY				
		<i>10. SUBTOTAL ESTIMATED COST</i>				
		11. FEE OR PROFIT				
		<b>12.TOTAL ESTIMATED COST AND FEE OR PROFIT</b>				
		13. Discounts				
		14. Option Costs (specify)				
		15. ADJUSTED COST				

## **ANALYSIS GUIDELINES**

### **1. DIRECT MATERIAL**

A. Analyze Purchased Parts: Provide a consolidated price analysis of material quantities included in the various tasks, orders, or contract line items being proposed and the basis for pricing (vendor quotes, invoice prices, etc.).

B. Subcontracted Items: Analyze the total cost of subcontract effort and supporting written quotations from the prospective subcontractors

C. Other:

(1) Raw Material: Review any materials in a form or state that requires further processing. Analyze priced quantities of items required for the proposal. Consider alternatives and total cost impact.

(2) Standard Commercial Items: Analyze proposed items that the offeror will provide, in whole or in part, and review the basis for pricing. Consider whether these could be provided at lower cost from another source.

### **2. MATERIAL OVERHEAD**

Verify that this cost is not computed as part of labor overhead (item 4) or General and Administrative (G&A) (Item 6).

### **3. DIRECT LABOR**

Analyze the hourly rate and the total hours for each individual (if known) and discipline of direct labor proposed. Determine whether actual rates or escalated rates are used. If escalation is included, analyze the degree (percent) and rationale used. Compare percentage of total that labor represents for each bid.

### **4. LABOR OVERHEAD**

Analyze comparative rates and ensure these costs are not computed as part of G&A. Determine if Government Audited rates are available,

### **5. OTHER DIRECT COSTS**

A. Special Tooling/Equipment. Analyze price and necessity of specific equipment and unit prices.

B. Travel. Analyze each trip proposed and the persons (or disciplines) designated to make each trip. Compare and check costs.

C. Individual Consultant Services. Analyze the proposed contemplated consulting. Compare to independent estimate of the amount of services estimated to be required and match the consultants' quoted daily or hourly rate to known benchmarks.

D. Other Costs. Review all other direct charge costs not otherwise included in the categories described above (e.g., services of specialized trades, computer services, preservation, packaging and packing, leasing of equipment and provide bases for pricing. Scan for duplication or omissions.



---

**6. GENERAL AND ADMINISTRATIVE EXPENSE**

See notes on labor overhead above and check whether the base has been approved by a Government audit agency for use in proposals.

**7. ROYALTIES**

If more than \$250, analyze the following information for each separate royalty or license fee; name and address of licensor; date of license agreement; patent numbers, patent application serial numbers, or other basis on which the royalty is payable; brief description (including any part of model numbers or each contract item or component on which the royalty is payable); percentage or dollar rate of royalty per unit; unit price of contract item; number of units; and total dollar amount of royalties,

**8. SUBTOTAL ESTIMATED COST**

Compare the total of all direct and indirect costs excluding Cost of Money and Fee or Profit. Note reasons for differences.

**9. CONTRACT FACILITIES CAPITAL AND COST OF MONEY**

Analyze the offerors' supporting calculations and compare to known standards.

**10. SUBTOTAL ESTIMATED COST**

This is the total of all proposed costs excluding Fee or Profit. Determine the competitive range. Question outliers.

**11. FEE OR PROFIT**

Review the total of all proposed Fees or Profit.

**12. TOTAL ESTIMATED COST AND FEE OR PROFIT**

Analyze the range of total estimated costs including Fee or Profit, and explain variance to independent estimate. Identify areas for negotiation or areas to be challenged. Explain your conclusions regarding fair and reasonable pricing.

**13. DISCOUNTS**

Review basis for Discounts and range between offers.

**ATTACH NARRATIVE COST ANALYSIS MEMO ADDRESSING ITEMS AS INSTRUCTED ABOVE.**

---

## Appendix Twelve – Price Analysis

**PO / Contract:** \_\_\_\_\_

The evidence compiled by a price analysis includes:

- Developing and examining data from multiple sources whenever possible that prove or strongly suggest the proposed price is fair.
- Determining when multiple data consistently indicate that a given price represents a good value for the money.
- Documenting data sufficiently to convince a third party that the analyst's conclusions are valid.

The pricing quoted on the attached sheet(s) is deemed to be fair and reasonable based on the following type of analysis:

\_\_\_\_ Comparison with competing suppliers' prices or catalog pricing for the same item. (Complete comparison matrix and attach supporting quotes or catalog pages.)

\_\_\_\_ Comparison of proposed pricing with in-house estimate for the same item. (Attach signed in-house estimate and explain factors influencing any differences found. Complete summary matrix.)

\_\_\_\_ Comparison of proposed pricing with historical pricing from previous purchases of the same item, coupled with market data such as Producer Price Index or Inflation Rate over the corresponding time period. (Attach data and historical price record).

\_\_\_\_ Analysis of price components against current published standards, such as labor rates, dollars per pound etc. to justify the price reasonableness of the whole. (Attach analysis to support conclusions drawn.)

### SUMMARY MATRIX

Item	Proposed Pricing	Average Market Price	Competitor A	Competitor B	In-House Estimate	Other

DATE: \_\_\_\_\_

PREPARED BY: \_\_\_\_\_

Attachments:

---

## Appendix Thirteen – Procurement Summary

### PROCUREMENT MEMORANDUM

Date: \_\_\_\_\_ Completed by: \_\_\_\_\_  
PO / Contract No. \_\_\_\_\_  
Source of \_\_\_\_\_ Funding: \_\_\_\_\_

#### Method of Procurement

Micro Purchase: \_\_\_\_\_ Competitive RFP: \_\_\_\_\_ Competitive Bid: \_\_\_\_\_  
Small Purchase: \_\_\_\_\_ A&E Services: \_\_\_\_\_ Sole Source: \_\_\_\_\_

#### Justification if Non-Competitive:

\_\_\_\_\_  
\_\_\_\_\_

#### Reason for the Procurement

\_\_\_\_\_

Contract Type: \_\_\_\_\_  
Rationale for contract type: \_\_\_\_\_

Reason for Contractor selection or rejection: \_\_\_\_\_ Lowest responsive, responsible bidder: \_\_\_\_\_  
Evaluation results were: \_\_\_\_\_

\_\_\_\_\_

#### Basis for Contract Price:

Accepted contractor's proposed pricing: \_\_\_\_\_  
Negotiated Price (attached memorandum) \_\_\_\_\_  
Other: \_\_\_\_\_

\_\_\_\_\_

#### Cost / Price Analysis:

The price offered by the supplier was within \_\_\_\_% of the independent estimate, and variance between the offerors constituted a range of \_\_\_\_\_. The competitive range was determined to be from \$ \_\_\_\_\_  
Pricing discrepancies between the offers was attributed to \_\_\_\_\_  
Other sources/data used to affirm price reasonableness were \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

#### Summary of Responsibility and Responsiveness Checks

\_\_\_\_\_

\_\_\_\_\_

Award \_\_\_\_\_ Date of contract award: \_\_\_\_\_  
Board Approval (Attach Meeting Minutes): \_\_\_\_\_

#### Change Orders

Identify each and summarize reason for change, dates, cost analysis, time impact, and modification number.

## Appendix Fourteen – Change Order Review Checklist

Date			
Contract Number			
Contractor			
Contract Title			
Reviewer			
New Contract Total			
Change Order Number			
Dollar Value Increase			
Length of Time Extension Granted			
New Performance Period End Date			

Change Order Checklist	INCLUDED		N/A	Comment
1. In-House Estimate Prepared				
2. Project Manager Approval				
3. AWO Scope Meeting Held				
3a. Scope of Change Adequate for Bidding				
4. Contractor Proposal Includes Impact Costs, Price				
5. Cost Analysis Conducted				
5a. If Price > 10% of ICE, Evidence of MTA President Approval				
6. Negotiation Memorandum				
7. Written Record of Change				
7a. Signed Change Order in File				
8. Evidence of Board Approval Prior Initiation of Changed Work				
9. Notice to Proceed in file				
10. Work Authorized within Contract Scope				
11. No Evidence of Arbitrary Action				
Other Comment				

---

## Appendix Fifteen – Piggybacking Checklist

**Definition:** *Piggybacking is the post-award use of a contractual document/process that allows someone who was not contemplated in the original procurement to purchase the same supplies/equipment through that original document/process.*

In order to assist in the performance of your review, to determine if a situation exists where you may be able to participate in the piggybacking (assignment) of an existing agreement, the following considerations are provided. Ensure that your final file includes documentation substantiating your determination.

WORKSHEET	YES	NO
1. Have you obtained a copy of the contract and the solicitation document, including the specifications and any Buy America Pre-award or Post- Delivery audits?		
2. Does the solicitation and contract contain an express “assignability” clause that provides for the assignment of all or part of the specified deliverables?		
3. Did the Contractor submit the “certifications” required by Federal regulations? See BPPM Section 4.3.3.2.		
4. Does the contract contain the clauses required by Federal regulations? See BPPM Appendix A1.		
5. Were the piggybacking quantities included in the original solicitation; i.e., were they in the original bid and were they evaluated as part of the contract award decision?		
6. If this is an indefinite quantity contract, did the original solicitation and resultant contract contain both a minimum and maximum quantity, and did these represent the reasonably foreseeable needs of the parties to the contract?		
7. If this piggybacking action represents the exercise of an option in the contract, is the option provision still valid or has it expired?		
8. Does your State law allow for the procedures used by the original contracting agency: e.g., negotiations vs. sealed bids?		
9. Was a cost or price analysis performed by the original contracting agency documenting the reasonableness of the price? Obtain a copy for your files. Have you performed a market analysis of the prices to be paid and have you determined the price to be fair and reasonable and in the best interests of the Agency?		
10. If the contract is for rolling stock or replacement parts, does the contract term comply with the term limits established by the appropriate agency?		
11. Was there a proper evaluation of the bids or proposals? Include a copy of the analysis in your files.		
12. If you will require changes to the vehicles (deliverables), are they “within the scope” of the contract or are they “cardinal changes”? See BPPM Section 9.2.1.		

---

## Appendix Sixteen – Procurement File Checklist

### PROCUREMENT FILE CHECKLIST

	<u>Date</u>	<u>Initials</u>
_____ Requisition	_____	_____
_____ ICE	_____	_____
_____ Federal Clauses	_____	_____
_____ Advertised	_____	_____
_____ Bid Abstract	_____	_____
_____ Cost/Price Analysis	_____	_____
_____ Bonds:	_____	_____
_____ Bid	_____	_____
_____ Performance	_____	_____
_____ Payment	_____	_____
_____ Responsibility Determination	_____	_____
_____ Fair & Reasonable Determination	_____	_____
_____ SAM	_____	_____
_____ Excluded Parties	_____	_____
_____ Buy America	_____	_____
_____ Pre-Award	_____	_____
_____ Post Delivery	_____	_____
_____ Federal Clauses	_____	_____
_____ Options (Pricing evaluated at time of award)	_____	_____

# Regional Mobility Program Funding and Scorecard

## Regional Mobility Program: Background

- The federal aid highway program requires a minimum of ≈\$62M be distributed to Metropolitan Planning Organizations (MPOs). In most states, the local governments are typically asked to provide the required 20% match.
- However, in South Carolina, the Commission has taken the policy position to delegate a much larger amount of funding annually (\$238M) to not only the MPOs, but to all of the regional planning organizations. Additionally, the Commission has generally agreed to provide the required 20% matching funds.
- The delegation of funding and project selection to the regional planning organizations is *in lieu* of the SCDOT itself selecting projects outside of our paving, bridge, interstate and safety programs.



## **Regional Mobility Program: What is it's purpose?**

*Guide the MPOs and COGs to use their funding for strategic purposes identified at the state level by the Commission and measure the results in terms of projects advanced to construction.*

- 1. Optimize the existing network by pushing more volume through using spot improvements, access management and signal systems/ITS solutions while also tackling known safety issues identified through Road Safety Audits.**
- 2. Expand the existing network by widening existing roads, building new location roads and targeting bike/ped needs.**

# Regional Mobility Program: Optimize Existing Network

*As of June 30, 2023*

## Intersection Improvements

**50** advanced to construction at a cost of **\$213M** since July 1, 2017

**83** in the project development pipeline

## Access Management

**1** advanced to construction at a cost of **\$13M** since July 1, 2017

**2** in the project development pipeline

## Signal Systems & ITS

**2** advanced to construction at a cost of **\$5M** since July 1, 2017

**16** in the project development pipeline

## Road Safety Audits

**0** advanced to construction at a cost of **\$0M** since July 1, 2017

**0** in the project development pipeline

# Regional Mobility Program: Expand Existing Network

*As of June 30, 2023*

## Lane Miles Added

**70** advanced to construction at a cost of **\$470M** since July 1, 2017

**18** in the project development pipeline

## Bike / Ped

**10** advanced to construction at a cost of **\$103M** since July 1, 2017

**26** in the project development pipeline

## Transit

**0** new routes added to address workforce needs since July 1, 2017

**1** in the planned expansion in the development pipeline

# Recommended Policy Approach for FFY 2024 & FFY 2025

(Oct 1, 2023- Oct 1, 2024)

1. Continue ramp up of the funding levels originally envisioned by boosting the Regional Mobility Program by approximately \$100M over original funding levels.

*\$25M - \$50M - \$75M - \$100M*

*\$138M ➡ \$164M ➡ \$188M ➡ \$213M ➡ \$238M*

2. For FFY 2024, allocate **\$213M** to be distributed in the historical manner based on population with a minimum required investment level of **\$5M** per MPO/COG
3. For FFY 2025, allocate **\$238M** to be distributed in the historical manner based on population with a minimum required investment level of **\$5M** per MPO/COG



## Regional Mobility Program Allocation

Now that the 2020 Census data and boundaries have essentially been finalized, calculate the fully phased-in allocations for year 4 @ \$238M and ramp up half that amount for FFY2024-25. Retain minimum guarantee of \$5M for any MPO/COG.

COG	FFY 2021 Guideshare (Baseline)	FFY 2022 Guideshare (1st Increase)	FFY 2023 Guideshare (2nd Increase)	FFY 2024 Guideshare (3rd Increase)	Fully Phased-in Prorata Share Based on Population	Additional Allocation to get to \$5M minimum	Fully Phased-in FFY 2025 Guideshare (4th Increase)
Appalachian	\$7,579,497	\$8,690,986	\$9,802,475	\$10,032,996	\$10,263,517		\$10,263,517
BCD	\$2,181,422	\$4,000,000	\$5,000,000	\$5,000,000	\$2,802,948	\$2,197,052	\$5,000,000
Catawba	\$4,903,284	\$5,622,322	\$6,341,360	\$6,918,095	\$7,494,830		\$7,494,830
Central Midlands	\$2,883,809	\$4,000,000	\$5,000,000	\$5,000,000	\$4,210,034	\$789,966	\$5,000,000
Lowcountry	\$2,688,118	\$4,000,000	\$5,000,000	\$5,000,000	\$3,898,306	\$1,101,694	\$5,000,000
Lower Savannah	\$5,489,253	\$6,294,220	\$7,099,187	\$7,395,664	\$7,692,140		\$7,692,140
Pee Dee	\$6,622,076	\$7,593,165	\$8,564,254	\$8,915,021	\$9,265,788		\$9,265,788
Santee Lynches	\$3,208,717	\$4,000,000	\$5,000,000	\$5,370,057	\$5,740,113		\$5,740,113
Upper Savannah	\$6,263,156	\$7,181,611	\$8,100,067	\$8,650,149	\$9,200,230		\$9,200,230
Waccamaw	\$3,187,564	\$4,000,000	\$5,000,000	\$5,000,000	\$4,588,094	\$411,906	\$5,000,000
Sub-Total	<b>\$45,006,896</b>	<b>\$55,382,305</b>	<b>\$64,907,344</b>	<b>\$67,281,981</b>	<b>\$65,156,000</b>	<b>\$4,500,618</b>	<b>\$69,656,618</b>
MPO	FFY 2021 Guideshare (Baseline)	FFY 2022 Guideshare (1st Increase)	FFY 2023 Guideshare (2nd Increase)	FFY 2024 Guideshare (3rd Increase)	Fully Phased-in Prorata Share Based on Population	Additional Allocation to get to \$5M minimum	Fully Phased-in FFY 2025 Guideshare (4th Increase)
ANATS	\$2,815,237	\$4,000,000	\$5,000,000	\$6,657,977	\$8,315,955		\$8,315,955
ARTS (TMA)	\$3,593,769	\$4,103,890	\$5,000,000	\$5,855,426	\$6,710,851		\$6,710,851
CHATS (TMA)	\$19,026,279	\$21,726,983	\$24,427,686	\$28,971,698	\$33,515,710		\$33,515,710
COATS (TMA)	\$19,199,741	\$21,925,067	\$24,650,393	\$27,687,683	\$30,724,974		\$30,724,974
FLATS	\$3,107,082	\$4,000,000	\$5,000,000	\$5,321,178	\$5,642,356		\$5,642,356
GPATS (TMA)	\$18,077,921	\$20,644,009	\$23,210,097	\$26,204,779	\$29,199,461		\$29,199,461
GSATS (TMA)	\$7,599,944	\$8,678,725	\$9,757,507	\$12,708,110	\$15,658,714		\$15,658,714
LATS	\$4,625,288	\$5,281,829	\$5,938,370	\$7,228,409	\$8,518,448		\$8,518,448
RFATS (TMA)	\$6,035,144	\$6,891,808	\$7,748,473	\$10,079,784	\$12,411,095		\$12,411,095
SPATS	\$6,376,359	\$7,281,457	\$8,186,556	\$10,414,261	\$12,641,966		\$12,641,966
SUATS	\$2,536,368	\$4,000,000	\$5,000,000	\$5,000,000	\$4,204,469	\$795,531	\$5,000,000
Sub-Total	<b>\$92,993,132</b>	<b>\$108,533,768</b>	<b>\$123,533,092</b>	<b>\$146,129,306</b>	<b>\$167,544,000</b>	<b>\$795,531</b>	<b>\$168,339,531</b>
	\$138,000,028	\$163,916,073	\$188,440,436	\$213,411,287	\$232,700,000	\$5,296,149	\$237,996,149

**Proposed Regional  
Mobility Guideshare  
Funding Allocation  
for:  
FY 2023 of ≈ \$213M  
FY 2024 of ≈ \$238M**



# Recommended Motion for Consideration

*I move for the federal fiscal year 2024, the Regional Mobility Program is increased by approximately \$25 Million, from \$188 Million per year to approximately \$213 Million. In federal fiscal year 2025, the Regional Mobility Program is increased by approximately \$25 Million, from \$213 Million per year to approximately \$238 Million. The funds are to be distributed by the proposed formula base of 100% population. Every MPO/COG will have a minimum required investment level of \$5 Million. The \$238M approved for the federal fiscal year 2025 for the Regional Mobility Program will remain constant for future federal fiscal years unless adjusted and approved by the Commission.*

*I further move that the Commission adopt the performance measures for the Regional Mobility Program as proposed by the Secretary of Transportation be adopted and reported to the Commission regularly.*

**SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION  
COMMISSION  
STATEMENT OF POLICY**

**Policy No.** 3

**Subject:** Regional Mobility Match and Use

**References:** Section 57 1-30, 57-1-370  
S. C. Code of Laws, 1976, as amended  
23 Code of Federal Regulations Part 450.324

The South Carolina Department of Transportation (SCDOT) Commission establishes the following policy for Metropolitan Planning Organization (MPO) and Council of Government (COG) Regional Mobility Use Match Responsibility, and Maintenance Responsibility:

- 1) The Commission establishes that SCDOT will provide the required state match for the annual Statewide Transportation Improvement Program (STIP) federally funded Regional Mobility allocation to the state's MPOs and COGs for eligible project activities that address the Department's goal of optimizing the existing transportation network through traffic operations, capacity, safety, and multi-modal accessibility improvements.
- 2) SCDOT has established statewide programs to systematically maintain existing pavements and bridge rehabilitation and replacement programs. Regional Mobility funds should not be allocated toward pavement preservation, pavement rehabilitation, pavement reconstruction projects, bridge rehabilitation, or bridge replacement projects. SCDOT shall grant exceptions in the event the work is a part of a larger project consistent with the Department's goal of optimizing the existing transportation network through traffic operations, capacity, safety, and multi-modal accessibility improvements.
- 3) Projects supported by the Regional Mobility program should be selected and funded consistent with the SCDOT Complete Streets Policy and the MPO and COG walking, bicycling, and transit plans envisioned in the Complete Streets Policy.
- 4) In cases where an MPO/COG project is eligible for federal Regional Mobility funding, but is not recommended by the Department for state match due to the improvement being outside the Department's core goals of the Regional Mobility Program, the local jurisdiction must provide the required matching funds, typically set at 20% of the total project cost. In addition, County Transportation Committees (CTCs) may also contribute all or a portion of the required match for Regional Mobility projects. Any financial commitment by a CTC to a Regional Mobility project on the state system will also count towards the county's requirement to spend at least twenty-five percent of their apportionment of C-Funds based on a biennial averaging of expenditures on the state highway system for construction and maintenance.
- 5) Regional Mobility funds shall not be pledged for debt service without recommendation of the Secretary of Transportation and approval of the SCDOT Commission.
- 6) No local government shall commit Regional Mobility funding for any State Transportation Infrastructure Bank, state agency, or federal agency grant application without the



appropriate Policy Committee's approval and approval by the Secretary of Transportation.

- 7) To assist with project delivery and demonstration of yearly fiscal constraint of the TIP and STIP, Regional Mobility advancements can be requested by MPOs and COGs. Advancements are subject to approval by the Secretary of Transportation, and will be reviewed based on need, justification and available financial resources. Advancements shall not exceed three years of annual Regional Mobility allocation (not to exceed a total of \$45 million). The payback of an advancement must occur within four years and will be reflected in the annual financial statement as a deduction of available budget. The Secretary of Transportation may permit deviation from this policy upon extenuating circumstances where an advancement exceeds three years of annual Regional Mobility allocation (not to exceed a total of \$45 million) if the project provides demonstrable statewide significance and shall be communicated at the next Commission meeting.
- 8) The attached guidelines will provide a general policy for Regional Mobility use, match and maintenance responsibility. Some unique cases may arise that require special evaluation and approval of the Commission upon review and recommendation of the Secretary of Transportation.

**This Policy was adopted by the Commission at its July 21, 2011 meeting.**  
**Effective date: July 21, 2011**

**Amended by the Commission at its January 19, 2012 meeting.**  
**Amended by the Commission at its September 21, 2023 Meeting**

A handwritten signature in blue ink is written over a solid black horizontal line. The signature is stylized, starting with a large 'C' and ending with a large loop.

Commission Chairman



# ATTACHMENT A: SCDOT REGIONAL MOBILITY USE, MATCH RESPONSIBILITY, AND MAINTENANCE RESPONSIBILITY GUIDELINES

SCDOT Regional Mobility Use, Match Responsibility, and Maintenance Responsibility Guidelines				
Eligible Activities	Match Responsibility		Maintenance Responsibility	
	State	Local	State	Local
Capacity projects, mainline widening, or intersection improvements to include bicycle and pedestrian accommodations.	X		X	
Access reconfiguration, management, and turn lanes.	X		X	
Park and ride facilities (to be reviewed case-by-case basis).	X		X	X
Safety projects (i.e. enhanced signing, marking, shoulder widening, intersections).	X		X	
Road diet projects. Project is eligible and results in operational and safety improvements (i.e. additional turn lanes, access control and consolidation).	X		X	
Bus pull-outs	X		X	
Traffic signals and systems.	X		X	
Landscaping in conjunction with large capacity and operational improvement projects.		X		X
Landscaping in a standalone project.		X		X
Streetscape/hardscape in conjunction with a capacity or operational improvement project (i.e. stamped asphalt, formliners).	X			X
Mast arms (locals to provide match for the difference between mast arms and standard signal installation).		X		X
Traffic calming (as defined by SCDOT Traffic Calming Guidelines). Traffic calming identified in a Road Safety Audit would be state funded.		X		X
Underground utilities as part of a widening or qualifying road diet project (included in the scope of the project). Utility owner still responsible for their share as determined by prior rights).		X		X
Standalone sidewalk, bicycle, and multi-use paths in accordance with SCDOT Complete Streets Policy. <i>Recreational projects require local match.</i>	X		X	
Complete Street Retrofit (addition of bike lanes, sidewalks, mass transit accommodations, enhanced pedestrian crossing, curb extensions, and median islands, etc.) as a standalone project not in conjunction with a capacity project.	X		X	
Decorative lighting. Lighting identified in a Road Safety Audit would be state funded.		X		X
Transit (local match requirement based on associated FTA program such as 5307, 5311, 5310, etc.)		X		X
Corridor or project-specific feasibility studies	X		N/A	N/A
Traditional UPWP/RPWP activities (i.e. long range plans, congestion management plans, regional freight plans, enhancement master plans, regional bike and pedestrian plans).		X	N/A	N/A
Upgrades to federally-eligible roads not on the state system.		X		X

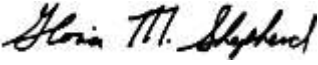


U.S. Department  
of Transportation  
**Federal Highway  
Administration**

# Memorandum

Subject: **INFORMATION:** Carbon Reduction Program  
(CRP) Implementation Guidance

Date: April 21, 2022

From: Gloria M. Shepherd   
Associate Administrator, Office of Planning,  
Environment, and Realty

In Reply Refer To:  
HEP-1

To: Division Administrators  
Directors of Field Services

On November 15, 2021, the President signed the Infrastructure Investment and Jobs Act (IIJA) (Public Law 117-58, also known as the “Bipartisan Infrastructure Law”) (BIL) into law. The BIL authorizes a new Carbon Reduction Program codified at 23 United States Code (U.S.C.) 175 to reduce transportation emissions. The attached Carbon Reduction Program (CRP) Implementation Guidance provides information on funding, eligible activities, and requirements of the CRP.

Except for the statutes and regulations cited, the contents of this document do not have the force and effect of law and are not meant to bind the States or the public in any way. This document is intended only to provide information regarding existing requirements under the law or agency policies.

This document will be accessible on the Sustainability Website ([FHWA Sustainability Website](#)), the BIL Website ([FHWA Bipartisan Infrastructure Law Website](#)), and through the Policy and Guidance Center ([FHWA Policy and Guidance Center](#)).

If you have questions, please contact: Becky Lupes (202-366-7808 or [Rebecca.Lupes@dot.gov](mailto:Rebecca.Lupes@dot.gov)) or John Davies (202-366-6039 or [JohnG.Davies@dot.gov](mailto:JohnG.Davies@dot.gov)) of the Office of Natural Environment.

Attachment

**Carbon Reduction Program Implementation Guidance**  
(April 21, 2022)

**TABLE OF CONTENTS**

- A. **DEFINITIONS**
- B. **PROGRAM PURPOSE**
- C. **GUIDANCE ON ADMINISTRATION PRIORITIES AND USE OF THE  
FEDERAL-AID HIGHWAY FORMULA FUNDING**
- D. **GOVERNING AUTHORITIES**
- E. **FUNDING**
- F. **CARBON REDUCTION STRATEGIES**
- G. **ELIGIBILITIES AND COORDINATION REQUIREMENTS**
- H. **DAVIS-BACON ACT REQUIREMENTS**

## A. Definitions

In this guidance, the following definitions apply:

*Consultation* means that one or more parties confer with other identified parties in accordance with an established process and, prior to taking action(s), considers the views of the other parties and periodically informs them about action(s) taken (*See* 23 CFR 450.104).

*Coordination* means the cooperative development of plans, programs, and schedules among agencies and entities with legal standing and adjustment of such plans, programs, and schedules to achieve general consistency, as appropriate (23 CFR 450.104).

*Metropolitan Planning Organization* means the policy board of an organization established as a result of the designation process under 23 U.S.C. 134(d) (23 U.S.C. 134(b)(2); 23 U.S.C. 175(a)(1)).

*Transportation Emissions* means carbon dioxide emissions from on-road highway sources of those emissions within a State (23 U.S.C. 175(a)(2)).

*Transportation Management Area* means a transportation management area identified or designated by the Secretary under 23 U.S.C. 134(k)(1) (*See* 23 U.S.C. 175(a)(3)).

*Urbanized Area* means a geographic area with a population of 50,000 or more, as determined by the Bureau of the Census (23 U.S.C. 134(b)(7); 23 U.S.C. 175(a)(1)).

## B. PROGRAM PURPOSE

The purpose of the Carbon Reduction Program (CRP) is to reduce transportation emissions through the development of State carbon reduction strategies and by funding projects designed to reduce transportation emissions (*See* 23 U.S.C. 175 as established by the Infrastructure Investment and Jobs Act (IIJA) (Public Law 117-58, also known as the “[Bipartisan Infrastructure Law](#)” (BIL)) (BIL § 11403).

## C. GUIDANCE ON ADMINISTRATION PRIORITIES AND USE OF THE FEDERAL-AID HIGHWAY FORMULA FUNDING

- 1. Overview:** This document provides background and guidance to clarify eligibility requirements for the CRP. On December 16, 2021, FHWA issued guidance, [Policy on Using Bipartisan Infrastructure Law Resources to Build a Better America](#), that serves as an overarching framework to prioritize the use of BIL resources on projects that will Build a Better America. That policy is available on FHWA’s BIL resources implementation website at the following URL: [https://www.fhwa.dot.gov/bipartisan-infrastructure-law/building\\_a\\_better\\_america-policy\\_framework.cfm](https://www.fhwa.dot.gov/bipartisan-infrastructure-law/building_a_better_america-policy_framework.cfm).

## **2. Safety:**

### **Prioritizing Safety in All Investments and Projects**

The National Roadway Safety Strategy (NRSS) (issued January 27, 2022) commits the United States Department of Transportation (USDOT) and FHWA to respond to the current crisis in traffic fatalities by “taking substantial, comprehensive action to significantly reduce serious and fatal injuries on the Nation’s roadways,” in pursuit of the goal of achieving zero highway deaths. FHWA recognizes that zero is the only acceptable number of deaths on our roads and achieving that is our safety goal. FHWA therefore encourages States and other funding recipients to prioritize safety in all Federal highway investments and in all appropriate projects, using relevant Federal-aid funding, including funds from CRP.

The Safe System approach addresses the safety of all road users, including those who walk, bike, drive, ride transit, and travel by other modes. It involves a paradigm shift to improve safety culture, increase collaboration across all safety stakeholders, and refocus transportation system design and operation on anticipating human mistakes and lessening impact forces to reduce crash severity and save lives. To achieve the vision of zero fatalities, safety should be fully reflected in a State’s transportation investment decisions, from planning and programming, environmental analysis, project design, and construction, to maintenance and operations. States should use data-driven safety analyses to ensure that safety is a key input in any decision made in the project development process and fully consider the safety of all road users in project development.

FHWA encourages State and local agencies to consider the use of funds from CRP to address roadway safety and implement the Safe System approach wherever possible. Improvements to safety features, including traffic signs, pavement markings, and multimodal accommodations that are routinely provided as part of a broader Federal-aid highway project can and should be funded from the same source as the broader project as long as the use is eligible under that funding source.

Because of the role of speed in fatal crashes, FHWA is also providing new resources on the setting of speed limits and on re-engineering roadways to help “self-enforce” speed limits. To achieve the vision of zero fatalities on the Nation’s roads, FHWA encourages States to assess safety outcomes for all project types and promote and improve safety for all road users, particularly vulnerable users. FHWA recommends that streets be designed and operated to maximize the existing right-of-way for accommodation of nonmotorized modes and transit options that increase safety and connectivity. Pedestrian facilities in the public right-of-way must comply with the Americans with Disabilities Act.

### **Complete Streets**

As one approach to ensuring the safety of all roadway users, FHWA encourages States and communities to adopt and implement Complete Streets policies that prioritize the safety of all users in transportation network planning, design, construction and operations. Section 11206 of the BIL defines Complete Streets standards or policies as

those which “ensure the safe and adequate accommodation of all users of the transportation system, including pedestrians, bicyclists, public transportation users, children, older individuals, individuals with disabilities, motorists, and freight vehicles.” A complete street includes, but is not limited to, sidewalks, bike lanes (or wide paved shoulders), special bus lanes, accessible public transportation stops, safe and accommodating crossing options, median islands, pedestrian signals, curb extensions, narrower travel lanes, and roundabouts. A Complete Street is safe, and feels safe, for everyone using the street.

3. **Transit Flex:** FHWA, working with FTA, seeks to help Federal-aid recipients plan, develop, and implement infrastructure investments that prioritize safety, mobility, and accessibility for all transportation network users, including pedestrians, bicyclists, transit riders, micromobility users, freight and delivery services providers, and motorists. This includes the incorporation of data sharing principles and data management.

Funds from CRP can be “flexed” to FTA to fund transit projects. For title 23 funds that are flexed to FTA, section 104(f) of title 23, U.S.C., allows funds made available for transit projects or transportation planning to be transferred to FTA and administered in accordance with chapter 53 of title 49, U.S.C., except that the Federal share requirements of the original fund category continue to apply (See 23 U.S.C. 104(f)(1)).

The use of Federal-aid funding on transit and transit-related projects can provide an equitable and safe transportation network for travelers of all ages and abilities, including those from marginalized communities facing historic disinvestment. FHWA encourages recipients to consider using funding flexibility for transit or multimodal-related projects and to consider strategies that: (1) improve infrastructure for nonmotorized travel, public transportation access, and increased public transportation service in underserved communities; (2) plan for the safety of all road users, particularly those on arterials, through infrastructure improvements and advanced speed management; (3) reduce single-occupancy vehicle travel and associated air pollution in communities near high-volume corridors; (4) offer reduced public transportation fares as appropriate; (5) target demand-response service towards communities with higher concentrations of older adults and those with poor access to essential services; and (6) use equitable and sustainable practices while developing transit-oriented development.

4. **Transferability Between FHWA Programs:** Section 126 of title 23, U.S.C., provides that a State may transfer up to 50 percent of the amount apportioned for the fiscal year for certain highway programs, including CRP, to other eligible apportioned highway programs.<sup>1</sup> See also FHWA Order 4551.1, “Fund Transfers to Other Agencies and Among Title 23 Programs”, ([Fund Transfers to Other Agencies and Among Title 23 Programs](#)). Historically States have used this flexibility to address unmet needs in areas where apportioned funding was insufficient.

The BIL made historic investments in highway programs including more than \$300 billion in Contract Authority from the Highway Trust Fund. This represents an average

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<sup>1</sup> States may only transfer CRP funds that are allocated for use anywhere in the State.

annual increase of 29 percent in Federal-aid funding over the amount of Contract Authority for FHWA programs compared to fiscal year 2021. Congress also established more than a dozen new highway programs to help address urgent surface transportation needs.

States have the flexibility to transfer funds out of CRP to other apportioned programs, but we encourage States to first consider the need to transfer in light of the significant increase in apportioned funding and the considerable funding for new programs. States, working with FHWA, should determine the need for CRP funds – including the ability to apply CRP funds to eligible assets owned by local governments, counties, and Tribes – and identify and prioritize projects that maximize the CRP funding before deciding to transfer funds out of the CRP.

5. **ADA:** The Americans with Disabilities Act (ADA) of 1990 and Section 504 of the Rehabilitation Act of 1973 prohibit discrimination against people with disabilities and ensure equal opportunity and access for persons with disabilities. The Department of Transportation’s Section 504 regulations apply to recipients of the Department’s financial assistance (*See* 49 CFR 27.3(a)). Title II of the ADA applies to public entities regardless of whether they receive Federal financial assistance (*See* 28 CFR 35.102(a)). The ADA requires that no qualified individual with a disability shall, because a public entity’s facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity (*See* 28 CFR 35.149). A public entity’s pedestrian facilities are considered a “service, program, or activity” of the public entity. As a result, public entities and recipients of Federal financial assistance are required to ensure the accessibility of pedestrian facilities in the public right-of-way, such as curb ramps, sidewalks, crosswalks, pedestrian signals, and transit stops in accordance with applicable regulations.

If the project reduces transportation emissions, funds from CRP are available to improve accessibility and to implement recipients’ ADA transition plans and upgrade their facilities to eliminate physical obstacles and provide for accessibility for individuals with disabilities. FHWA will provide oversight to recipients of CRP funds to ensure that each public agency’s project planning, design, and construction programs comply with ADA and Section 504 accessibility requirements.

6. **Equity:** The BIL provides considerable resources to help States and other funding recipients advance projects that consider the unique circumstances affecting community members’ mobility needs and allocate resources consistently with those needs, enabling the transportation network to effectively serve all community members. FHWA will work with States to ensure consideration of using CRP funds for projects and inclusion of project elements that proactively address racial equity, workforce development, economic development, and remove barriers to opportunity, including automobile dependence in both rural and urban communities as a barrier to opportunity or to redress prior inequities and barriers to opportunity.

Federal-aid recipients, including recipients of CRP funds, are responsible for involving the public, including traditionally underserved and underrepresented populations in transportation planning and complying with participation and consultation requirements in 23 CFR 450.210 and 23 CFR 450.316, as applicable. “Underserved populations” include minority and low-income populations but may also include many other demographic categories that face challenges engaging with the transportation process and receiving equitable benefits (See [FHWA's Environmental Justice Reference Guide](#) for additional information). In addition, CRP projects can support the Justice40 Initiative, which establishes a goal that at least 40 percent of the benefits of federal investments in climate and clean energy infrastructure are distributed to disadvantaged communities. (See [OMB's Interim Implementation Guidance for the Justice40 Initiative](#) or its successor for additional information).

To assist with these public engagement efforts, FHWA expects recipients of CRP funds to engage with all impacted communities and community leaders to determine which forms of communication are most effective. Recipients should gain insight on the unique circumstances impacting various disadvantaged and underrepresented groups so that new channels for communication may be developed. And, the recipients should use this information to inform decisions across all aspects of project delivery including planning, project selection, and the design process.

Among other things, recipients of CRP funds are also required to assure equitable treatment of workers and trainees on highway projects through compliance with Equal Employment Opportunity requirements under 23 CFR Part 230, Subpart A, as well as ensuring nondiscrimination in all of their operations on the basis of race, color, or national origin under Title VI of the Civil Rights Act of 1964. Recipients of CRP funds should ensure that they have the capacity and expertise to address Federal civil rights protections that accompany grant awards.

- 7. Climate Change and Sustainability:** The United States is committed to a whole-of-government approach to reducing economy-wide net greenhouse gas pollution by 2030. The BIL provides considerable resources—including new programs and funding—to help States and other funding recipients advance this goal in the transportation sector. In addition, the BIL makes historic investments to improve the resilience of transportation infrastructure, helping States and communities prepare for hazards such as wildfires, floods, storms, and droughts exacerbated by climate change.

FHWA encourages the advancement of projects that address climate change and sustainability. To enable this, FHWA encourages recipients to consider climate change and sustainability throughout the planning and project development process, including the extent to which projects under CRP align with the President’s greenhouse gas reduction, climate resilience, and environmental justice commitments. In particular, consistent with the statute and guidance below, recipients should fund projects that reduce carbon dioxide emissions. FHWA encourages recipients to fund projects that support fiscally responsible land use and transportation efficient design, or incorporate electrification or zero emission vehicle infrastructure. In addition, FHWA encourages



recipients to consider projects under CRP that support climate change resilience, including consideration of the risks associated with wildfires, drought, extreme heat, and flooding, in line with guidance for projects in floodplains. FHWA also encourages recipients to consider projects under CRP that address environmental justice concerns.

8. **Labor and Workforce:** Highway programs, including CRP, may provide opportunities to support the creation of good-paying jobs, including jobs with the free and fair choice to join a union, and the incorporation of strong labor standards, such as the use of project labor agreements; employer neutrality with respect to union organizing; the use of an appropriately trained workforce (in particular registered apprenticeships and other joint labor-management training programs); and the use of an appropriately credentialed workforce in project planning stages and program delivery.

Recipients should work with FHWA, to the extent possible, to identify opportunities for Federal-aid highway investments to advance high-quality job creation through the use of local or other geographic or economic hire provisions authorized under section 25019 in the BIL, and Indian employment preference for projects that are located on or near Tribal reservations authorized under 23 U.S.C. 140(d), or other workforce strategies targeted at expanding workforce training opportunities for people to get the skills they need to compete for these jobs, especially underrepresented populations: women, people of color, and groups with other systemic barriers to employment (people with disabilities, formerly incarcerated, etc.).

9. **Truck Parking:** Truck parking shortages are a national concern affecting the efficiency of U.S. supply chains and safety for truck drivers and other roadway users. Jason's Law, which was passed in 2012, established a national priority on addressing the shortage of long-term parking for commercial motor vehicles on the National Highway System (NHS).

Many Federal-aid highway funding programs have eligibility for truck parking projects, including the CRP. CRP funds may be obligated for a project on an eligible facility that reduces transportation emissions. FHWA anticipates that such projects may support progress toward the achievement of national performance goals for improving infrastructure condition, safety, congestion reduction, system reliability, or freight movement on the NHS. Advanced truck stop electrification systems are eligible under 23 U.S.C. 175(c)(1)(A) and projects that reduce transportation emissions at port facilities are eligible under 23 U.S.C. 175(c)(1)(M).

States should consider working with private sector truck stop operators and the trucking community in the siting and development of specific truck parking projects. States also are encouraged to offer opportunities for input from commercial motor vehicle drivers and truck stop operators through their State Freight Advisory Committees established under 49 U.S.C. 70201.

## **D. GOVERNING AUTHORITIES**

1. Section 11101 of the BIL authorizes contract authority for the CRP.

2. Section 11104 of the BIL updates apportionment instructions in 23 U.S.C. 104.
3. Section 11403 of the BIL establishes the CRP in 23 U.S.C. 175.

## E. FUNDING

1. **Authorization Levels:** Estimated annual CRP funding under the BIL is:

<b>Estimated Annual CRP Funding</b>	
Fiscal Year (FY) 2022	\$1.234 B
FY 2023	\$1.258 B
FY 2024	\$1.283 B
FY 2025	\$1.309 B
FY 2026	\$1.335 B

The BIL sets each State's initial share of Federal-aid highway program apportioned (formula) funds annually based on the share of formula funds each State received in fiscal year 2021. The methodology for calculating the apportionments for FY 2022 under 23 U.S.C. 175 is discussed in FHWA Notice [N4510.858](#). For FY 2023 through 2026 funds, please revisit [FHWA's Notice website](#) at the appropriate future time.

The Fiscal Management Information System Program Codes for these CRP funds are as follows:

<b>Program Code</b>	<b>Program Description</b>	<b>Title 23 Reference</b>
Y600	Carbon Reduction Program (CRP) Flexible	Section 175(e)(1)(B); Section 104(b)(7)
Y601	CRP – Urbanized Areas with Population Over 200K	Section 175(e)(1)(A)(i)
Y606	CRP – Urbanized Areas with Population 50K to 200K	Section 175(e)(1)(A)(ii)
Y607	CRP – Urban Areas with Population 5K to 49,999	Section 175(e)(1)(A)(iii)
Y608	CRP – Areas with Population less than 5K	Section 175(e)(1)(A)(iv)

For urbanized areas with population over 200K and urbanized areas with population 50K to 200K, the CRP funding in FMIS will be provided at the individual urbanized area level.<sup>2</sup>

<sup>2</sup> For example see [FHWA Notice N 4510.864 Fiscal Year \(FY\) 2022 Supplementary Tables – Table 18 - Apportionments Pursuant to the Infrastructure Investment and Jobs Act](#) and [FHWA Notice N 4510.864 Fiscal Year \(FY\) 2022 Supplementary Tables – Table 19 - Apportionments Pursuant to the Infrastructure Investment and Jobs Act](#).

2. **Period of Availability:** CRP funds are contract authority. CRP obligations are reimbursed from the Highway Account of the Highway Trust Fund. CRP funds are available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized (*See* 23 U.S.C. 118(b)). Thus, CRP funds are available for obligation for up to 4 years.
3. **Obligation Limitation:** CRP funds are subject to the annual obligation limitation imposed on the Federal-aid highway program.

In general, a State that is required under 23 U.S.C. 175(e) to obligate CRP funds in an urbanized area with an urbanized area population of 50,000 or more shall make available during the period of fiscal years 2022 through 2026 an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the amount obtained by multiplying:

- a. the aggregate amount of funds that the State is required to obligate in the area under this subsection during the period; and
- b. the ratio that—
  - i. the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to
  - ii. the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period. (*See* 23 U.S.C. 175(e)(6)(A))

Each State, each affected Metropolitan Transportation Planning Organization (MPO), and the Secretary shall jointly ensure compliance with 23 U.S.C. 175(e)(6)(A). (*See* 23 U.S.C. 175(e)(6)(B))

4. **Federal share:** The Federal share for CRP-funded projects is governed by 23 U.S.C. 120, as amended by the BIL. It is generally 80 percent (*See* 23 U.S.C. 120(b)).
5. **Combining CRP Funds with Other Eligible USDOT funding:** CRP funds can be spread further by combining them with other eligible USDOT funding for projects that support the reduction of transportation emissions, if the eligibility requirements and applicable Federal share are met for each program.
6. **Deobligations of Other Title 23 Obligated Funds:** Project Agreements should not be modified to replace one Federal fund category with another unless specifically authorized by statute (*See* 23 CFR 630.110(a)).
7. **Suballocation Within a State** (*See* 23 U.S.C. 175(e))  
*Specified Areas*  
For each fiscal year, 65 percent of funds apportioned to the State for the CRP shall be obligated, in proportion to their relative shares of the population in the State:

- In urbanized areas of the State with an urbanized area population of more than 200,000 (these funds may be obligated in the metropolitan area established under 23 U.S.C.134 that encompasses the urbanized area.);
- In urbanized areas of the State with an urbanized population of not less than 50,000 and not more than 200,000;
- In urban areas of the State with a population of not less than 5,000 and not more than 49,999; and
- In other areas of the State with a population of less than 5,000.

The State may obligate these funds suballocated for specified areas based on other factors if the State and relevant MPOs jointly apply to the Secretary for permission to base the obligation on other factors, and the request is approved by the Secretary.

*Any Area of State*

The remaining 35 percent of funds apportioned to a State for the CRP each fiscal year may be obligated in any area of the State.

## F. CARBON REDUCTION STRATEGIES

- 1. General:** By November 15, 2023, States are required to develop a Carbon Reduction Strategy in consultation with any MPO designated within the State (23 U.S.C. 175(d)(1)). The State Carbon Reduction Strategy shall support efforts to reduce transportation emissions and identify projects and strategies to reduce these emissions. The Carbon Reduction Strategy must be updated at least once every four years (23 U.S.C. 175(d)(3) and (4)). States and MPOs are encouraged to obligate CRP funding for projects that support implementation of the State's Carbon Reduction Strategy.
- 2. Development:** States, in coordination with MPOs, are encouraged to develop their Carbon Reduction Strategies as an integral part of their transportation planning processes, such as by integrating them into the State's Long-Range Statewide Transportation Plan (LRSTP), the MPO's Metropolitan Transportation Plan (MTP), or by developing a separate document which is incorporated by reference into the LRSTP and MTP.

States may request technical assistance from FHWA for the development of their Carbon Reduction Strategy (*See* 23 U.S.C. 175(d)(5)).

Development of a Carbon Reduction Strategy is an allowable use of CRP funds (see Eligibilities below).

- 3. Contents:** Each Carbon Reduction Strategy shall (*See* 23 U.S.C. 175(d)(2)):
  - A. support efforts to reduce transportation emissions;
  - B. identify projects and strategies to reduce transportation emissions, which may include projects and strategies for safe, reliable, and cost-effective options—
    - i. to reduce traffic congestion by facilitating the use of alternatives to single-occupant vehicle trips, including public transportation facilities, pedestrian facilities, bicycle facilities, and shared or pooled vehicle trips within the State

- or an area served by the applicable MPO, if any;
    - ii. to facilitate the use of vehicles or modes of travel that result in lower transportation emissions per person-mile traveled as compared to existing vehicles and modes; and
    - iii. to facilitate approaches to the construction of transportation assets that result in lower transportation emissions as compared to existing approaches;
  - C. support the reduction of transportation emissions of the State;
  - D. at the discretion of the State, quantify the total carbon emissions from the production, transport, and use of materials used in the construction of transportation facilities within the State; and
  - E. be appropriate to the population density and context of the State, including any metropolitan planning organization designated within the State.
4. **Review:** Not later than 90 days after the State submits a request for the approval of a Carbon Reduction Strategy, the Secretary will review the process used to develop the Carbon Reduction Strategy and either certify that the Carbon Reduction Strategy meets the requirements of 23 U.S.C. 175(d)(2) or deny certification and specify the actions necessary for the State to take to correct the deficiencies in the State's process for developing the Carbon Reduction Strategy (23 U.S.C. 175(d)(4)).

## G. ELIGIBILITIES AND COORDINATION REQUIREMENTS

1. **General:** CRP funding may be used on a wide range of projects that support the reduction of transportation emissions. Projects must be identified in the Statewide Transportation Improvement Program (STIP)/Transportation Improvement Program (TIP) and be consistent with the Long-Range Statewide Transportation Plan and the Metropolitan Transportation Plan(s). (23 U.S.C. 134 and 23 U.S.C. 135)

Projects are subject to requirements under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (42 U.S.C. 4601 *et seq.*), and other applicable Federal laws. Projects funded with CRP funds are required to be treated as projects on Federal-aid highways (23 U.S.C. 175(g)).

### 2. Program Evaluation

States are encouraged to incorporate program evaluation including associated data collection activities from the outset of their program design and implementation to meaningfully document and measure their progress towards meeting an agency priority goal(s). Title I of the Foundations for Evidence-Based Policymaking Act of 2018 (Evidence Act), Pub. L. No. 115-435 (2019) urges federal awarding agencies to use program evaluation as a critical tool to learn, to improve equitable delivery, and to elevate program service and delivery across the program lifecycle. Evaluation means “an assessment using systematic data collection and analysis of one or more programs, policies, and organizations intended to assess their effectiveness and efficiency.” Evidence Act § 101 (codified at 5 U.S.C. § 311). Credible program evaluation activities are implemented with relevance and utility, rigor,

independence and objectivity, transparency, and ethics (OMB Circular A-11, Part 6 Section 290).

Evaluation costs are allowable costs unless prohibited by statute or regulation, and such costs may include the personnel and equipment needed for data infrastructure and expertise in data analysis, performance, and evaluation. (2 CFR Part 200).

**3. Eligible Activities:** Subject to the general eligibility requirements described in Section E.1 of this memorandum, the following activities are listed as eligible under 23 U.S.C. 175(c):

- A. a project described in 23 U.S.C. 149(b)(4) to establish or operate a traffic monitoring, management, and control facility or program, including advanced truck stop electrification systems;
- B. a public transportation project eligible for assistance under 23 U.S.C. 142 (this includes eligible capital projects for the construction of a bus rapid transit corridor or dedicated bus lanes as provided for in BIL Section 11130 (23 U.S.C. 142(a)(3));
- C. a [transportation alternatives project](#) as described in 23 U.S.C. 101(a)(29) as in effect prior to the enactment of the FAST Act,<sup>3</sup> including the construction, planning, and design of on-road and off-road trail facilities for pedestrians, bicyclists, and other nonmotorized forms of transportation;
- D. a project described in section 23 U.S.C. 503(c)(4)(E) for advanced transportation and congestion management technologies;
- E. a project for the deployment of infrastructure-based intelligent transportation systems capital improvements and the installation of vehicle-to-infrastructure communications equipment, including retrofitting dedicated short-range communications (DSRC) technology deployed as part of an existing pilot program to cellular vehicle-to-everything (C-V2X) technology;
- F. a project to replace street lighting and traffic control devices with energy-efficient alternatives;
- G. development of a carbon reduction strategy (as described in the Carbon Reduction Strategies section above);
- H. a project or strategy designed to support congestion pricing, shifting transportation demand to nonpeak hours or other transportation modes, increasing vehicle occupancy rates, or otherwise reducing demand for roads, including electronic toll collection, and travel demand management strategies and programs;
- I. efforts to reduce the environmental and community impacts of freight movement;
- J. a project to support deployment of alternative fuel vehicles, including—
  - (i.) the acquisition, installation, or operation of publicly accessible electric vehicle charging infrastructure or hydrogen, natural gas, or propane vehicle fueling infrastructure; and
  - (ii.) the purchase or lease of zero-emission construction equipment and vehicles, including the acquisition, construction, or leasing of required supporting facilities;
- K. a project described under 23 U.S.C. 149(b)(8) for a diesel engine retrofit;
- L. certain types of projects to improve traffic flow that are eligible under the CMAQ

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<sup>3</sup> See [Transportation Alternatives Set-Aside Implementation Guidance as Revised by the Infrastructure Investment and Jobs Act](#)

- program, and that do not involve construction of new capacity; (23 U.S.C. 149(b)(5) and 175(c)(1)(L)); and
- M. a project that reduces transportation emissions at port facilities, including through the advancement of port electrification.

Other projects that are not listed above may be eligible for CRP funds if they can demonstrate reductions in transportation emissions over the project's lifecycle. Consistent with the CRP's goal of reducing transportation emissions, projects to add general-purpose lane capacity for single occupant vehicle use will not be eligible absent analyses demonstrating emissions reductions over the project's lifecycle. For example, the following project types may be eligible for CRP funding:

*Sustainable pavements and construction materials*

Sustainable pavements technologies that reduce embodied carbon during the manufacture and/or construction of highway projects could be eligible for CRP if a lifecycle assessment (LCA) demonstrates substantial reductions in CO<sub>2</sub> compared to the implementing Agency's typical pavement-related practices. The [LCA Pavement Tool](#) can be used to assess the CO<sub>2</sub> impacts of pavement material and design decisions.

*Climate Uses of Highway Right-of-Way*

Projects including alternative uses of highway right-of-way (ROW) that reduce transportation emissions are also eligible. For example, renewable energy generation facilities, such as solar arrays and wind turbines, can reduce transportation emissions. And, biologic carbon sequestration practices along highway ROW to capture and store CO<sub>2</sub> may demonstrate potential for substantial long-term transportation emissions reductions. [State DOTs Leveraging Alternative Uses of the Highway Right-of-Way Guidance](#) provides information on these practices.

*Mode Shift*

Projects that maximize the existing right-of-way for accommodation of nonmotorized modes and transit options that increase safety, equity, accessibility, and connectivity may be eligible. Projects that separate motor vehicles from pedestrians and bicyclists, match vehicle speeds to the built environment, increase visibility (e.g., lighting), and advance implementation of a Safe System approach and improve safety for vulnerable road users may also be eligible. Micromobility and electric bike projects, including charging infrastructure, may also be eligible.

States should work with the FHWA on eligibility questions for specific projects. The [CMAQ Emissions Calculator Toolkit](#) is an available resource for estimating the CO<sub>2</sub> emissions benefits of certain projects.

#### **4. Flexibility on Use of Funds and Certification of Emissions Reduction**

In addition to the above eligibilities, a State may use funds apportioned under CRP for any project eligible under the Surface Transportation Block Grant program (23 U.S.C 133(b)) if the Secretary certifies that the State has demonstrated a reduction in

transportation emissions (1) as estimated on a per capita basis, and (2) as estimated on a per unit of economic output basis. In the first year of this program, States should initially focus on developing their Carbon Reduction Strategies and using CRP funding to begin implementing their Carbon Reduction Strategies once adopted to establish a baseline; for this reason, the Secretary will not certify flexibility for the CRP until at least FY 2023. FHWA will publish additional guidance on the process under which the Secretary will certify state transportation emissions reductions. Section C.4 of this memo discusses the separate flexibility on transferability between FHWA programs.

## **5. Consultation and Coordination**

### *Coordination in Urbanized Areas*

Before obligating funds for eligible projects in an urbanized area that is not a transportation management area, a State must coordinate with any MPO that represents the urbanized area prior to determining which activities should be carried out under the project (23 U.S.C. 175(e)(4)). The State and MPO must also use their documented public involvement processes, including their process for seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households, who may face challenges accessing employment and other services (23 U.S.C. 450.210(a)(1)(viii) and 450.316(a)(1)(vii)).

### *Consultation in Rural Areas*

Before obligating funds for an eligible project in a rural area, a State must consult with any regional transportation planning organization or MPO that represents the rural area prior to determining which activities should be carried out under the project (23 U.S.C. 175(e)(5)). The State and MPO must also use their documented public involvement processes, including their process for seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households, who may face challenges accessing employment and other services (23 U.S.C. 450.210(a)(1)(viii) and 450.316(a)(1)(vii)).

## **H. DAVIS-BACON ACT REQUIREMENTS**

As provided at 23 U.S.C 175(g), all projects funded with CRP funding shall be treated as located on a Federal-aid highway. Accordingly, 23 U.S.C 113 applies, and Davis-Bacon wage rates must be paid. In general, Davis-Bacon requires that all laborers and mechanics employed by the applicant, subrecipients, contractors or subcontractors in the performance of construction, alteration, or repair work on an award or project in excess of \$2000 funded directly by or assisted in whole or in part by funds made available under CRP shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code commonly referred to as the “Davis-Bacon Act” (DBA).

For additional guidance on how to comply with DBA provisions and clauses, see <https://www.dol.gov/agencies/whd/government-contracts/construction> and



<https://www.dol.gov/agencies/whd/government-contracts/protectations-for-workers-in-construction>. See also <https://www.fhwa.dot.gov/construction/cqit/dbacon.cfm>.