

# REQUEST FOR PROPOSALS

AUGUST 5, 2022

CENTRAL MIDLANDS COUNCIL OF GOVERNMENTS  
COLUMBIA AREA TRANSPORTATION STUDY METROPOLITAN PLANNING  
ORGANIZATION

## REGIONAL BIKE AND PEDESTRIAN MASTER PLANS

The Central Midlands Council of Governments (CMCOG) is hereby issuing this Request for Proposals (RFP) to firms that have the capability and interest in undertaking and performing the scope of work described below. Each firm is officially a CONSULTANT. Each CONSULTANT must submit a package containing an original proposal and six (6) copies to CMCOG no later than **2:00 p.m. on September 8, 2022** to Reginald Simmons, Deputy Executive Director/Transportation Director, CMCOG, 236 Stoneridge Drive, Columbia, SC 29210. One proposal must be submitted by email to [rsimmons@centralsmidlands.org](mailto:rsimmons@centralsmidlands.org). The subject line of the email must include the name of the project, RFP number, and name of the proposer. All proposals will be logged in and date and time stamped. Any hardcopy proposal package that is received after the date and time specified will be logged and date and time stamped as “late” and returned unopened to the CONSULTANT.

Proposals shall include the following information:

1. Proposals must not be more than the equivalent of 25 single sided 8 ½ by 11-inch pages in length (not counting the front and back covers of the proposal, section dividers that contain no information or the cover letter). The font size should be no smaller than 12 pt.
2. Letter of Interest: The Letter of Interest should be no longer than one (1) page and shall contain the following items:
  - a. An expression of the Prime Consultant’s interest in being selected for the project.
  - b. A statement confirming the commitment of key personnel identified in the submittal to the extent necessary to meet CMCOG’s quality and schedule expectations.
  - c. Provide the name of the Prime Consultant Principal, Officer of the Firm or Project Manager responsible for this contract and has authority to sign the contract for consultant.
  - d. A summary of key points regarding the Prime Consultant’s qualifications.
  - e. Signing the letter of interest constitutes authorization of consultant to submit qualification for the purpose of negotiating and entering a contract with CMCOG.
  - f. Certification of authorized submitter that information contained within is correct by including: “I certify that the information included within this document, is to the best of my knowledge, correct as of the date indicated”.
3. Project Organization Chart: - Limited to one (1) side of one sheet of paper. This chart must include the names of the key individuals selected for this project, their roles on the project, the names of the consultant by which they are employed, and the lines of communication, to include functional structure, levels of management and reporting relationships for key individuals, and major functions to be performed in managing and developing the project. It shall also indicate the people who will be points of contact with the CMCOG Project Manager.
4. Provide a list of references who have personal knowledge of the prime consultant’s and the sub-consultant’s previous performance. Provide three (3) client references each for both the prime and the sub-consultant(s). The references must include verified addresses, email addresses and

- telephone numbers, contact persons, and a brief description of services that have been provided similar to those described by CMCOG for this project. References shall be shown on separate sheets (limited to one (1) single-sided sheet; one sheet for the prime and one sheet for each sub proposed).
5. Provide a proposed list of required tasks and milestones to address the provided scope of work.
  6. Provide a proposed project schedule that includes the key task activities, duration, milestones and deliverables that will complete the scope of work in the shortest time frame that is responsive to the required review.
  7. A direct response to each of the selection criteria identified below.
  8. Standard Form 330 (SF 330) as required by the Federal Acquisitions Regulations. All parts of the SF 330 must be completed in its entirety for the prime consultant, any sub-consultants and any sub-contractors. Also, indicate if the prime consultant has previously worked with the proposed sub-consultant and give a brief example of the previous relationship(s). The Form 330s will not count against the maximum page limit and can be included in the appendices.

## CONSULTANT SELECTION PROCESS

The CONSULTANT will be evaluated based on the selection process. First, there will be an evaluation of the CONSULTANT's technical proposal using the selection criteria below. The proposals will be reviewed to determine which proposals receive the highest scores. Next, the highest scoring technical proposals, which must be a minimum of three, will be invited to participate in oral interviews about their proposal. CMCOG reserves the right to interview additional firms. The selection of the CONSULTANT will be determined by the highest total technical and interview score from the evaluation process. Please be advised that if a minimum of three proposals are not received, then CMCOG will document the number of proposals received and seek guidance from SCDOT and FHWA before proceeding with this procurement process.

All proposals received shall be subject to an evaluation by the CMCOG, assisted by other technical personnel as deemed appropriate for the purpose of selecting the CONSULTANT with whom a contract will be executed. CMCOG reserves the right to reject any and all proposals in whole or in part if in the judgment of CMCOG, the best interest of all parties will be served.

The selection of the successful CONSULTANT will be made solely by CMCOG. There will be no pre-proposal conference conducted by CMCOG. However, the CONSULTANT may ask questions to discuss the contents of this RFP and the expectation of CMCOG related to this regional transportation planning project. **All questions or request for clarifications regarding this RFP shall be submitted no later than 12:00 p.m. Tuesday, August 23, 2022 to Reginald Simmons, Deputy Executive Director /Transportation Director, CMCOG, 236 Stoneridge Drive, Columbia, SC 29210.** Questions may be submitted in writing or by email to [rsimmons@centralmidlands.org](mailto:rsimmons@centralmidlands.org). No telephone inquiries shall be accepted. All questions submitted and their answers will be promptly placed on the CMCOG website at [www.centralmidlands.org](http://www.centralmidlands.org).

If in the judgment of the CMCOG, changes in the contents of the RFP are required, an addendum will be issued by CMCOG. **Any addendum that may be issued will be posted on the CMCOG website at [www.centralmidlands.org](http://www.centralmidlands.org) by 5 p.m. on Friday, August 26, 2022.** The CONSULTANT will be required to provide a written letter to acknowledge their receipt of the addendum and inclusion as part their submission. This additional letter shall be one (1) page and will not subject to the page limit requirement.

Due to potential conflict of interest, no CONSULTANT or a person representing a CONSULTANT may arrange or meet with the individual members of CMCOG to discuss any items or matters related to this RFP during the period of time between the date of the release of this RFP and the date CMCOG makes the decision selecting the successful CONSULTANT.

CMCOG shall rank each proposal against the stated criteria. CMCOG reserves the right to contact a firm to obtain written clarification of information submitted and to contact references to obtain information regarding performance reliability and integrity.

The criteria and the percentage of their importance in making the selection are:

## **STEP ONE**

### ***Method of approach: 20 Percent***

This refers to the technical soundness of the CONSULTANT's stated approach to the project, the comprehensiveness of the proposed approach, and the techniques to be used.

### ***Understanding the Purpose: 15 Percent***

A determination will be made of the CONSULTANT's understanding of the project purpose and goals as presented in the RFP. Evaluation will be based on the data presented in the CONSULTANT's proposal, and the approach and allocation of time on specific tasks. CONSULTANTS should feel free to suggest other requirements and problems that may have been overlooked.

### ***Capability and qualifications: 15 Percent***

The ability of a prospective CONSULTANT will be evaluated under the terms of the RFP, relative to having a staff with the qualifications needed to successfully complete the project. Qualifications of professional personnel assigned to the project, as specified in the proposal including Sub-CONSULTANTS, will be measured by both education and experience, and with particular reference to experience on similar projects. The CONSULTANT's professional and project staff that work on the project must be the same staff that is identified in the proposal.

### ***Cooperative work experience: 10 Percent***

This covers the prospective CONSULTANT's experience working as a cooperative team with other CONSULTANTS and public agencies. Qualifications of professionals assigned will be measured by past experience on past projects within a cooperative team environment. The CONSULTANT will provide specific examples of cooperative work experiences with contact references for the selection committee.

### ***Originality or innovativeness: 10 Percent***

This RFP generally outlines the key outcomes and products expected by CMCOG. A key factor in the selection of the firm is any innovative approach to the study that goes beyond the suggested Scope of Work, either in data gathering, data analysis, public participation, etc. It must be shown how this will be accomplished within the time limits.

***Schedule: 10 Percent***

The prospective CONSULTANT will be evaluated on their ability to follow a schedule that will successfully complete the project within the required time frame. The prospective CONSULTANT is encouraged to provide a more aggressive schedule for completion.

**STEP TWO****ORAL PRESENTATIONS**

CONSULTANTS who submit a proposal may be requested to make an oral presentation of their proposal. The highest scoring technical proposals, which will be a minimum of three, may be invited to oral interviews. This presentation will provide an opportunity for the CONSULTANT to clarify their proposal. Notice for oral presentations will be provided by CMCOG.

***Interview: 20 Percent***

The prospective CONSULTANT will be evaluated on their ability to clarify their proposal to accomplish the key outcomes of this study.

<b><i>STEP ONE:</i></b>	<b><i>80 Percent</i></b>
<b><i>STEP TWO:</i></b>	<b><i>20 Percent</i></b>
<b><i>TOTAL:</i></b>	<b><i>100 Percent</i></b>

At the end of the selection process, CMCOG will list the three (3) top ranked firms. Based on the evaluations of the submitted proposals, CMCOG will select the top ranked firm and negotiations will begin immediately to finalize the scope of work, personnel, hours, hourly rates, use of sub-CONSULTANTS, and other direct costs that will be required to complete the agreement between CMCOG and the selected firm. If an agreement cannot be reached with the top ranked firm, CMCOG will formally terminate negotiations with the top ranked firm and will begin negotiations with the second ranked firm and the negotiation phase will be repeated. If an agreement cannot be reached with the second ranked firm, CMCOG will formally terminate negotiations with the second ranked firm and will begin negotiations with the third ranked firm and the negotiation phase will be repeated. If an agreement cannot be reached with the third ranked firm, CMCOG will reconsider the project for re-solicitation. CMCOG reserves the right to reject any and all proposals received, and in all cases CMCOG will be the sole judge as to whether a CONSULTANT's proposal has or has not satisfactorily met the requirements of this RFP.

**DISADVANTAGED BUSINESS ENTERPRISE**

It is the policy of the CMCOG to ensure nondiscrimination in the award and administration of federally-assisted contracts and to use Disadvantaged Business Enterprises (DBEs) in all types of contracting and procurement activities according to State and Federal laws. To that end the CMCOG has established a DBE program in accordance with regulations of the United States Department of Transportation found in 49 CFR Part 26. Each CONSULTANT is encouraged use certified DBEs to meet the tasks and milestones of this request.

To ensure compliance with the CMCOG DBE Program, please note that CMCOG will request a minimum participation goal of 10% for South Carolina Unified Certification Program (UCP) certified DBEs for this project. A listing of South Carolina Unified Certification Program (UCP) certified DBEs can be found on

SCDOT's website at [http://www.scdot.org/doing/businessDevelop\\_SCUnified.aspx](http://www.scdot.org/doing/businessDevelop_SCUnified.aspx). Please note that the following statement should be included in the proposal to denote the level of proposed DBE participation.

“We the (CONSULTANT) ensure to the fullest extent possible that at least \_\_\_\_\_ % of all procurement made with funds provided under this project/plan/request will be made from organizations owned and controlled by socially and economically disadvantage individuals, women, and historically black colleges and universities.”

## **SYSTEM FOR AWARD MANAGEMENT**

System for Award Management (SAM) is a web-based, government-wide application that collects, validates, stores, and disseminates business information about the federal government's trading partners in support of the contract awards, grants, and the electronic payment processes.

Please be advised that you must be registered with the System for Award Management (SAM) in order to be considered as a candidate for this project. As well, your agency must not be disbarred from doing business with the Federal Government to be considered as a candidate for this project. Failure to register with SAM and/or being disbarred from doing business with the federal government will be considered as disqualifying factors in this procurement process. Potential proposers can register with the SAM at the following address: <https://www.sam.gov/portal/SAM/##11>

## **NOTICE OF AWARD**

Notice of “Intent to Award Contracts” will be posted on the CMCOG web site. In addition, a notice will be mailed to CONSULTANTS, informing them of the success, or lack thereof, of their proposal to receive an award.

## **APPEAL POLICY**

CONSULTANTS dissatisfied with the decisions regarding contract award can appeal to CMCOG. The protest must be filed in writing by the authorized signatory official for the CONSULTANT addressed to Ben Mauldin, CMCOG Executive Director, within ten working days of the announcement of the contract awards. Announcement of our “Intent to Award Contracts” will be posted on the CMCOG web site. The ten working days to file appeals will begin on the date the “Intent to Award Contracts” is posted on the web site. All CONSULTANTS are encouraged to review CMCOG’S website ([www.centralmidlands.org](http://www.centralmidlands.org)) daily during the RFP evaluation period. CMCOG will not consider appeals from individuals or organizations that do not have standing to appeal nor from sub-CONSULTANTS of parties with which contracts have been placed. The signature of a party on an appeal document constitutes a certification by the signer that the signer has read the document and to the best of their knowledge, information, and belief and, after reasonable inquiry, it is well grounded in fact. It must be warranted by existing law or by a good faith argument, and that it is not submitted for any improper purpose such as to harass, limit competition, or cause unnecessary delay or needless increase in the cost of the procurement or the appeal. The cost of the appeal will be borne solely by the appealing organization or individual. CMCOG will issue a written decision in accordance with its contract appeals procedures. Frivolous appeals will not be addressed by CMCOG. The decision of CMCOG is final. There will be no formal debriefing on CMCOG decisions on the appeal.

## INSURANCE

The CONSULTANT shall effect and maintain insurance at its own cost and expense to protect itself and the CMCOG from claims under Workers' Compensation Acts; from claims for damages because of bodily injury including sickness, disease, or death of any of its employees or other parties; from claims for damages because of injury to or destruction of tangible property; and from claims arising out of the performance of professional services caused by errors, omissions, or negligent acts for which it is legally liable, each in the amount of \$1,000,000 or statutory amount as applicable.

## FUNDING

Funding for this project will be provided through Federal, State, and local transportation/transit funding sources with the required match provided by CMCOG. Costs incurred prior to notice-to-proceed will be the responsibility of the CONSULTANT and will not be reimbursed. All travel expenses prior to notice to proceed shall be at the CONSULTANT's expense. This project will be negotiated on a lump sum contract.

## PROPOSED TIMEFRAME

The proposed timeframe for this study is as follows:

<b>Deadline to Receive Questions:</b>	<b>August 23, 2022 at 12 p.m.</b>
<b>Request for Proposals Due:</b>	<b>September 8, 2022 at 2 p.m.</b>
<b>Interviews:</b>	<b>September 2022</b>
<b>Award of Contract:</b>	<b>October, 2022</b>
<b>Completion of Contract:</b>	<b>October, 2023</b>

## REGIONAL BIKE AND PEDESTRIAN MASTER PLANS

### Scope of Work

#### I. Introduction & Purpose

Central Midlands Council of Governments (CMCOG) in coordination and cooperation with the City of Newberry and the Towns of Little Mountain, Prosperity, Pomaria, Pelion, Gaston, Gilbert, Summit, Jenkinsville, Ridgeway, Winnsboro, the Lugoff/Elgin area in Kershaw County and the South Carolina Department of Transportation, will develop a series of Bike and Pedestrian Master Plans. The purpose of each project is to create a pedestrian & bicycle master plan that will identify goals, improvement needs, and project priorities that will create a safe, accessible, and connected multi-modal transportation system within each of these communities.

The overall transportation goal is to, “Develop a complete mobility system of transportation modes by building and upgrading the quality of transportation infrastructure through an equitable, functional, accessible, and sustainable balance of an interconnectivity of transportation modes thus improving the quality of life and movement for all residents.” The resulting plan will serve as a practical and detailed guide for community stakeholders to use in making strategic policy and project implementation decisions.

Within the plan, the following objectives will be evaluated and considered:

- Provide and ensure proper connectivity for bicycles and pedestrians by removing obstructions/barriers and enabling access;
- Ensure that all community facilities and schools can be accessed safely using alternative modes of transportation;
- Create safe, continuous, clearly marked pedestrian facilities and bikeways between activity centers throughout;
- Provide adequate facilities that support bicycling and walking as a means of alternative and active transportation;

CMCOG staff will work with community partners and SCDOT to undertake the following scope of work.

#### II. Scope of Work

##### **Task 1. Project Announcement**

CMCOG staff in coordination with the cities and towns to hold a kick-off meeting to review the project scope, budget, and deliverables.

##### **Task 2. Establish a Project Advisory Committee (PAC) for each jurisdiction**

Likely members of this committee would include at least two members from each city and town, SCDOT, CMCOG, and FHWA. The advisory committee will have a limited commitment. The number of meetings will be negotiated.

### **Task 3. Master Plan Document**

The study area for the Regional Bike and Pedestrian Master Plans are the areas defined by the municipal boundaries of each jurisdiction. The following scope of work provides an outline of services that are expected to be offered as part of the development of a pedestrian bicycle master plan, but not limited to the following:

- Proposals shall provide a public outreach component to build community support. Specific users groups such as walker, cyclist, and transit users shall be engaged as well as the general populace.
- Proposals shall provide for a plan that has defined goals, policies, and objectives and a vision for biking and walking.
- Proposals shall provide a detailed work plan and schedule.
- Proposals shall provide for a Pedestrian/Bikeways Master Plan Report that provides for connectivity and assessment of network needs.
- All available inventory data will be provided by each jurisdiction. The consultant shall consider generalized field conditions observations as necessary and provide analysis of current conditions.
- Proposals shall review existing plans and policies.
- Proposals shall include opportunities for stakeholder involvement to include targeted focus group type interviews in each community.
- Proposals shall provide for a minimum of three or more (3 Pedestrian and 3 Bicycle) high visibility projects per jurisdiction, that will have zero to low financial cost that can be completed within the first year of adoption of the plan.
- Proposals shall evaluate and define bicycle and walking levels of service.
- Proposals shall provide for the evaluation of current policies and recommendations for education and safety awareness programs and outreach.
- Proposals shall consider the development of intersection improvements at railroad crossings.
- Proposals shall consider the existing adopted plans of each jurisdiction and future planning projects
- Proposals shall consider bike and pedestrian access and connectivity at street level, at the greenway level, at the City/Town/County Park level, at the river and creek level, and the transit/park and ride level (if applicable).
- Proposals shall provide for an implementation process that identifies funding resources and strategies, design guidelines, crosswalks and other safety marking policy, pedestrian space programming regarding shade, resting places, and lighting levels of service.
- Proposals shall provide a performance measurement system with expected results, time tables and completion strategies.
- Proposals shall include a Capital Improvement Plan for 1-10 years which includes a list of realistic, relevant, and implementable policy and project recommendations that maximize the mobility and active community environment needs of each community. Recommendations will include a detailed description of the project, preliminary planning level cost estimates, opportunities and constraints (e.g., available ROW, environmental impact, public support, etc.), time frames, responsible entities/potential partners, and action steps, actions steps for implementation.

### **Task 4: Priority Project Concept Plan**

Based on the existing conditions inventory, focus group/stakeholder interviews, a single priority catalyst project, or grouping of priority projects in each community will be selected for more detailed analysis to



include the development of a concept plan. The concept plan will include but not be limited to: a project summary; an itemized list of action steps and estimated costs; a list of potential project partners with roles and responsibilities; and relevant images, maps, and project renderings.

**Task 5: Produce Final Report**

The final report should contain all of the components described above in a single cohesive framework. The final report shall also include a separate Executive Summary highlighting key findings and recommendations for each community.

**Task 6. Publicize findings/results and make available**

- Public presentation to the each city or town council
- Public presentation to the CMOG Technical Committee
- Public presentation to the Rural Transportation Committee
- Public Presentation to the MPO Transportation Subcommittee
- Public Presentation to the MPO Policy Committee (CMOG Board)

**III. Products**

The final plan will identify multimodal transportation system solutions that meet the study area's transportation challenges and be supportive of the communities' character within the study area. These solutions will be outlined in incremental time blocks using a 2045 transportation planning horizon. Additionally, the CONSULTANT shall provide an overview of strengths, weaknesses and opportunities associated with the transportation system to assure actions or strategies implemented today, tomorrow or even twenty-years in the future will not preclude long-term transportation and land use opportunities down the road.

**IV. Public Participation Plan**

Raising public awareness of the need for bike and pedestrian facilities and connectivity is a key component of this project. In addition, public input and participation is necessary for the success of these facilities. Therefore, public meetings are proposed, held at different geographical locations in the study area at different times in the process.

The Regional Bike and Pedestrian Master Plans will conform to the CMOG Public Participation Policy.

- 1) Baseline Requirements and Policy Standards will be met
- 2) Facilitate public access
  - a) Seek out and consider the needs of those populations traditionally underrepresented in the transportation planning process; Public notification of meetings
- 3) Stakeholder meetings
- 4) News release to local newspapers with contact information
- 5) Mailed or emailed meeting notices
- 6) Updated web site information
- 7) Follow up with individuals that attend meetings
- 8) Identification of interested parties through existing stakeholders and committees
- 9) Location of meetings and accommodation of persons with disabilities

- a) Public meetings will be conducted in wheelchair accessible locations
  - b) Any reasonable accommodation that allows persons with disabilities to participate in a public meeting will be honored provided a request to do so is made in advance. Anyone seeking accommodations will be requested to contact CMCOG staff at least 7 days before the meeting so there is significant time to make arrangements necessary to fulfill their request.
- 10) Public Meetings
- a) A meeting agenda and meeting summary will be prepared and made available for each stakeholder and public meeting and will be incorporated into the project file. Whenever possible agendas will be distributed in advance and meeting summaries will be distributed after meeting via email and on the CMCOG web site. If internet access is not available to individuals agendas and meeting summaries will be mailed.
- 11) Document Development
- a) Establishment of public input opportunities
    - i) The project advisory committee will have input and involvement from CMCOG and transportation-related organizations and agencies
    - ii) Stakeholders for the advisory committees will be identified.
    - iii) At least a public meeting for each jurisdiction will be conducted near the beginning of the project to seek public input on the existing and desired state including goals, objectives, issues, concerns, and opportunities.
    - iv) At least a public meeting for each jurisdiction will be conducted to review the draft strategy of getting from the existing state to the desired state including input on draft findings and recommendations

## **V. DESIRED QUALIFICATIONS**

All interested teams should have experience in bike and pedestrian planning and design, should be familiar with the federal and state transportation planning process, should have extensive knowledge of environmental and NEPA requirements, and should have marketing, writing, and graphic design expertise.

## **VI. SCHEDULE**

The CONSULTANT must agree to begin work upon issuance of a notice to proceed by CMCOG and to complete this work within twelve (12) months (or by October 30, 2023) of the date of notice to proceed. The work shall be guided by a detailed flow diagram, prepared by the CONSULTANT and furnished to the CMCOG within one week of receipt of notice to proceed, and approved by CMCOG. The project shall be considered complete only after action has been taken by the CMCOG Board of Directors, which also serves as the Policy Committee for the Columbia Area Transportation Study Metropolitan Planning Organization. Periodic payments for the work shall be made in accordance with a schedule proposed by the CONSULTANT and approved by CMCOG.

## **VII. MEETINGS**

Public meetings shall be conducted by the CONSULTANT, during the course of this project. The CONSULTANT shall be responsible for the logistics for these meetings and will implement the public participation plan of the CMCOG/MPO. The number of meetings shall be negotiated between the CONSULTANT and CMCOG/MPO project manager.

## **VIII. BRIEFINGS**

Series of formal briefings shall be held by the CONSULTANT for the CMCOG/MPO. These meetings shall be held at least once every month at an agreed upon location, during the course of the project. The purpose of the briefings will be to apprise the CMCOG/MPO of the activities of the CONSULTANT, to schedule future activities and to ensure that the PROJECT is on schedule. Minutes for these meetings shall be the responsibility of the CONSULTANT.

## **IX. PRESENTATIONS**

Technical presentations shall be made to the CMCOG/MPO as specified by the CMCOG/MPO's project manager, following the completion of the plan.

## **X. COMPUTING REQUIREMENTS**

1. CMCOG will not be responsible for providing any proprietary software packages to the CONSULTANT.
2. Should the CONSULTANT desire to use any CMCOG programs, permission must be received in accordance with this agreement.
3. Computations or graphics based on computer programs other than the CMCOG's, must conform to all CMCOG format requirements.

## **XI. SPECIFICATIONS FOR WORK**

All documentation shall be in Microsoft Word and Adobe Portable Document Format (PDF). Any programming source codes, form designs, raw source database (in dBase III format, with field coding definition sheet) and other ancillary files shall be transferred to the MPO in addition to the executable applications at the closure of each task or any moment specified by the MPO project manager.

## **XII. DELIVERABLES**

The CONSULTANT shall provide copies of all Draft Documents, copies of an Executive Summary of the Final Report in an 11 x 17 Brochure format and copies of the Final report. The number of copies shall be determined between the CONSULTANT and the CMCOG Project Manager. These documents shall also be provided in electronic format. For presentations to the Committees and Board of the CMCOG and the stakeholders, the CONSULTANT shall prepare a Powerpoint or similar format presentation.

## **XIII. PROPRIETARY/CONFIDENTIAL INFORMATION**

Trade secrets or proprietary information submitted by a CONSULTANT in connection with a procurement transaction shall not be subject to public disclosure under the Freedom of Information Act; however, the CONSULTANT must invoke the protections of this section prior to or upon submission of the data or other materials, and must identify the data or other materials to be protected and state reasons why protection is necessary. Disposition of material after award is made should be stated by the CONSULTANT. No information, materials or other documents relating to this procurement will be presented or made otherwise available to any other person, agency, or organization until after award.

All CONSULTANTS must visibly mark as "Confidential" each part of their proposal that they consider to contain proprietary information. All unmarked pages will be subject to release in accordance with the

guidelines set forth under Chapter 4 of Title 30 (The Freedom of Information Act) South Carolina Code of Laws and Section 11-35-410 of the South Carolina Consolidated Procurement Code. Privileged and confidential information is defined as "information in specific detail not customarily released to the general public, the release of which might cause harm to the competitive position of the part supplying the information." The examples of such information provided in the statute includes: customer lists, design recommendations and identification of prospective problem areas under an RFP, design concepts to include methods and procedures, and biographical data on key employees of the CONSULTANT.

Evaluative documents pre-decisional in nature such as inter or intra-agency memoranda containing technical evaluations and recommendations are exempted so long as the contract award does not expressly adopt or incorporate the inter- or intra-agency memoranda reflecting the pre-decisional deliberations.

Marking the entire proposal confidential/proprietary is not in conformance with the South Carolina Freedom of Information Act.

**REQUIRED**  
**FEDERAL**  
**CLAUSES**

## Title 2: Grants and Agreements

## PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

## Subpart F—Audit Requirements

## APPENDIX II TO PART 200—CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See §200.322 Procurement of recovered materials.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014]

# **APPENDIX A**

# **REQUIRED FORMS**

The following completed forms are required to be returned with each proposal:

- Certificate of Non-Collusion
- Certification of Primary Participant Regarding Debarment, Suspension, and Other Responsibility Matters
- Certification of Restrictions on Lobbying
- Certification of Consultant
- Disclosure of Potential Conflict of Interest Certification



**CERTIFICATE OF NON-COLLUSION**

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

- 1) The proposal 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 proposer to induce any other person, partnership or corporation to submit or not to submit a proposal 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

**CERTIFICATION OF PRIMARY PARTICIPANT REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

The prime consultant, \_\_\_\_\_ 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 prime consultant is unable to certify to any of the statements in this certification, the consultant shall attach an explanation to this certification.

The primary consultant, \_\_\_\_\_ 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

**CERTIFICATION OF RESTRICTIONS ON LOBBYING**

The consultant certifies, to the best of its 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 a Federal department or agency, a Member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a Member of the U.S. 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 thereof.

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 sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients 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.

THE CONSULTANT, \_\_\_\_\_, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND DISCLOSURE, IF ANY. IN ADDITION, THE CONSULANT UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C. §§ 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND DISCLOSURE, IF ANY.

\_\_\_\_\_ Signature of the consultant's Authorized Official

\_\_\_\_\_ Name and Title of the consultant's Authorized Official

\_\_\_\_\_ Date

**CERTIFICATION OF CONSULTANT**

I hereby certify that I am the duly authorized representative of CONSULTANT and that neither I nor the above CONSULTANT 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 CONSULTANT) 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 CONSULTANT) 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, CONSULTANT certifies CONSULTANT and all sub-consultants, 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.

CONSULTANT

\_\_\_\_\_  
Name of Consultant

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

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

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

