



CAPITAL AREA COUNCIL OF GOVERNMENTS

REQUEST FOR PROPOSAL

Mine and Quarry Equipment Emissions Inventories

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Capital Area Council of Governments Request for Proposals: Mine and Quarry Equipment Emissions Inventories

General Information

The Capital Area Council of Governments (CAPCOG) is a regional planning commission and political subdivision of the State of Texas organized and operating under the Texas Regional Planning Act of 1965, (as amended, Chapter 391 of the Local Government Code) serving Bastrop, Blanco, Burnet, Caldwell, Fayette, Hays, Lee, Llano, Travis, and Williams Counties.

Contact Person: Andrew Hoekzema

Phone Number: (512) 916-6043

E-mail Address: ahoekzema@capcog.org

Notice: Prospective proposers who have received this document from a source other than CAPCOG should immediately contact CAPCOG and provide their name, company, and email address in order that addendum to the RFP or other communication can be sent to them. Any prospective proposers who fail to provide CAPCOG with this information assume complete responsibility in the event they do not receive communications from the program after the RFP issue date.

Purpose

Develop updated emissions inventory model inputs and emissions inventories for non-road equipment used in the mining and quarrying sector for 2020 – 2030 for the Austin-Round Rock-Georgetown, Texas Metropolitan Statistical Area (MSA), which includes Bastrop, Caldwell, Hays, Travis, and Williamson Counties.

Timeline

The following timeline identifies important milestones for this request for proposals.

Table 1. RFP Milestones and Dates

Milestone	Date
RFP issued	9/16/2022
Deadline for questions	10/6/2022, 5:00 pm
Final response to questions posted online	10/7/2022
Proposals due	10/17/2022, 5:00 pm
Proposal review and vendor selection	10/18/2022 – 10/21/2022
Staff finalize backup for Executive Committee agenda	10/24/2022
Executive Committee award of contract	11/9/2022
Anticipated start date of contract	12/1/2022

Milestone	Date
Completion of emissions inventories and submission of data and draft report due to CAPCOG	10/31/2023
Final data deliverables due to CAPCOG	11/27/2023
CAPCOG submits final deliverables to TCEQ	11/30/2023

All Responses are due at CAPCOG no later than 5 p.m. CDT, October 17th, 2022.

Please submit informational requests and questions to: ahoekzema@capcog.org

Scope of Work

Overview

CAPCOG has received funding from the Texas Commission on Environmental Quality (TCEQ) for the 2022-2023 biennium that can be used for ground-level ozone (O₃) monitoring and emissions inventory development. Historically, “non-road” mobile sources emissions sources have been a significant regional source of nitrogen oxides (NO_x), which leads to O₃ formation. Within the broader non-road category, the construction and mining equipment sub-category (source classification code 22xx0020xx) has been the largest source of NO_x emissions, and the “mining and quarrying” diesel construction equipment (DCE) subsector as defined by TCEQ has been the largest or one of the largest.

This project will involve developing:

1. Updates to the inputs to the Texas Nonroad 2 (TexN2) model for the mine and quarry diesel construction equipment subsector for the five counties in the Austin-Round Rock-Georgetown MSA;
2. Annual and O₃ season daily emissions inventories for 2020 – 2030;
3. Spatial allocation factors that can be used for processing county-level emissions totals for use in photochemical modeling;
4. A quality assurance project plan (QAPP); and
5. A final report documenting the project and results.

There are also two potential optional tasks that CAPCOG may choose to include in the contract awarded under this RFP. In order to be considered responsive, a proposal must address these two tasks.

Task 1: Updated TexN2 Inputs

Contractor will develop updates inputs for TCEQ’s TexN 2 model in order to generate updated county-level emissions estimates for the mine and quarry DCE subsector for Bastrop, Caldwell, Hays, Travis, and Williamson Counties for 2020 – 2030. Inputs may be used either directly in the model or outside of the model if the contractor’s proposed approach for generating emissions inventories involves such calculations.

Updated inputs may include some or all of the following parameters:

- Equipment populations by source classification code (SCC) and horsepower range;
- Average horsepower by horsepower range;

- Average load factor by source classification code;
- Average annual hours of usage;
- Age distribution;
- Applicable emissions standard distributions;
- Scrappage curves;
- Monthly distribution of activity; and
- Weekday/weekend distribution of activity.

Fuel inputs assumptions will be consistent with any fuel input assumptions used for any existing TCEQ “trends” inventories unless the vendor identifies a specific reason that a different set of assumptions is warranted and receives direct approval from CAPCOG to develop alternative inputs.

Vendor may use a survey, purchase of equipment sales data, or other technique or combination of techniques for developing updated data and should include details about proposed data collection in the work plan.

If vendor identifies DCE in use at regional quarries that are not already included in the SCCs included in the TexN2 mine and quarry subsector, it should identify these separate and include details for these equipment as well, rather than limiting the data to only the equipment types currently included in the mine and quarry subsector.

The universe of facilities will be all mines and quarries in the five-county Austin-Round Rock-Georgetown MSA identified in the U.S. Mine Safety and Health Administration (MSHA) Mine Data Retrieval System, located at: <https://www.msha.gov/mine-data-retrieval-system>. Any mine or quarry with production between January 1, 2020, and September 30, 2022, should be included in the universe for this project. Inputs should be developed at as high a spatial resolution – ideally at the facility level – as possible, but at a minimum, must be provided at the county level.

Deliverable: TexN input files and spreadsheets with activity data/model input summaries

Task 2: Develop Mine and Quarry Emissions Estimates

The second task for the project will be to develop annual and O₃ season daily emissions estimates for the mine and quarry DCE subsector for each year from 2020 – 2030 for each of the five counties in the MSA (Bastrop, Caldwell, Hays, Travis, and Williamson Counties).

O₃ season will be defined as May 1 – September 30 for the purpose of this project, and daily emissions should include:

- Weekday (Monday – Friday); and
- Weekend Day (Saturday and Sunday).

Model outputs should include all of the following:

- Atmospheric carbon dioxide (CO₂);
- Carbon monoxide (CO);
- Methane (CH₄);

- Nitric acid (HONO);
- Nitrogen oxide (NO);
- Nitrogen dioxide (NO₂);
- Nitrogen oxides (NO_x);
- Nitrous oxide (N₂O);
- Particulate matter 10 micrometers or smaller (PM₁₀);
- Particulate matter 2.5 micrometers or smaller (PM_{2.5});
- Sulfur dioxide (SO₂);
- Total hydrocarbons (THC);
- Total energy consumption (TEC); and
- Volatile organic compounds (VOC).

Vendor will ensure that all applicable controls are applied for all analysis years, including the effects of Texas Low-Emissions Diesel (TxLED) as approved by EPA.

Outputs will be summarized at a minimum by county, SCC code, time period represented, and year. Further detailed summarization by horsepower range, model year, and control technology should also be included if available.

Deliverable: Microsoft excel spreadsheets with emissions inventory data

Task 3: Sub-County Spatial Allocation Factors

Vendor will develop sub-county allocation factors that can be used by TCEQ, EPA, or other agencies in photochemical modeling to allocate the county-level emissions data developed in Task 2 down to individual 36 x 36 kilometer (km), 12 x 12 km, and 4 x 4 km photochemical modeling grid cells used by TCEQ in photochemical modeling for the eastern part of Texas.¹

Spatial allocation factors should be designed to spatially represent the location of each county's mining and quarrying equipment emissions within the photochemical modeling grid. Since equipment usage and quarry footprints can vary significantly from facility to facility, the vendor should use any facility-specific data to develop such allocation factors rather than just allocating each county's emissions to each facility evenly or based on land area. As a default, the fraction of each county's labor hours used in quarry production (pit hours) in Q2 and Q3 in 2022 in each facility can be used as the basis for the spatial allocation factors. Preferably, fuel consumption or a factor more closely related to actual equipment usage will be used.

The spatial allocation factors should identify the fraction of each SCC's emissions from each county expected to occur in each grid cell in a spreadsheet or series of spreadsheets.

Deliverables: shapefiles including grid cells and mine/quarry footprints (polygons) and spreadsheets with allocation factors that can be linked to the grid cell IDs

¹ <https://www.tceq.texas.gov/airquality/airmod/data/domain>

Task 4: Quality Assurance Project Plan (QAPP)

Prior to commencing work on tasks 1-3, CAPCOG will need TCEQ approval of a QAPP for this project that describes the steps that the vendor (and CAPCOG) will take to ensure data quality for this project. Vendor will follow EPA guidelines for creating QAPPs for non-regulatory research projects.

Deliverables: QAPP approved by TCEQ

Task 5: Final Report

Upon completion of Tasks 1-4, vendor will prepare a final report documenting the steps taken to prepare and quality-assure the data under tasks 1-3, as well as a report on quality control. Final report will need to be approved by TCEQ. Report should also include any suggestions for future work, along with approximate cost estimates for completing any proposed future work.

Deliverables: Final Report Approved by TCEQ

Task 6: Plan for Refinement of Nonpoint Mine and Quarry Emissions Estimates (Optional Task)

While the focus of this project is to develop improved non-road mobile source emissions inventories based on the exhaust and evaporative emission from engine-powered equipment used in quarries, the “area” or “nonpoint” PM₁₀ and PM_{2.5} emissions from these facilities has also become a significant local concern in some parts of the region. EPA’s documentation of its mine and quarry nonpoint emissions estimates developed for the 2017 National Emissions Inventory (NEI) constitute the latest data available for the region. However, there is substantial uncertainty as to how well these estimates represent the true amount of emissions from these facilities at the county level, and even higher levels of uncertainty as to facility-level emissions estimates. Except in a few cases, these facilities are not required to report their emissions annually to TCEQ, which means their PM₁₀ and PM_{2.5} emissions get classified as “nonpoint.”

Under this optional task, vendor will:

- Conduct a literature review, including a review of EPA’s documentation for mine and quarry nonpoint emissions estimates for the 2017 NEI, any updated documentation released for the 2020 NEI, and underlying studies cited by those documents, as well as other relevant research;²
- Identify any opportunities for improvements in the estimation of emissions from these facilities at either a facility level or county level that can rely on any existing publicly available data sources;
- Identify other opportunities for improvements that may require survey work, the purchase of proprietary information, or other more resource-intensive work; and
- Recommendations for future work, including potential cost estimates.

This is an “optional task” to the extent that CAPCOG may choose to include this task in the contract or not, but the vendor must include a quote for this task in its proposal.

²

https://gaftp.epa.gov/air/nei/2017/doc/supporting_data/nonpoint/Mining%20&%20quarrying%20NEMO%202017%20FINAL_4-2%20update.docx

Deliverables: Report on Opportunities to Refine Existing Nonpoint Mine and Quarry Emissions Estimates for the Austin-Round Rock-Georgetown MSA.

Task 7: Assistance with Other Emissions Inventory Projects (Optional Tasks)

In addition to the emissions inventory projects listed above, CAPCOG may choose to add an optional task that would involve providing assistance on other emissions inventory projects under CAPCOG's 2022-2023 Statement of Work, which is included as an attachment. These would include:

- Reviews of 2022 and 2021 point source emissions inventories from EPA and TCEQ (Task 3.1.3 in the Statement of Work);
- Refinements to selected point source emissions inventories (Task 3.1.4 in the Statement of Work); and
- A review of the 2020 National Emissions Inventory (NEI) for the Austin-Round Rock-Georgetown MSA (Task 3.1.6 in the Statement of Work).

Vendor should review CAPCOG's Statement of Work and indicate a budget for each one of these projects based on the description in the Statement of Work.

Deliverables: Emissions Inventories and Reports as Detailed in CAPCOG's FY 2022-2023 Statement of Work

References

Vendor should be familiar with the following reports available online from TCEQ³:

- ERG. *Update to Reporting of Automated RFP Results in TexN2 and Pollutant Selections in the Graphical User Interface*. June 2022.
- ERG. *TexN2.2 Utility Updates for Compatibility with the US EPA MOVES3 Model*. April 2021.
- ERG. *TexN2.1 Utility Diesel Equipment Profile and Growth Factor Updates for Use with MOVES*. July 2020.
- ERG. *Development of Texas Statewide 2017 AERR Emissions Inventory for Nonroad Model Category Mobile Sources*. October 2018.
- ERG. *Texas NONROAD Model Update and Enhancement*. July 2014.
- ERG. *Update of Diesel Construction Equipment Estimates for the State of Texas – Phase I and II*. July 2009.
- ERG. *Statewide Diesel Construction Equipment Inventory*. August 2005.

In addition, vendor should review CAPCOG's 2022-2023 Statement of Work for the TCEQ funding, which will be posted online.

Proposal Format and Content

This Request for Proposals may result, assuming a vendor is selected, an award is made at cost reimbursement or fixed price and negotiated agreement.

³ https://www.tceq.texas.gov/airquality/airmod/project/pj_report_ei.html

The initial submittal is for proposals only. Pages should be numbered. Proposals shall be limited to no more than 15 pages, not including required attachments, and shall be submitted in the form of a PDF file by e-mail to CAPCOG.

All proposals must include the following five sections, plus four required forms described later in this RFP:

1. Organizational information
2. Proposed work plan for accomplishing tasks identified in the scope of work
3. Organizational experience carrying out similar projects
4. Management plan and key personnel
5. Budget

Organizational Information

Provide a description of your organization, including all of the following elements (no more than 1 page):

- Ownership information, including any Historically Underutilized Business (HUB) vendor information;
- DUNS Number;
- Physical Address;
- Mailing Address;
- Primary contact name;
- Office phone number for primary contact;
- Cell phone number for primary contact;
- Fax number for primary contact; and
- E-mail address for primary contact.

Work Plan

Provide a work plan that describes your organization's technical approach to completing the scope of work. Focus on how specifically the organization would complete the work beyond the descriptions provided in the RFP. For example, explain your approach to collecting data from mine/quarry operators that would be needed to update emissions inventory model updates and quality checks that would be performed throughout the project. The work plan should itemize work by task and include details on inputs (labor hours, supplies, etc.) required to complete the work, as well as a detailed timeline. Work plan inputs should tie directly to costs in the budget.

Organizational Experience

Provide relevant examples (no more than 2 pages) of similar projects that the organization has completed with:

- Non-road equipment generally;
- Construction and mining equipment specifically;
- Mine and quarry equipment specifically;
- The use of EPA's MOVES 3 model to produce non-road emissions inventories;

- The use of the Texas Nonroad (TexN2) model to produce non-road emissions inventories;
- Emissions inventory work of any kind in the State of Texas; and
- Emissions inventory work of any kind for the Austin-Round Rock-Georgetown MSA.

Include contact information for references that can vouch for the quality of work performed by the organization on these projects.

Management Plan and Key Staff

Provide details on the organization's proposed management approach to completing the project, including staff assigned to the project, each staff member's responsibilities, and their qualifications for performing this work. Identify a single project manager. Describe other qualified staff available to complete the project if one of the individuals listed in the proposal terminates employment with the contractor or is otherwise unavailable prior to completion of the project. Full resumes should not be included in this section.

Budget

The budget should include a detailed break-down of the costs for the project by task, showing the basis for the organization's cost estimate in terms of units of labor, cost per unit, etc. CAPCOG has budgeted up to \$80,000 collectively for Tasks 1-5, but has no specific amounts budgeted for the two optional tasks.

Source of Funds

The main source of funding for this project will be a grant the CAPCOG received from the Texas Commission on Environmental Quality (TCEQ) under Rider 7 of TCEQ's budget in the Fiscal Year 2022-2023 General Appropriations Act. This funding source will cover the cost of the main set of tasks for this contract. Tasks 1, 2, 3, 4, 5, and 7 (if included) will be paid for using this source of funding.

Task 6 is one of the two optional tasks that CAPCOG may or may not ultimately proceed with. If CAPCOG proceeds with Task 6, it will be funded by contributions from local governments within the Austin-Round Rock-Georgetown MSA as part of their voluntary contributions to CAPCOG's Air Quality Program.

Questions

Prospective bidders may submit questions to Andrew Hoekzema at ahoekzema@capcog.org up to 5:00 pm on Thursday, 10/6/2022. As questions are received, CAPCOG staff will prepare responses and post the questions and answers on CAPCOG's website and notify potential vendors of the new responses posted online. CAPCOG staff will post the final set of responses on Friday, 10/7/2022. CAPCOG will not include the name of any vendor who submits a question in the Question and Answer (Q&A) document.

Updates and Additional Information

Updates and additional information related to this RFP may be obtained from the CAPCOG website, www.capcog.org in the "About CAPCOG" section. Any requests for additional information regarding this RFP may be e-mailed to Andrew Hoekzema at ahoekzema@capcog.org by Thursday, October 6, 2022, at 5 pm. Requests for additional information received and associated responses will also be posted on the CAPCOG Web site in the "About CAPCOG" section.

Type of Contract

The contract can be either a cost reimbursement or fixed price contract. A prospective vendor may propose either or both type in their proposal.

Submission of Proposals

Proposals must be received by CAPCOG no later than 5:00 pm, Monday, 10/17/2022. Proposals must be submitted as a PDF attachment to an e-mail to ahoekzema@capcog.org. Please put "Attention Mine and Quarry Emissions Inventory RFP" in the e-mail subject line. Pages should be numbered and contain an organized, paginated table of contents corresponding to the sections and pages of the RFP. Proposals or related documents submitted after the deadline will not be accepted.

CAPCOG is not liable for any costs incurred by a proposer in preparing and submitting a proposal. A proposal will remain in effect for a period of 90 calendar days from the deadline for submission of the proposal or until it is withdrawn in writing, a contract is executed, or this RFP is canceled, whichever occurs first.

Required Attachments

All proposals must include four certification forms in the proposal, which do not count towards the 15-page limit and must complete a fifth form online.

The four forms that must be completed and attached to the proposal are the following:

1. Certification of Compliance with Small, Disadvantaged, Minority, Women-Owned, And Historically Underutilized Business Policy
2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Lower-Tier Covered Transactions
3. Certification Regarding Lobbying
4. Conflict of Interest Questionnaire (IF APPLICABLE) - Chapter 176 of the Texas Local Government Code requires vendors and consultants contracting or seeking to contract with CAPCOG to file a conflict of interest questionnaire (CIQ) if they have an employment or other business relationship with an CAPCOG officer or an officer's close family member.

The fifth form must be completed online:

5. Certificate of Interested Parties Form – Form 1295 (Sample provided): Texas law states that a governmental entity or state agency may not enter certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. The required form and instructions are located at the Texas Ethics Commission Website.

Contractors also should read through and be willing to accept the CAPCOG Terms and Conditions, which will be a required attachment to the resulting contract of the RFP.

Amendment or Withdrawal of a Proposal

A proposer may not amend its proposal after its receipt by CAPCOG. However, CAPCOG may waive an error in or omission from a proposal if the error or omission is not material.

Except as provided in the next paragraph, a proposer may not withdraw or cancel the proposal, without the written permission of CAPCOG, for a period of 90 calendar days following the due date for proposals.

A proposer may withdraw the proposal if there is a material mistake in the proposal and resubmit the proposal with the mistake corrected before the due date for proposals.

Evaluation Criteria and Selection Process

CAPCOG will award the contract to the proposer whose proposal is most advantageous to CAPCOG. CAPCOG reserves the right to reject any or all proposals. If CAPCOG rejects all proposals, it may solicit new proposals if a new solicitation is in CAPCOG's best interest.

Once a contractor is selected, CAPCOG reserves the right to negotiate its terms with the successful proposer.

Proposals will be evaluated based on the following criteria by a committee consisting of CAPCOG staff members working in the Air Quality Program and volunteers from CAPCOG's Clean Air Coalition Advisory Committee from 10/18/2022 – 10/21/2022.

Table 2. Proposal Evaluation Criteria

Criteria	Points
Work Plan	30
Experience	30
Management Plan and Key Staff	20
Cost and Budget	20
Total	100

Proposal scoring committee members will be asked to score each factor using the following prompts:

- **Work Plan:** to what degree does is the proposal's work plan likely to accomplish the goals set forth for each of the tasks in the scope of work?
- **Experience:** to what degree does the vendor have relevant experience in conducting similar types of studies? Consider the sources covered, geographic area covered, and how recent any such studies were conducted.
- **Management Plan and Key Staff:** does the vendor have a good management plan for carrying out the study with qualified staff members? Have adequate staff resources been allocated to the project? Do the specific staff members assigned to the project have relevant experience?
- **Cost and Budget:** are costs quoted for the project reasonable? Does the proposed budget show sufficient detail to enable confidence that the vendor has thoroughly thought through the various costs that they are expected to incur in carrying out the work plan?

Selection committee members are free to consider the optional task in whatever way they deem most appropriate in assigning points to each of these criteria.

CAPCOG staff will compile the results of the scoring and recommend to the Executive Committee that it award the contract to the highest overall score in a memo that will be included in the agenda packet for the Executive Committee's November 9, 2022, meeting. CAPCOG's Executive Committee has ultimate authority to award this contract.

Cost and Pricing

Vendor will identify the cost for each individual task and, if applicable, subtask in its work plan, and identify the relevant elements (personnel, supplies, etc.) associated with each task, along with pertinent unit costs.

The total cost of all required tasks shall not exceed \$80,000.00.

Subcontracting

Proposers must indicate whether they intend to subcontract any part of the work and identify the subcontractor(s) and organization in the proposal response. All subcontractors will be subject to approval by CAPCOG. All subcontractors will be required to submit qualifications in the same manner as the prime contractor(s). The selected contractor(s) shall have appropriate provisions of its proposal ready to be inserted in all subcontracts ensuing to insure fulfillment of all contractual provisions by subcontractors.

Delivery Terms

Vendor will submit deliverables electronically to CAPCOG staff by e-mail or by another means mutually agreed upon by both parties.

Method of Payment

Payment shall be made for services rendered and billed by the contractor and received by CAPCOG on a cost reimbursement basis upon the completion of satisfactorily executed deliverables. Contractor must submit invoices to CAPCOG by the tenth day of each month for any work completed in the previous calendar month a brief summary of activities/supporting documentation completed in the prior month.

Other Contractual Requirements

Public Information

Section 1.113 CAPCOG Procurement Policies: Public Access to Procurement Information

1. All procurement information in CAPCOG's possession is public information, and it is subject to disclosure to third parties upon request, unless exempted from disclosure by the Texas Public Information Act.
2. If a bidder/offeror believes that information in the bid or proposal is proprietary and is not disclosable to a third party, the bidder/offeror must clearly mark the information as proprietary and inform CAPCOG in writing that the bidder/offeror will contest disclosure of the information if disclosure is requested under the Texas Public Information Act.
3. If the allegedly proprietary information is clearly marked as such and CAPCOG was informed of the bidder/offeror's desire to keep the information confidential, CAPCOG agrees to use the information only

to evaluate the bid or proposal and to take reasonable precautions to protect the information from unauthorized disclosure to third parties. CAPCOG agrees to refuse to disclose the information, if requested to do so under the Texas Public Information Act, and instead to request an Attorney General's opinion on whether the information may be disclosed. CAPCOG agrees to inform the bidder/offeror of any request for disclosure of the information under the Texas Public Information Act.

4. CAPCOG's sole obligation to protect allegedly proprietary information contained in bids or proposals is described in this Section 1-113.

5. A copy of this Section 1-113 shall be included in each solicitation for bids by CAPCOG.

Equal Opportunity/Non-Discrimination

All contracts awarded by CAPCOG are subject to the provisions listed below.

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, sex, religion, national origin, age, or disability. The Contractor will take action to ensure that employees or applicants for employment are treated fairly during employment or the application process, regardless of race, color, sex, religion, national origin, age, or disability. The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices (provided by an appropriate agency) of federal government nondiscrimination provisions.
2. The Contractor will state, in all solicitations or advertisements for employment (by or on behalf of the Contractor), that all qualified applicants will receive consideration for employment regardless of race, color, sex, religion, national origin, age, or disability.

Related Documents Attached Separately

The following documents related to this procurement are available online at the "Doing Business with CAPCOG" site.

- CAPCOG Standard Terms and Conditions
- Certification of Compliance with Small, Disadvantaged, Minority, Women-Owned, and Historically Underutilized Business Policy
- Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Lower-Tier Covered Transactions
- Certification Regarding Lobbying
- Conflict of Interest Questionnaire (IF APPLICABLE) - Chapter 176 of the Texas Local Government Code requires vendors and consultants contracting or seeking to contract with CAPCOG to file a conflict of interest questionnaire (CIQ) if they have an employment or other business relationship with an CAPCOG officer or an officer's close family member.

Small, Disadvantaged, Minority, Women-Owned and Historically Underutilized Businesses: Federal Assistance or Contract Procurement Requirements

PART A: POLICIES

6-101 Policy Statement:

It shall be the policy of CAPCOG to assist small, DBE, MBE, women-owned businesses and HUBs in learning how to do business with CAPCOG. It shall be the further policy of CAPCOG that these sources shall have the maximum feasible opportunity to compete.

6-102 Respondent/Bidder/Offeror Statement:

Every solicitation for procurement must require that each Respondent, Bidder or Offeror include a statement that the Respondent, Bidder or Offeror will comply with this policy.

6-103 To ensure that CAPCOG's policy to assure that small, MBEs, DBEs, women-owned businesses, and HUBs are utilized, CAPCOG and its contractors and subcontractors should take the following affirmative steps:

1. Include qualified small, MBEs, DBEs, women-owned businesses, and HUBs on the Respondents' List. State lists may be utilized to locate such businesses by contacting the Texas Building and Procurement Commission;
2. Assure that small, MBEs, DBEs, women-owned businesses, and HUBs are solicited whenever they may be potential sources. In this regard, the Purchasing Agent should investigate new sources and advertise when feasible in minority publications;
3. When economically feasible, and where not in contravention of competitive bidding requirements, the Purchasing Agent should divide the total requirements into smaller tasks or quantities so as to permit maximum small, MBE, DBE, women-owned businesses and HUB participation;
4. Use the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce, the Minority Business Development Agency in the Department of Labor, the Texas Building and Procurement Commission and other similar agencies for locating such businesses;
5. Require that prime contractors take affirmative and meaningful steps towards retaining small, MBE, DBE, women-owned businesses and HUB subcontractors;
6. Procure goods and services from labor surplus areas;
7. If feasible, establish delivery schedules that encourage small, MBEs, DBEs, women-owned businesses, and HUBs to participate; and,
8. Advertise, at least annually, in a newspaper of general circulation for small, MBEs, DBEs, women-owned businesses and HUBs to be added to the Respondents' List.

6-104 For such affirmative steps to be meaningful, the Purchasing Agent should review all solicitations, offers and bids to confirm that such affirmative action steps have been taken. In addition, steps should be taken to ensure that once a contract is awarded to a small, MBE, DBE, women-owned business, and/or HUB, or that the award is given to a contractor with such a subcontractor, that such business is retained during the entire performance of the contract.

6-105 Failure of a contractor to take meaningful affirmative steps at soliciting and retaining small, MBEs, DBEs, women-owned businesses and HUBs may be considered as a factor in evaluating future

bids under non-compliance with public policies; however, this factor may not be a consideration in procurements involving purely state or local funds as Texas law requires awards to be made to the lowest responsible Respondent/Bidder.

6-106 For procurements costing more than \$3,000 but less than \$25,000, the Purchasing Agent shall contact at least two HUBs on a rotating basis.

Conflict of Interest Questionnaire

1. Chapter 176 of the Texas Local Government Code requires a current or prospective vendor or CONTRACTOR of CAPCOG to complete and file a Conflict-of-Interest Questionnaire to disclose whether the vendor or CONTRACTOR has an employment or business relationship with a member of CAPCOG's Executive Committee, its Executive Director, or with a Department Director. The completed Questionnaire must be delivered to CAPCOG's Administrative Coordinator, who serves at its Records Administrator, not later than the seventh business day after the vendor or CONTRACTOR becomes aware of facts that require filing the Questionnaire. The Questionnaire form, which describes the filing requirements of chapter 176, is available on the website of the Texas Ethics Commission, www.ethics.state.tx.us and the names of the members of CAPCOG's Executive Committee, its Executive Director and Department Directors are available on CAPCOG's website, www.capcog.org.
2. The Texas Ethics Commission's legal department will answer questions about chapter 176 and the Questionnaire toll-free at 800-325-8506. Please do not contact a CAPCOG employee with a question because he or she is not authorized to answer it.

Certification with Regard to Boycotting Israel

If Respondent is required to make a certification pursuant to Section 2270.002 of the Texas Government Code, Respondent certifies that Respondent does not boycott Israel and will not boycott Israel during the term of the contract resulting from this solicitation. If Respondent does not make that certification, Respondent must indicate that in its Response and state why the certification is not required.

Disclosure of Interested Parties (Form 1295)

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties (Form 1295) to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

An award from this RFP may require filing of Form 1295. CAPCOG will work with the CONTRACTOR after award to ensure proper filing.

PROTEST OF SOLICITATIONS AND AWARDS

Protest in Writing

An unsuccessful Respondent/Bidder/Offeror/Quoter may protest the procurement process by following this procedure. The protest must be made within five business days of the date the basis of the protest to the procurement process became known or should have become known to the protester, whichever

is earlier. The protest must be submitted in writing to CAPCOG, to the attention of the contact person, and identify and be signed by the protester. The protest must identify the Response/Bid/Proposal/Quote or contract award or both being protested and must specifically describe the basis for the protest, including, if relevant, the qualifications of the winning Respondent/Bidder/Offeror/Quoter; the suitability of the supplies, equipment, or services offered; alleged irregularities in the procurement process; citation to each law or policy allegedly violated; and all additional, pertinent information regarding the procurement process.

Action Following Protest

Upon receipt of the written protest, CAPCOG shall furnish a copy of the protest to all of the other Respondents/Bidders/Offerors/Quoters and suspend the procurement process until the protest is resolved. CAPCOG shall also suspend award of the contract, or its performance if already awarded, until the protest is resolved unless (1) there is a bona fide emergency justifying the immediate award or the start of performance or completion of the contract; or (2) federal or state law requires award or completion of the contract by a particular date.

Informal Resolution of Protest

Upon receipt of the written protest, the contact person shall communicate in writing with the protester within three business days after receipt and attempt to resolve the protest informally. If the protest cannot be informally resolved between the contact person and protester within three business days after the contact person's first written communication with the protester, the protester may request the Executive Director to decide the protest. The request must be in writing and be received by the Executive Director within three business days after the last written communication between the contact person and protester. The contact person shall summarize the efforts to resolve the protest, and recommend a decision on the protest, in a memorandum to the Executive Director, which shall be marked "Confidential – Interagency Memorandum" on each page and forward the complete procurement file to the Executive Director.

Decision by Executive Director on Protest

Upon receipt of the request, the Executive Director, or her or his designee appointed in writing to act for the Executive Director on the protest, shall decide the protest. The Executive Director (or designee) shall review the entire procurement file and may interview CAPCOG employees and communicate in writing with the protester and others with information about the procurement process and contract award (if made). The Executive Director shall decide the protest within 10 business days following receipt of the request. The decision must be in writing, signed by the Executive Director, and a copy of the decision furnished to the protester and to all of the other Respondents/Bidders/Offerors/Quoters for the procurement. The Executive Director's decision on the protest is final unless the protestor is permitted to appeal to the Executive Committee's Procurement Protest Appeal Subcommittee.