



## Executive Committee | Agenda

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10 a.m., Wednesday, September 13, 2023  
Austin Southpark Hotel  
4140 Governor's Row  
Austin, Texas 78744

Judge James Oakley, Burnet County, **Chair**  
Mayor Lew White, City of Lockhart, **1st Vice Chair**  
Commissioner Debbie Ingalsbe, Hays County,  
**2nd Vice Chair**  
Mayor Pro Tem Matthew Baker, City of Round  
Rock, **Secretary**  
Mayor Jane Hughson, City of San Marcos,  
**Parliamentarian**  
Mayor Brandt Rydell, City of Taylor, **Immediate  
Past Chair**  
Council Member Mackenzie Kelly, City of Austin  
Commissioner Clara Beckett, Bastrop County  
Ms. Connie Schroeder, City of Bastrop  
Council Member Kevin Hight, City of Bee Cave  
Judge Brett Bray, Blanco County  
Commissioner Joe Don Dockery, Burnet County

Judge Hoppy Haden, Caldwell County  
Judge Dan Mueller, Fayette County  
Council Member Ron Garland, City of Georgetown  
Mayor Pro Tem Esmeralda Mattke Longoria, City of Leander  
Commissioner Steven Knobloch, Lee County  
Judge Ron Cunningham, Llano County  
Mayor Pro Tem Doug Weiss, City of Pflugerville  
Council Member Janice Bruno, City of Smithville  
Judge Andy Brown, Travis County  
Commissioner Ann Howard, Travis County  
Commissioner Russ Boles, Williamson County  
Commissioner Cynthia Long, Williamson County  
Senator Pete Flores  
Representative Stan Gerdes  
Representative Terry Wilson

1. **Call to Order and opening remarks by the Chair**
2. **Consider Approving Minutes for the August 9, 2023 Meeting**
3. **Consider Approving Update to Procurement Policy**  
**Andrew Hoekzema, Deputy Executive Director**
4. **Consider Approving FY 2024-2025 Senior Nutrition Grant Awards**  
**Patricia Bordie, Director of Aging Services**  
**Andrew Hoekzema, Deputy Executive Director**
5. **Consider Approving FY 2024 and FY 2025 Senior Center Operations Grant Awards**  
**Patricia Bordie, Director of Aging Services**  
**Andrew Hoekzema, Deputy Executive Director**
6. **Consider Approving CAPCOG FY 2024/2025 TCEQ Solid Waste Grant Application to the TCEQ**  
**Charles Simon, Director of Regional Planning and Services**  
**Ken May, Regional Programs Manager**
7. **Consider Approving Purchase of O<sub>3</sub> and PM<sub>2.5</sub> Monitoring Equipment**  
**Anton Cox, Air Quality Program Manager**
8. **Consider Adopting a Proclamation Recognizing October 2023 as CAPCOG Cybersecurity Awareness Month**  
**Dee Harrison, Homeland Security Program Manager**

A closed executive session may be held on any of the above agenda items when legally justified pursuant to Subchapter D of the Texas Open Meetings Act (Texas Government Code Chapter 551).

**9. Consider Approving Committee Appointments**

**Betty Voights, Executive Director**

**10. Staff Reports**

**11. Adjourn**

A closed executive session may be held on any of the above agenda items when legally justified pursuant to Subchapter D of the Texas Open Meetings Act (Texas Government Code Chapter 551).



## Executive Committee | Summary Minutes

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10 a.m., Wednesday, Aug. 9, 2023  
6800 Bureson Road  
Building 310, Suite 155  
Austin, TX 78744

### Present (24)

Judge James Oakley, Burnet County, **Chair**  
Mayor Lew White, City of Lockhart, **1st Vice Chair**  
Commissioner Debbie Ingalsbe, Hays County, **2nd Vice Chair**  
Mayor Pro Tem Matthew Baker, City of Round Rock, **Secretary**  
Mayor Jane Hughson, City of San Marcos, **Parliamentarian**  
Mayor Brandt Rydell, City of Taylor, **Immediate Past Chair**  
Council Member Mackenzie Kelly, City of Austin  
Commissioner Clara Beckett, Bastrop County  
Ms. Connie Schroeder, City of Bastrop

Council Member Kevin Hight, City of Bee Cave  
Judge Brett Bray, Blanco County  
Commissioner Joe Don Dockery, Burnet County  
Council Member Ron Garland, City of Georgetown  
Mayor Pro Tem Esme Mattke Longoria, City of Leander  
Commissioner Steven Knobloch, Lee County  
Judge Ron Cunningham, Llano County  
Mayor Pro Tem Doug Weiss, City of Pflugerville  
Council Member Janice Bruno, City of Smithville  
Judge Andy Brown, Travis County  
Commissioner Ann Howard, Travis County  
Commissioner Cynthia Long, Williamson County  
Senator Pete Flores

### Absent (5)

Judge Hoppy Haden, Caldwell County  
Judge Dan Mueller, Fayette County

Commissioner Russ Boles, Williamson County

#### 1. **Call to Order and opening remarks by the Chair**

Judge Oakley called the meeting to order at 10:05 a.m. and lead the pledges of allegiance to the national and state flags.

#### 2. **Consider Approving Minutes for the July 12, 2023 Meeting**

Judge Oakley asked for consideration of the July 12, 2023, meeting minutes. Commissioner Long made a motion to approve the minutes. Mayor White seconded the motion. It passed unanimously.

#### 3. **Consider Accepting the Quarterly Investment Report**

##### **Silvia Alvarado, Director of Finance**

Ms. Alvarado said the quarterly investment report was for the period ending June 30<sup>th</sup> and all the investments are in TexPool accounts. She said the quarterly earnings were \$385,766 on the about \$32 million invested for an average yield of 4.97 percent. For comparison, the 6-month U.S. Treasury Bill rate was 5.45 percent.

Mayor Hughson made a motion to accept the quarterly investment report. Commissioner Dockery seconded the motion. It was passed unanimously.

#### 4. **Review the CAPCOG Investment Policy**

##### **Silvia Alvarado, Director of Finance**

Ms. Alvarado said every year the Public Funds Investment Act requires CAPCOG's board to review its investment policy. She noted it was last amended and adopted on Aug. 12, 2020, and since the 88<sup>th</sup> Texas Legislature made no amendments, CAPCOG's policy didn't change. Ms. Alvarado said the policy allows for CAPCOG to have the highest investment return with maximum security.

Council Member Bruno made a motion to accept the review of the CAPCOG investment policy. Commissioner Ingalsbe seconded the motion. It passed unanimously.

**5. Consider Recommending Approval of the FY 2024 Annual Budget to the General Assembly**  
**Andrew Hoekzema, Deputy Executive Director**

Mr. Hoekzema said every year the Executive Committee approves the proposed budget before sending it to the General Assembly for final approval. He noted that the CAECD's proposed budget, which was previously reviewed, has been incorporated into the full CAPCOG budget. Mr. Hoekzema highlighted several aspects of the proposed budget to include projected revenues of \$45.6 million and expenditures of \$44.4 million. Other areas he discussed were as followed.

- Unrestricted funds of \$360,000
- A 3 percent labor market adjustment to salaries
- 73 staff positions including three temporary positions
- An allowance for 2 to 4 percent one-time merits
- A fridge cost pool of 56.92 percent
- An anticipated indirect cost pool of pf 25.15 percent, which is currently being negotiated with the U.S. Department of Interior.

Mr. Hoekzema also discussed the source and use of funds. He noted that one problem with Aging Services funding is that carry forward from the state is distributed late in the fiscal year, making it hard to budget and spend in a short period. Ms. Voights noted that Emergency Communications spending includes the installation of new call-handling equipment, and that the project's contact has been negotiated down to \$20 million, saving \$4 million, and final years of the maintenance cost went from \$5.5 million to \$2.8. Mr. Hoekzema also said while Homeland Security manages and maintains WebEOC and the regional notification system, the two items are paid for using emergency communication's revenue since they are also emergency response communications tools. He said law enforcement academy has the tightest budget, with 72 percent of its budget paying for staff and fixed rate costs. Mr. Hoekzema also said the Regional Planning and Services Division has a the most diverse sources of revenue and that the Air Quality Program's funding was increasing because of two federal grants.

Commissioner Long made a motion to approve the FY 2023 Annual Budget for recommendation to the General Assembly. Commissioner Ingalsbe seconded the motion. It passed unanimously.

**6. Consider Recommending Nominating Committee Members to the General Assembly**  
**Betty Voights, Executive Director**

Ms. Voights reminded the board that the General Assembly is CAPCOG's governing body, and it delegates responsibilities to the board. One task not delegated to the board is the recommendation of self-nominated candidates to serve on the Executive Committee for the upcoming year, this is done by a Nominating Committee. Ms. Voights said the Nominating Committee must be composed of at least seven people with at least two from the Executive Committee and two General Assembly representatives.

Ms. Voights said she had reached out the two General Assembly representatives who served last year — Hays County Commissioner Lon Shell and Leander Mayor Christine De L'isle — to see if they wanted to serve again. Commissioner Shell said yes, and Mayor De L'isle had yet to respond. The other Nominating Committee members from last year included: Council Member Janice Bruno, Judge Cunningham, Commissioner Dockery, and Commissioner Long. Ms. Voights said the Executive Committee Chair also serves as the Nominating Committee Chair which would be Judge Oakley this year.

Commissioners Long and Dockery and Judge Cunningham said they would like to continue to serve on the committee. Commissioner Long made a motion for committee remain the same as last year. Commissioner Ingalsbe seconded the motion. It passed unanimously.

**7. Consider Adopting a Proclamation Recognizing September 18-22, 2023 as Falls Prevention Awareness Week**

**Patty Bordie, Director of Aging Services**

Ms. Bordie said coinciding with the first day of fall is National Falls Prevention Awareness Week, Sept. 18 through 22, 2023. She said falls are the leading cause for fatal and non-fatal injuries with most people having a serious fall before the age of 60. She said Falls Prevention Awareness Week is an opportunity to prevent hospitalizations and medical visits by promoting programs that reduce risk of falling. Ms. Bordie noted CAPCOG has already scheduled fall prevention events for September throughout the region.

Commissioner Ingalsbe made a motion to adopt a proclamation recognizing Sept. 18 through 22 as Fall Prevention Awareness Week. Commissioner Long seconded the motion. It passed unanimously.

**8. Consider Adopting a Proclamation Declaring September 2023 as CAPCOG Preparedness Month**

**Dee Harrison, Homeland Security Program Manager**

Ms. Harrison said FEMA declared September as National Preparedness Month for the first time in 2004 to encourage Americans to take action in preparing for emergencies, incidents and disasters they may face at home. In recent years, CAPCOG has participated in National Preparedness month by promoting emergency safety tips and encouraging people to register for local alerts through WarnCentralTexas.org. It will continue to do that this year while focusing on wildfires as the region's biggest threat at the moment.

Mayor White made a motion to adopt a proclamation declaring September 2023 as CAPCOG's National Preparedness Month. Commissioner Ingalsbe seconded the motion. It passed unanimously.

**9. Consider Authorizing Purchase of Mavic3T Unmanned Aerial Vehicles (UAVs) and DroneSense Software Licenses**

**Dee Harrison, Homeland Security Program Manager**

Ms. Harrison said CAPCOG received a grant from the Office of the Governor to conduct drone or UAV training that would help assist local jurisdictions' response to emergency disasters and incidents. She noted that every county has at least one agency that flies drones for public safety reasons at this time. She said the grant money will be used purchase 12 Mavic3T UAVs and software that allows agencies to share drone data quickly and easily between jurisdictions. Ms. Harrison said the same equipment used by DPS which increases the systems interoperability when responding across the region.

Judge Bray asked if local jurisdictions could add to the order, so they could use the UAVs outside of training. Ms. Harrison said since they are being purchased through a DIR contactor, local jurisdictions could procure their own equipment for the same price as CAPCOG.

Mayor White made a motion to authorize the purchase of 12 Mavic3T UAVs and DroneSense Software licenses. Council Member Bruno seconded the motion. It passed unanimously.

**10. Consider Amending a Contract Amount for Combined Community Action Inc. Nutrition Services**

**Patty Bordie, Director of Aging Services**

Ms. Bordie said there is one provider, Combined Community Action, Inc., who is expected to exceed their budgeted contract amount for nutrition services because of the continued increased demand for meals provided to older adults. She said the pandemic increased the number of patrons nutritional services were assisting and many of those patrons are remaining on the program.

Commissioner Dockery asked if the funding was available to increase the contract amount. Ms. Bordie

responded yes, and Ms. Voights said there too much funding, which the state will put into a carry forward next year.

Commissioner Howard made a motion to amend the contract amount for Combined Community Action, Inc. nutrition services. Commissioner Long seconded the motion. It passed unanimously.

**11. Consider Awarding a Contract to Dahill for Copier and Printing Leasing and Maintenance**  
**Kelly Claflin, Chief Information Security Officer**

Commissioner Long made a motion to award a copier and printing leasing and maintenance contact to Dahill. Commissioner Howard seconded the motion.

Mr. Claflin said Dahill was one of two vendors to respond to CAPCOG's quote for services request, and it was best suited to service CAPCOG's current equipment. He also noted that they have been a responsive vendor in the past when handling maintenance issues.

Judge Oakley asked for a vote on the contract. It passed unanimously.

**12. Report on Annual Performance Evaluation of the Executive Director**  
**Judge James Oakley, Chair**

Judge Oakley said the Executive Committee Officers met and discussed Ms. Voights performance. He noted from performance surveys on a scale between 0 to 3, she scored a 2.8, which is a 93.3 percentile. He said the officers decided to provide her with a 4 percent salary increase and a one-time 4 percent merit.

Judge Oakley also mentioned Ms. Voights plans to retire in December of next year, and the board will be forming an executive director search committee to include about three Executive Committee members. He asked for people to consider participating on that committee. Judge Oakley also said Ms. Voights plans to assist in finding and transitioning her replacement. Ms. Voights reviewed a rough, draft timeline of determining the criteria for selecting a new executive director and the process for hiring the position.

**13. Consider Approving Committee Appointments**  
**Betty Voights, Executive Director**

Ms. Voights said there was a nomination from Commissioner Ingalsbe for Matthews Gonzales to serve on the Aging Advisory Committee. Judge Bray also recommended Lt. Adam Acosta with the Blanco County Sheriff's Office to the LEEC.

Commissioner Ingalsbe made a motion to appoint the committee members. Commissioner Dockery seconded the motion. It passed unanimously.

**14. Staff Reports**

Ms. Voights reminded the board that there is a General Land Office meeting for applying for the MIT-MOD money for those counties that qualify.

Commissioner Howard said the response to fires happening throughout region has demonstrated why it is so important to work together and their response been great. She noted that serving on the board provides a real opportunity as regional leaders to work together to solve problems.

**15. Adjourn**

Judge Oakley adjourned the meeting at 11:30 a.m.

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Mayor Pro Tem Matthew Backer, Secretary  
Executive Committee  
Capital Area Council of Governments

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Date

# EXECUTIVE COMMITTEE MEETING

**MEETING DATE:** September 13, 2023

**AGENDA ITEM:** #3 Consider Approving Update to Procurement Policy

**GENERAL DESCRIPTION OF ITEM:**

CAPCOG’s Procurement Policy was last updated in 2016, and we are proposing a series of updates to bring our policies more in line with current practice within CAPCOG, the policies adopted by peer COGs, and current state and federal procurement rules.

The main prompt for this update was a need to better describe and account for the Direct Purchase of Service procurement method that is authorized by the Texas Health and Human Services Commission and which CAPCOG’s Area Agency on Aging has been using for years, but which does not fit into existing policy very well. Once we determined a need to update the policy to address this issue, we decided to address a number of other issues as well to improve clarity, better align CAPCOG policies with peer COGs, better account for current staff titles and roles within CAPCOG, and make other improvements to the policy.

A summary of notable updates to the policy includes:

1. Adding vendor pools for Direct Purchase of Services for the Area Agency on Aging as an exception to the requirement for requests for proposals (RFPs) and delegating approval of such contracts to the Executive Director in cases where the contract may exceed \$25,000;
2. Increasing the micropurchase threshold to \$5,000, eliminating the requirement to obtain 3 quotes for purchases up to this level that can otherwise be deemed reasonable;
3. Aligning language regarding sole source procurements with current federal regulations;
4. Adding descriptions and rules for personal services contracts; and
5. Requiring board approval of contract changes of more than \$25,000 (or \$50,000 for CAECD), consistent with the levels required for initial contract approval.

The attached memo elaborates on each of these changes. The proposed updates also include a number of less significant changes, such as updating references to specific titles within CAPCOG, descriptions of rules related to electronic submissions of proposals/bids, and new federal/state rules regarding geographic preference and other topics.

**THIS ITEM REPRESENTS A:**

- New issue, project, or purchase
- Routine, regularly scheduled item
- Follow-up to a previously discussed item
- Special item requested by board member
- Other

**PRIMARY CONTACT/STAFF MEMBER:** **Andrew Hoekzema, Deputy Executive Director**

**BUDGETARY IMPACT:**

Total estimated cost: n/a

Source of Funds: n/a

Is item already included in fiscal year budget?  Yes  No

Does item represent a new expenditure?  Yes  No

Does item represent a pass-through purchase?  Yes  No

If so, for what city/county/etc.? n/a

**PROCUREMENT:** n/a



**ACTION REQUESTED:**

Approve proposed updates to CAPCOG's Procurement Policy and authorize other non-substantive clerical and formatting as necessary

**BACK-UP DOCUMENTS ATTACHED:**

1. Memo summarizing proposed changes to CAPCOG Procurement Policy
2. Draft Update to Procurement Policy

**BACK-UP DOCUMENTS NOT ATTACHED** *(to be sent prior to meeting or will be a handout at the meeting):*

None



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**BASTROP BLANCO BURNET CALDWELL FAYETTE HAYS LEE LLANO TRAVIS  
WILLIAMSON**

## **MEMORANDUM**

**August 28, 2023**

**TO: Executive Committee**

**FROM: Andrew Hoekzema, Deputy Executive Director**

**RE: Explanation of Proposed Procurement Policy Updates**

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The proposed updates to CAPCOG's Procurement Policy are detailed below. Notable changes include:

1. Adding vendor pools for Direct Purchase of Services for the Area Agency on Aging as an exception to the requirement for requests for proposals (RFPs) and delegating approval of such contracts to the Executive Director in cases where the contract may exceed \$25,000.00 (*see Article I Part B, section 2-106(4), and section 3-209*);
2. Increasing the micropurchase threshold to \$5,000, eliminating the requirement to obtain 3 quotes for purchases up to this level that can otherwise be deemed reasonable (*see Article I Part B, section 2-106(4), and section 3-204(3)*);
3. Aligning the language regarding sole source/non-competitive procurements with current federal regulations (*see section 3-205*);
4. Adding descriptions and rules for personal services contracts (*see section 3-208*); and
5. Requiring board approval of contract changes of more than \$25,000 (or more than \$50,000 for CAECD), consistent with approval required for initial contracts (*see section 2-101, section 2-106(4), and section 4-101(2)*).

In addition to these changes, we have also proposed a number of clarifying updates throughout the document, such as updating existing references positions/roles to match current job titles, adding specific legal citations, providing more appropriate language, or better explaining procedures.

### **1: Vendor Pools for Direct Purchase of Services for the Area Agency on Aging**

Under 26 TAC §213.55, Area Agencies on Aging are able to use a procurement method called "Direct Purchase of Service" that is described as providing "flexibility and effective management of resources by purchasing services on a client-by-client basis as determined by an assessment of the individual's needs." This procurement method involves soliciting vendors to be added to a vendor pool, entering into contracts with qualified vendors, authorizing the use of a vendor for an individual client, and ensuring that all requirements are met for the client before paying for the goods or services provided by a vendor.

Since these contracts do not have a pre-set “not to exceed” amount, and in fact do not guarantee any business at all, they do not fit well into the CAPCOG’s existing procurement policy. In prior years, CAPCOG staff would provide the board with notice of situations in which the value of these contracts exceeded the \$25,000 required for Executive Committee approval, but the board wasn’t directly prompted to take action to approve these contracts or this procurement method. In order to better address these issues, we are proposing to explicitly add this method as an exception to the requirement to conduct a request for proposals and to delegate approval of all contracts procured using this method to the Executive Director, since it is unknown when or if each contract may exceed \$25,000.

## **2: Increasing the Micropurchasing Threshold to \$5,000 and Updating Bidding Requirements**

The micropurchase threshold is the threshold above which multiple competitive quotes are required for a procurement. At the federal level, the threshold increased from \$3,500 to \$10,000 in recent years. In the CAPCOG’s existing policy, the micropurchase threshold was listed as \$3,500, but it still required three quotes for purchases as low as \$300. This is far below the norm for other COGs - of the four other COG procurement policies that CAPCOG reviewed (HOTCOG, AACOG, NCTCOG, and H-GAC), none of them have a requirement for quotes below \$3,000, and several have recently increased the threshold or are now evaluating increasing to the thresholds. The requirement in CAPCOG’s Procurement Policy to perform an independent cost analysis for every procurement regardless of price provides enough of guidance on information that can be used to evaluate the reasonableness of the cost of a quote without requiring that three written quote be sought or obtained.

## **3: Updating Language Regarding Sole Source/Non-Competitive Procurements**

Section 3-205 of CAPCOG’s current Procurement Policy describes the circumstances in which a sole source contract can be awarded. However, the current language is somewhat confusing and as to whether all or any one of the conditions listed must be met in order to proceed with a sole source procurement. The corresponding federal regulatory language in 2 CFR 200.320(c) regarding “non-competitive procurements” more clearly explains that any one condition listed is sufficient to justify a non-competitive source procurement, so we are proposing updating this section language to mirror the Federal regulatory language.

## **4: Added Descriptions and Rules for Personal Services Contracts**

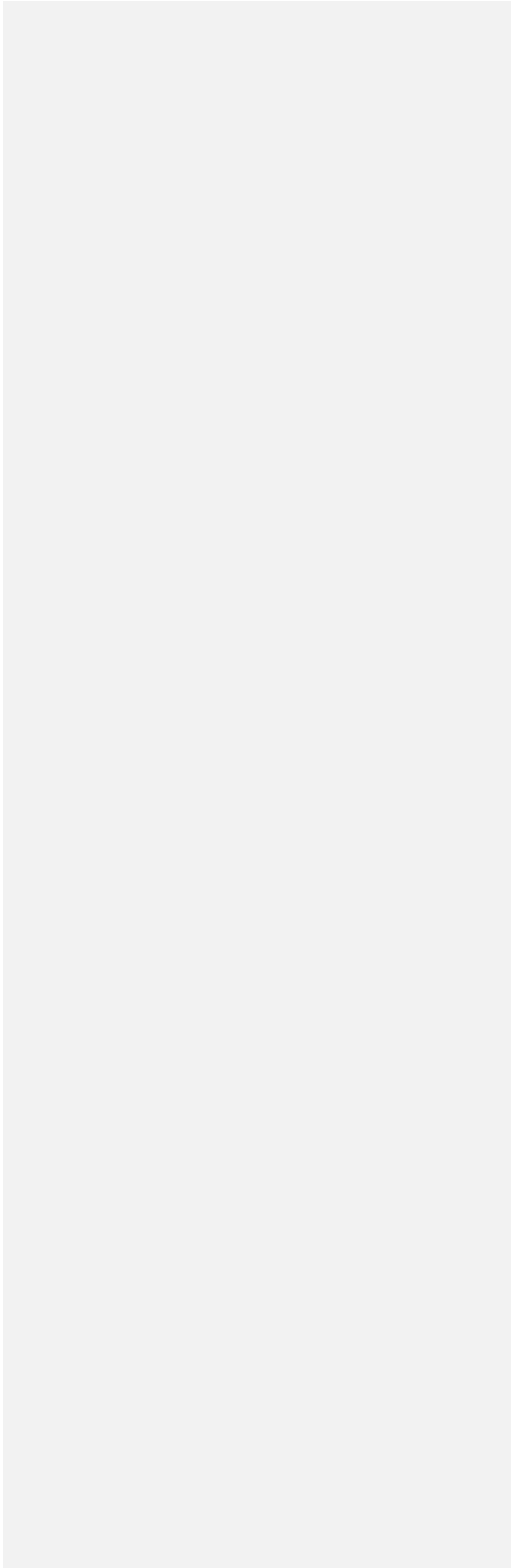
While Section 3-208 includes a brief definition of “personal services,” it does not provide any specific rules or guidance for procuring or handing personal service contracts. We are proposing updates that would adjust the definition to closely mirror the relevant federal rules, and to establish related rules for these contracts, such as time limits and factors to evaluate in determining the reasonableness of rates. The inclusion of these type of contracts in the procurement policy is important to ensure federal reimbursement of these types of costs, and will provide CAPCOG staff with useful parameters for procuring and working with these types of contracts.

## **5: Require Board Approval for Contract Changes of More than \$25,000 (or more than \$50,000 for CAECD)**

Article IV of CAPCOG’s existing Procurement Policy does not specify when a change to a contract must be brought to the Executive Committee for approval. While CAPCOG staff have typically erred on the side of bringing changes to contract amounts that exceed the \$25,000.00 threshold for CAPCOG Executive Committee or \$50,000.00 threshold for the CAECD Board of Managers, the existing policy language was ambiguous. The proposed changes align this section to approval of initial contracts in sections 2-101(1) and 2-106(4).

**CAPITAL AREA COUNCIL OF GOVERNMENTS  
PROCUREMENT POLICY**

Effective December 1, 1996  
Amended October 10, 2001  
Amended October 1, 2006  
Amended September 8, 2010  
Amended February 12, 2014  
Amended September 14, 2016  
Amended September 13, 2023



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## Article I. General Provisions

### Part A. Purpose, Construction, and Application

- 1-101. **Purpose:** The purpose of the Procurement Policy is to provide the Capital Area Council of Governments (CAPCOG) with the requisite parameters for procuring goods and services under applicable state and federal guidelines. The policies and procedures outlined herein are intended to comply with Chapter 252, Local Government Code, Chapter 2254, Texas Government Code, applying to a local government. These policies are also intended to comply with the general requirements of Uniform Grant Guidance 2 CFR 200 as issued by the OMB and the Texas Uniform Grant Management Standards. More specifically, the underlying purposes and policies of this Procurement Policy are:
1. to simplify, clarify, and reflect the law governing procurement by CAPCOG;
  2. to provide consistency in the procurement practices of CAPCOG with regard to procurement laws;
  3. to increase public confidence in public procurement;
  4. to ensure the fair and equitable treatment of all persons who participate in the procurement process and provide a full accounting for all purchases;
  5. to provide increased economy and efficiency in procurement activities by avoiding unnecessary or duplicative procurements; and,
  6. to foster full and open competition;
  7. to provide safeguard for the maintenance of a procurement system of quality and integrity; and
  8. to ensure that full accounting is available and given for procurements.
- 1-102. **Interpretation:** This Procurement Policy shall be construed and applied to promote its underlying purposes. The guidelines set forth in this document are intended to comply with all applicable state, local, federal and grantor agency rules, regulations, policies and procedures.
- 1-103. **Grantor Agency Policies and Procedures:** At no time is this Policy intended to be more stringent than required by the grantor agency from which CAPCOG receives funds. Written procurement procedures prepared by the grantor agency shall be followed when funds are expended for the operation of a specific program.
- 1-104. **Gender Neutral:** All personal pronouns used in this Procurement Policy, whether used in the masculine, feminine or neuter gender, shall include all genders.
- 1-105. **Singular-Plural:** Words in the singular include the plural and vice versa.
- 1-106. **Headings:** The headings contained in this Procurement Policy are for reference purposes only and shall not in any way affect the meaning or interpretation of this Policy.
- 1-107. **Conflicts:** In the event of a conflict between the terms of this Procurement Policy and any applicable state, local or federal statute, code or regulation, or the procurement procedures of the applicable grantor agency, the applicable statute, code, regulation or grantor procurement policy shall control.

- 1-108. **Severability:** Invalidation of any one of these provisions by judgment, court order, statute, regulation or code shall in no way affect any other provision, which shall continue to remain in full force and effect.
- 1-109. **Full and Open Competition:** All procurement transactions, regardless of dollar value, whether advertised or negotiated, shall be conducted in a manner so as to provide full and open competition. CAPCOG should be alert to organizational conflicts of interest or noncompetitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, or statements of work for solicitation instruments (RFPs, IFBs, etc.) must be excluded from competing for such procurements.
- 1-110. **Supplementary General Principles of Law:** Unless in conflict with particular provisions of the Procurement Policy, principles of law and equity, including the Uniform Commercial Code, contracts, agency, fraud, misrepresentation, duress, coercion and mistake shall supplement this Policy.
- 1-111. **Good Faith:** The Procurement Policy requires that all parties involved in the negotiation, performance and administration of contracts act in good faith.
- 1-112. **Effective Date:** The Procurement Policy applies only to procurements initiated on or after the effective date of this Policy, September 23, 2023.
- 1-113. **Public Access to Procurement Information:** Procurement information shall be a public record to the extent provided by the Texas Public Information Act and the Freedom of Information Act, as applicable, and shall be available to the public as provided therein. If a proposal contains information that the bidder considers proprietary and does not want disclosed to the public or used for any purpose other than the evaluation of the offer, all such information must be indicated and clearly marked on each page of the proprietary or confidential document(s).

The information submitted during a procurement process is protected from disclosure until a contract is awarded. All proposals are open for public inspection after the contract is awarded, but proprietary and confidential information in the proposals are not open for public inspection.

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

## Part B. Definition of Terms

- **"Best Value:"** an assessment to define the best combination of quality, services, time and cost over the useful life of the acquired item.
- **"Best Value Bid:"** a procurement method that emphasizes value over price. The best value might not be the lowest price; generally achieved through the Request for Proposal (RFP) method.
- **"Bidder:"** any person that submits a bid in response to an Invitation for Bid ("IFB").
- **"Bidders' List:"** the pre-qualified list of persons which is used in acquiring goods and services.
- **"CAECD:"** the Capital Area Emergency Communications District (CAECD), a regional emergency communications district established pursuant to Chapter 772 of the Texas Health and Safety

Code with boundaries coterminous with CAPCOG and managed as a business component of CAPCOG.

- **"CAPCOG:"** the Capital Area Council of Governments which was created and operates under Chapter 391 of the Texas Local Government Code as a political subdivision of the State of Texas.
- **"Competitive Sealed Proposals"** the procurement method whereby CAPCOG drafts the specifications, prepares a Request for Proposal (RFP), issues it to interested offerors and/or publishes an announcement in local periodicals. To be considered, bids must conform to the RFP. The award of a contract or purchase order is not generally made at the time proposals are opened; rather, after evaluation, the award is made to the offeror whose proposal is determined to be the most advantageous to CAPCOG, considering the relative importance of price and other evaluation factors set forth in the RFP.
- **"Construction"** the process of utilizing labor to build, alter, repair, improve or demolish any structure or building, or other public improvement. It does not include the routine operation, routine repair or routine maintenance of existing structures, buildings or real property.
- **"Contract"** a legally binding agreement between CAPCOG and a vendor or contractor; or a legally binding agreement between a contractor and a subcontractor.
- **"Contractor"** any person, vendor, or entity having a contract with CAPCOG.
- **"Cooperative Purchasing"** procurement conducted by, or on behalf of, more than one public procurement entity, including but not limited to a county, city, town or political subdivision of the state or public agency of the political subdivision, or other corporate or political entity organized under state entities. Efforts may result in contracts that other public entities may "piggyback."
- **"Disadvantaged Business Enterprise" ("DBE")** a for-profit corporation in which at least 51% of all classes of the shares of stock are owned by one or more persons who are economically and socially disadvantaged because of their identification as members of certain groups, including, but not limited to, women, African Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, and other designated groups as determined and classified by the Small Business Administration (SBA) in 13 CFR §124.103 and/or the State of Texas.
- **"Equipment"** tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.
- **"Federal financial assistance"** assistance provided by a federal agency in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance or direct appropriations, but does not include direct federal cash assistance to individuals. It includes awards received directly from federal agencies, or indirectly through other units of state and local governments.
- **"Grant"** or **"Grant-in-aid"** an award of financial assistance, including cooperative agreements, in the form of money, property in lieu of money, or other financial assistance, paid or furnished by the state or federal government to any COG, RPC, person or other eligible grantee to support a program authorized by law that provides financial assistance through grant or contractual arrangements. It does not include an award whose primary purpose is to procure an end product, whether in the form of supplies, services or construction; a contract resulting from such an award is not a grant but a procurement contract. The term does not include technical



assistance programs which provide services instead of money or other assistance in the form of general revenue sharing, loans, loan guarantees, insurance or contracts which are entered into and administered under procurement laws and regulations.

- **"Historically Underutilized Business" ("HUB")**, as defined in Chapter 2161 of the Texas Government Code means:
  - (A) a corporation formed for the purpose of making a profit in which at least 51 percent of all classes of the shares of stock or other equitable securities is owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups, including women, Black Americans, Hispanic Americans, Asian Pacific Americans, Native Americans, and veterans as defined by 38 U.S.C. Section 101(2) who have suffered at least a 20 percent service-connected disability as defined by 38 Section U.S.C. Section 101(16), and who have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control;
  - (B) a sole proprietorship formed for the purpose of making a profit that is 100 percent owned, operated and controlled by a person described in Paragraph (A);
  - (C) a partnership formed for the purpose of making a profit in which 51 percent of the assets and interest in the partnership are owned by one or more persons described by Paragraph (A). Those persons must have proportionate interest in the control, operation, and management of the partnership's affairs;
  - (D) a joint venture in which each entity in the joint venture is a historically underutilized business under this definition; or
  - (E) a supplier contract between a historically underutilized business under this definition and a prime contractor under which the historically underutilized business is directly involved in the manufacture or distribution of supplies or materials or otherwise warehouses and ships the supplies.
- **"Invitation for Bid"** ("IFB") all documents, whether attached or incorporated by reference, utilized in soliciting competitive bids.
- **"Micro-Purchase"** a purchase of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the threshold of \$5,000.00 in order to expedite the completion of its lowest-dollar small purchase transactions to minimize the associated administrative burden and cost.
- **"Minority Business Enterprise" ("MBE")** a small business concern wherein at least 51% is owned or controlled in management and daily operations by minorities, including but not limited to African-Americans, Hispanic Americans, Asian-Pacific Americans, Subcontinent-Asian Americans, and Native Americans.
- **"Negotiated Procurement"** a process similar to competitive sealed bidding procurement except that offerors and CAPCOG discuss or negotiate aspects of the proposal, such as price. Negotiations are held with all offerors in the competitive range based upon the evaluation factors set out in the RFP.
- **"Offeror"** means a person that submits a proposal in response to a Request for Proposals.
- **"Person"** means any business, individual, group of individuals, union, committee, club organization, vendor, contractor, or governmental entity.

**Commented [HA1]:** Note - existing micropurchase threshold is already \$3,500; the subsequent table, however, showing thresholds, indicates that "verbal quotes" are required down to \$300

- **"Procurement"** the buying, purchasing, renting, leasing or otherwise acquiring of any supplies, equipment or services. It also includes all activities that relate to obtaining any supplies, equipment or services, including but not limited to the description of requirements, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration.
- **"Purchase Order"** a written offer to purchase equipment, supplies or services from a vendor; if the vendor accepts the Purchase Order, it becomes a contract.
- **"Request for Proposal" ("RFP"):** all documents, whether attached or incorporated by reference, used to solicit proposals from potential providers for goods and services; provides for the negotiation of all terms including price prior to award of a contract.
- 
- **"Responsible Bidder/Offeror:"** means that the bidder or offeror has the capability to meet all of the requirements of the solicitation and the subsequent contract in all respects, including financial, to fully perform the contract requirements; also able to demonstrate integrity and reliability which will assure good faith performance.
- **"Responsive Bidder/Offeror:"** a bidder or offeror that has submitted a bid or response that fully conforms in all material respects in all requirements to the ITB or RFP, including all form and substance.
- **"Scope of Work:"** a detailed, written description of the conceptual requirements for the project contained within a Request for Proposal. The scope of work should establish a clear understanding of what is required by the entity.
- **"Services:"** the furnishing of labor, time or effort by a contractor, not involving the delivery of a specific, tangible end product other than reports which are merely incidental to the required performance. The term shall not include employment agreements or collective bargaining agreements.
- **"Small Business Enterprise:"** a business concern, including affiliates, which is independently owned and operated and which is not dominant in its field of operation, and meets the size standard requirements of 13 CFR Part 121.
- **"Specifications:"** any description of the physical or functional characteristics, or the nature of a supply, service or construction item. It must include a description of any requirement for inspecting, testing or preparing a supply, service or construction item for delivery and constitutes the total description of the purchase.
- **"Subgrant:"** an award of financial assistance in the form of money, or property in lieu of money, made under a grant by a grantee to an eligible subgrantee. The term includes financial assistance when provided by contract, but does not include procurements or any form of assistance which is excluded from the definition of "Grant."
- **"Subrecipient:"** any entity that receives federal assistance passed through from a prime recipient or another subrecipient to carry out or administer a program.
- **"Supplies"** all tangible personal property other than "Equipment."
- **"Vendor:"** a person or entity who sells or leases supplies, equipment or services.

Commented [HA2]: Add "Vendor List"

- **"Vendor Pool for Direct Purchase of Services:"** a list of pre-qualified vendors that have executed a direct purchase of service contract with CAPCOG as described in 3-209.
- **"Women-Owned Business:"** a small business concern wherein at least 51 percent of the small business concern is owned by one or more women, or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women and the management and daily business operations of the small business concern are controlled by one or more women.

## Article II. Procurement Organization

### Part A. Organization and Contract Administration

#### 2-101. Executive Committee:

1. Establishes CAPCOG Procurement Policy.
2. All contracts or grants exceeding \$25,000.00 awarded by CAPCOG must be approved by the Executive Committee, excepting those pertaining to Capital Area Emergency Communications District (CAECD) business.
3. All contracts or grants awarded by the CAECD and exceeding \$50,000.00 must be approved by the Executive Committee in their capacity as the Board of Managers for the District.

**Commented [HA3]:** Note: \$25,000.00 exactly does not need to be approved by Exec.

**Commented [HA4]:** Note: \$50,000.00 exactly does not need to be approved by CAECD board

#### 2-102. Executive Director of CAPCOG:

1. Shall be responsible for compliance with and implementation of this Policy;
2. Shall review and approve proposed procurement actions to avoid unnecessary or duplicative purchases;
3. Shall analyze lease and purchase alternatives to determine the most economical and practical procurement; and
4. Only the Executive Director or his or her designee is authorized to contract or award grants on behalf of CAPCOG.

#### 2-103. Deputy Executive Director:

1. Shall be responsible for reviewing and preparing solicitations for compliance with this Policy;
2. Shall be responsible for overseeing the negotiation and execution of contracts, in coordination with Division Directors;
3. Shall be responsible for monitoring the terms and conditions of contracts; and
4. Shall be responsible any and all other responsibilities assigned by the Executive Director or Executive Committee.

#### 2-104. Division Director:

1. Shall be responsible for identification, solicitation and selection of vendors or contractors;
2. Shall be responsible for maintaining and updating the Bidders' List;
3. Shall be responsible for negotiating and executing purchase orders and contracts, in coordination with the Deputy Executive Director; and
4. Shall be responsible for any and all other responsibilities assigned by the Executive Director.

#### 2-105. Finance Director:

1. Shall be responsible for processing requisitions forms, purchase orders, and payments;
2. Shall be responsible for classification of purchases;
3. Shall be responsible for ensuring the complete and accurate documentation of all procurements;
4. Shall be responsible for maintaining all procurement files and records; and
5. Shall be responsible for any and all other responsibilities assigned by the Executive Director or Deputy Executive Director.

**2-106. Authorization of Purchases**

1. Requisition forms are used to inform the Finance Division of the needs of a particular division and to correctly identify the supplies, equipment or services requested. The purchase requisition forms provide the documentation needed for the Finance Division to prepare a purchase order if needed. These procedures provide a system of authorization and safeguards so that improper, illegal, unnecessary and/or duplicative purchasing is difficult to initiate and conceal.
  - i. The requisition form should contain the following information:
    1. date of requisition;
    2. vendor's legal name and address;
    3. description of item, including technical requirements;
    4. quantity;
    5. estimated cost;
    6. fund code and program code to identify the source of funds;
    7. pass-through or location code if applicable;
    8. expenses code;
    9. purpose of purchase;
    10. date required; and
    11. director's signature approving the request.
2. Documentation: All purchases must be documented through the Finance Division and be supported by documentation in compliance with the appropriate fund and these procurement policies.
3. Each purchase requisition must contain the appropriate signatures to certify that the purchase satisfies the appropriate bid procedures, applicable grant requirements or restrictions and that adequate funds have been authorized for the purchase.

4. Except in situations otherwise explicitly authorized by CAPCOG’s Executive committee,<sup>1</sup> or Executive Director, each contract and related purchase request should contain the following approvals to correspond to the total cost or change to total cost:

Table 1. Bidding and Authorization Requirements

Purchase Value	Bidding Requirements	Required Approval
\$500.00 or Less	Quotes optional	Division Director, Finance Director
\$500.01 - \$5,000.00	Quotes optional	Division Director, Finance Director, Executive Director
\$5,000.01 - \$25,000.00	Three Written Quotes	Division Director, Finance Director, Executive Director
\$25,000.00 - \$50,000.00	Three Written Quotes	Division Director, Executive Director, Budget, Executive Committee
Over \$50,000.00	Formal Competitive Sealed Bids	Division Director, Finance Director, Executive Director, Executive Committee

**Commented [HA5]:** Thresholds adjusted, "budget" role clarified

5. Payment: Before payment is made on an invoice, the Finance Director will review the invoice against the items ordered and what was received.

**2-107. Monitoring of Programs**

Division Directors shall, in coordination with the Director of Administration, have the responsibility to monitor grant, sub grant funded programs, and procurements. The monitoring system shall:

1. Ensure accountability;
2. Ensure that contract goals and obligations are established in unambiguous terms;
3. Review contractor performance against the statement of work and other contract terms;
4. Require prompt corrective action upon evidence of any violations; and
5. Identify in writing all problems, corrective actions and plans.

**Part B. Record Retention**

**2-201. Record Retention Policy**

1. All procurement-related records must be maintained by CAPCOG for a period of four (4) years after the contract is completed, unless a grantor agency requires a longer retention period.
2. If there is litigation, a claim, or if the audit report covering the contract has not been accepted, then the records shall be retained until the resolution of such litigation, claim or audit.

<sup>1</sup> These include contracts and purchase requests paid for by the CAECD with values ranging from \$25,000.01 - \$50,000.00, and direct purchase of service contracts entered into pursuant to [Section reference], which are delegated to the Executive Director

3. At a minimum, records retained shall include but are not limited to:
  - a. correspondence, notes and memoranda relating to the procurement, including RFPs, IFBs, and any other procurement form;
  - b. notes comparing quotations and relating to the basis for the award, including all negotiations;
  - c. any and all documents reflecting the rationale for the method of procurement, selection of contract type, contractor selection or rejection, rating criteria, cost/price analysis forms, cost reasonableness determination and the basis for contract price;
  - d. any and all documentation justifying sole source procurements, citing the authorizing authority and the basis for selection of the particular vendor;
  - e. a copy of public media advertisements where required;
  - f. all documents relating to any protest;
  - g. decision letters, notice of award and/or non-selection, fully executed contracts, including amendments/modifications, contract performance evaluations, progress reports, signature authorities, cost or pricing data, payment processing justifications, property and equipment records;
  - h. copies of required insurance certificates;
  - i. monitoring/audit reports and any other required reports and financial reconciliations; and,
  - j. all contract closeout documents and records.
4. In negotiated procurements, records or files for purchases in amounts in excess of \$50,000 shall reflect, at a minimum:
  - a. justification for use of negotiation in lieu of competitive sealed bidding;
  - b. the basis for contractor selection; and
  - c. the basis for the cost or price negotiation.

## Article III. Source Selection and Contract Formation

### Part A. Methods of Source Selection

#### 3-101. General

1. Unless otherwise specified by law or program requirements, all contracts shall be awarded by competitive sealed bidding pursuant to federal and state laws, rules and regulations.
2. Exceptions to Competitive Sealed Bidding
  - a. Negotiated procurements [see Section 3-202];
  - b. Small purchases (\$50,000.00 or below) [see Section 3-204];
  - c. Non-competitive procurements [see Section 3-205];
  - d. Emergency procurements [see Section 3-206];
  - e. State Contracts, Interlocal Agreements, and Cooperative Purchases [see Section 3-207]
  - f. Professional and Personal Services Procurements [see Section 3-208];
  - g. Direct Purchase of Service Vendor Pools authorized under 26 TAC §213.55 [see Section 3-209]; and
  - h. Other exemptions to requirements for competitive bidding provided for in Section 252.022 of the Texas Local Government Code.

Commented [HA6]: Move to 3-203

#### 3-102. Restrictive Competition Practices Prohibited

1. Prohibited restrictive practices include but are not limited to:
  - a. requiring unnecessary experience and excessive bonding;
  - b. placing unreasonable requirements on persons in order to qualify to do business;
  - c. organizational conflicts of interest;
  - d. non-competitive pricing practices between firms;
  - e. non-competitive awards to consultants that are on retainer contracts;
  - f. "brand name" specifications;
  - g. overly restrictive specifications;
  - h. geographic preference when using federal funds, except for any authorized domestic preference per 2 CFR §200.322and,
  - i. arbitrary action in the procurement process.
2. Payment:
  - a. Lump Sum upon completion of contract; or
  - b. Unit Price Basis: Partial payments based upon actual quantity constructed or supplied.



### 3-103. Contract Types

1. General: The procurement instrument shall be in accordance with Chapter 252 of the Local Government Code and specific grantor purchasing procurement standards, if any. The instrument shall be appropriate for the particular procurement and for promoting the best interest of the grant program involved.
  - a. Fixed price contracts or purchase orders;
  - b. Cost reimbursement contracts or purchase orders; and
  - c. Incentive contracts.
  - d. A Cost Plus a Percentage of Cost or Percentage of Construction Cost contract shall **not** be used.
2. Payment:
  - a. Lump Sum upon completion of contract; or
  - b. Unit Price Basis: Partial payments based upon actual quantity constructed or supplied.

### 3-104. Independent Cost/Price Analysis

1. CAPCOG must perform an independent cost or price analysis prior to every procurement action, including contract modifications.
2. An independent cost estimate is required:
  - a. when the offeror must submit the elements of his estimated cost for professional, consulting and architectural/engineering services contracts; and,
  - b. when adequate price competition is lacking, such as sole source procurements, change orders or contract modifications.
3. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.
4. Procedure:
  - a. The Division Director or his designee must obtain an independent cost or price analysis from:
    - 1) online research;
    - 2) informational telephone solicitations from more than one dependable vendor or source;
    - 3) catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation; or,
    - 4) historical data.
  - b. A cost reasonableness review is conducted, which includes but is not limited to reviewing:
    - 1) prior experience and effectiveness;

- 2) line item budget analysis;
  - 3) profit/program income;
  - 4) the amount of the total budget;
  - 5) the amount of the administrative budget;
  - 6) all cost items and salaries;
  - 7) all cost items with respect to relevancy and appropriateness in accomplishing the services provided;
  - 8) travel reimbursement policies; and
  - 9) cost per contract hour.
- c. The purpose of the cost reasonableness review is to:
- 1) assure that all costs are properly allocated and classified;
  - 2) identify any high or questionable costs;
  - 3) assure that an organization-wide cost allocation plan is provided where the offeror/bidder has multiple sources of funding, if applicable;
  - 4) list any questionable issues of purchase or lease;
  - 5) assure that the cost of audit is covered;
  - 6) review staffing sources and salaries to assure budgetary limitations;
  - 7) assure that staff salaries are properly allocated to administration or training;
  - 8) determine adequacy of staffing for particular activities;
  - 9) list high or questionable staff salaries and benefits;
  - 10) list low cost or unreasonable staffing; and
  - 11) perform a comparative analysis including a comparison of activities and services to be offered, staffing patterns and costs proposed. This analysis may be used to assess the reasonableness of costs through competition, and the reasonableness of proposed cost may be established by performing a comparative analysis of an item or service that is currently available in the local service delivery area, including comparisons with current market rates.
5. A price analysis may be conducted by comparing price quotations submitted or by comparing price quotations with current market prices, considering any discounts. The analysis includes a comparison of prices paid for the same or similar products in the past, as well as the current market rate, including consideration of quantities, production and delivery rates. In-house estimates of cost may also be used.
  6. A cost analysis shall include a review, evaluation and verification of each element of cost submitted in the line item budget to determine whether costs are reasonable, necessary and allowable under applicable cost principles. Each cost contributes to the total price. The cost and pricing data is used to evaluate:

- a. specific cost elements;
  - b. the necessity of specific costs;
  - c. the reasonableness of amounts estimated for the necessary costs;
  - d. the reasonableness of allowances for contingencies;
  - e. the basis for allocation of indirect costs;
  - f. the appropriateness of allocation of indirect costs to the proposed contract; and
  - g. the reasonableness of the total price.
7. The independent cost or price analysis must be kept as part of the procurement record, even if only included as a memorandum to the file.

**Part B. Contract Formation**

**3-201. Competitive Sealed Bidding**

- 1. General. Competitive sealed bidding procedures must be followed:
  - a. For procurements costing more than \$50,000.
  - b. For all construction, repairs or renovations of a structure, road, highway or other improvement or addition to real property costing more than \$25,000.
- 2. All IFBs must clearly set forth all requirements to be met by the bidder.
- 3. Competitive sealed bidding requires formal advertising, adequate purchase descriptions, sealed bids and public openings.
- 4. The award must be to the lowest responsible bidder or to the bidder who provides supplies, equipment or services at the best value for CAPCOG.
- 5. IFBs shall clearly set forth all factors to be used in evaluating bids.
- 6. CAPCOG may reject any and all bids.
- 7. For exemptions to Competitive Bidding Requirements, see Section 3-101.

**3-202. Negotiated Procurements**

- 1. General.
  - a. Procurements may be negotiated if one or more of the following conditions exist which make competitive sealed bidding impracticable, infeasible or inadequate:
    - 1) the contract is for professional or personal services as described in section 3-208;
    - 2) , the contract is for any service to be rendered by a university, college or other educational institution;
    - 3) public exigency will not permit the delay incident to advertising;
    - 4) the supply, equipment or service to be procured is available from only one person or firm ("sole source");

**Commented [HA7]:** Move this down to 3-203

- 5) the supplies, equipment or services are to be procured and used outside the United States;
  - 6) no acceptable bids have been received after formal advertising under competitive sealed bidding procedures;
  - 7) the purchases are for highly perishable materials or medical supplies; for supplies, equipment or services where the prices are established by law; for technical items or equipment requiring standardization or interchangeability of parts with existing equipment; for experimental, developmental or research work; for supplies purchased for resale; or for technical or specialized supplies requiring substantial initial investment for manufacture; or,
  - 8) the procurement is for insurance or high-technology products or services.
- b. Competition shall be obtained to the maximum extent practicable.
  - c. The proposals shall be opened in a manner that avoids disclosure of the contents to competing offerors and keeps the proposals secret during negotiations.
  - d. Results of negotiation shall be documented, especially the reasons for the elimination of a proposal after negotiations.

3-203. **Competitive Procedures**

- 1. Invitation for Bids/Requests for Proposals
  - a. IFBs/RFPs shall be based upon clear and accurate descriptions of the technical requirements for the material, good, product, supply, equipment or service to be procured.
  - b. The description may contain a statement of the qualitative nature of the material, good, product, supply, equipment or service.
  - c. The description may set forth minimum essential characteristics and standards to which the material, good, product, supply, equipment or service must conform in order to permit its intended use.
  - d. The description will not contain features which unduly restrict competition. "Brand name or equal" descriptions may be used as a means to define the performance or other salient requirements of a procurement. When so used, the specific features of the named brand which must be met by bidders/offerors should be clearly specified.
  - e. The solicitation package may include many sections listed below; however, sections may be deleted, added or reorganized to meet the proposal requirements with the approval of the Deputy Executive Director.
    - 1) Purpose, goals and/or objectives, including performance standards.
    - 2) Proposal outline with format and sequence for submitting responses.
    - 3) Bidder's conference information.

**Commented [HA8]:** Move this up to 3-202

- 4) Available funds and source of funds.
- 5) Solicitation instructions, including requirements for information regarding the bidder's/offeror's:
  - i. background and experience;
  - ii. accounting system;
  - iii. audit/monitoring results;
  - iv. program proposal;
  - v. detailed budget; and,
  - vi. participant schedule/performance.
- 6) Type of contract: cost reimbursement, fixed price or fixed unit price performance.
- 7) Closing date and hour for receiving bids/proposals.
- 8) Address and office or e-mail address of where bids/proposals should be sent.
- 9) Information on when and where specifications may be reviewed or obtained if not included in the package.
- 10) A copy of Section 1-113 of this Policy, *Public Access to Procurement Information*.
- 11) Evaluation factors and weight.
- 12) Whether the bid will be awarded either to the lowest responsible bidder or to the bidder who provides supplies, equipment or services at the best value for CAPCOG.
- 13) Protest procedure.
- 14) Negotiation rights and requirements with respect to clarifying, explaining and verifying any aspect of a proposal submitted in response to an RFP.
- 15) Standard Terms and Conditions: those conditions for doing business with CAPCOG which remain constant for all contracts and purchases, unless specifically deleted. Uniform Commercial Code Standard Terms and Conditions may also be used.
- 16) Special Terms and Conditions: those terms and conditions not always required but that are required for the particular contract or purchase.
- 17) As an alternative to including standard and special terms and conditions, the RFP may include a sample contract that includes such terms.
- 18) Onsite testing and inspections.
- 19) Cost and Pricing, including a price list or line-item pricing, hourly.
- 20) Technical specifications, if relevant.

- 21) Statement of Work
- 22) Delivery Terms
- 23) Method of Payment

2. Public Notice

- a. A short summary of the IFB/RFP shall be published in the local newspaper or a newspaper of general circulation under Legal or Public Notices.
- b. The notice must include a description of the item or where the specifications may be obtained; the time and place for receiving and opening bids; name and address of person to receive bids; basis for bid, either lump-sum or unit pricing; method of payment; and any bond requirements.
- c. The newspaper notice must be published at least once a week for two consecutive weeks. The date of the first publication must be before the 14<sup>th</sup> day before the date of public opening.
- d. The solicitation package should be sent to all qualified persons on the Bidders' List. Potential bidders may not be precluded from qualifying during the solicitation period.

3. Opening

- a. Bids and proposals must be received by and opened on the date and time specified by the IFB/RFP.
  - 1) If soliciting physical bid/proposal submissions, the bid/proposal opening is open to the public; and, if no member of the public attends, a member of another department shall act as a witness.
  - 2) If soliciting electronic bid/proposal submissions, the electronic records related to the submission constitute a public record.
- b. Late submissions will **not** be considered for award.
  - 1) Physical bids/proposals shall be date/time stamped upon receipt.
  - 2) Electronic bids/proposals shall include relevant metadata documenting the date and time received.
- c. Incomplete bids/proposals must be considered non-responsive, and may not be considered for award unless due to a non-material omission.
  - 1) If the incomplete proposal is due to a non-material omission CAPCOG may seek the additional information or waive or correct the non-material omission.
  - 2) A non-material omission relates to a matter of form, not substance, or an insignificant mistake that may be waived or corrected without prejudicing the other bidders/offerors, i.e., the effect on price, quality, quantity, delivery or other contractual conditions is negligible.
- d. All physical bids and proposals must be sealed with the identification number marked outside the envelope. Only one bid/proposal may be submitted per envelope.

- 1) An unmarked envelope may be opened to establish it contains a bid, then resealed; and,
  - 2) The unmarked bid will not automatically be eliminated; however, it does violate the integrity of the process.
- e. As allowed for under Section 252.0415 of the Texas Local Government Code, (“Procedures for Electronic Bids or Proposals”) a bid or proposal may be electronically submitted if provided for in the RFP, and provisions of this policy that apply to a sealed bid also generally apply to a bid or proposal received through electronic transmission.
- 1) The RFP must provide specific instructions for electronic submission of proposals or quotes.
  - 2) In handling electronically submitted bids or proposals, CAPCOG shall ensure the identification, security, and confidentiality of electronic bids or proposals and ensure that they remain effectively unopened until the proper time.
- f. Opened bids/proposals shall be kept available for inspection except as provided in Section 1-113, Public Access to Procurement Information.

4. Acceptance and Evaluation

- a. IFBs/RFPs must clearly set forth all requirements to be met by the bidder/offeror for evaluation and the weight attached to each factor. Evaluation factors may include, but are not limited to:
- 1) price;
  - 2) experience in same or similar programs;
  - 3) demonstrated performance;
  - 4) likelihood of meeting performance goals, cost, quality of training and characteristics of participants;
  - 5) ability to respond in a timely manner (service capacity and response time);
  - 6) past recommendations and performance;
  - 7) safety record;
  - 8) financial stability and resources, including fiscal management capabilities and project budget;
  - 9) quality of supplies, equipment, or services offered;
  - 10) operating characteristics;
  - 11) technical innovations;
  - 12) administrative capability;
  - 13) a review of monitoring reports, goal attainment, and program outcomes; and,

14) any other factors, listed in the IFB/RFP, considered by CAPCOG as necessary for the procurement.

b. Summary of Bid/Proposal Processing

- 1) Bids/proposals will be reviewed for completeness, including but not limited to:
  - (a) verifying all calculations and sums;
  - (b) extending unit prices to a total price for the requested quantity;
  - (c) verifying authorized signature;
  - (d) verifying responsiveness to solicitation specifications – any failures to meet the requirements should be noted, as well as whether such failures disqualify the bid/proposal;
  - (e) verifying that all samples or testing requirements were satisfied;
  - (f) evaluating the bid/proposal against the independent cost estimate or desired, ideal system;
  - (g) evaluating the proposal against the weights assigned in the IFB/RFP;
  - (h) reviewing the history of the bidder's/offeror's responsibility and demonstrated performance; and,
  - (i) making recommendations and/or noting areas to be negotiated.
- 2) The RFP/IFB process must:
  - (a) require a budget summary to be completed with sufficient detail of costs to enable a cost/price reasonableness analysis;
  - (b) contain signed statements certifying that the individual signing on behalf of an organization has the authority to submit the proposal and carry out the proposed services;
  - (c) avoid and protect against giving inappropriate signals regarding an acceptable price;
  - (d) include a rating method containing:
    - i. a value for price reasonableness;
    - ii. criteria for judging price reasonableness; and,
    - iii. past performance as a quantifiable and criteria-referenced element.
  - (e) separately rate proposals – rating sheets shall be completed, signed and dated by the reviewing parties and shall be maintained as part of the procurement record;
  - (f) aggregate individual scores – final awards shall be consistent with dollar value, numerical ratings and category in accordance with the IFB's/RFP's stated intentions; and



(g) document any and all inconsistencies.

5. Negotiations with Responsible Offerors (RFPs Only):
  - a. Negotiations (written or oral) shall be conducted with all responsible, responsive offerors deemed to be in the competitive range, i.e., have a reasonable chance of being selected for award.
  - b. The competitive range is determined by a technical evaluation of proposals received based upon the evaluation factors;
  - c. The review and rating of proposals must be consistently applied to assure equal treatment and arms-length transaction;
  - d. Data collected in the cost reasonableness review should be used to outline strengths and weaknesses of the proposed budget; and,
  - e. All changes resulting from negotiation should be documented.
6. Correction or Withdrawal of Bids
  - a. Correction of Bids/Proposals
    - 1) Bids/proposals may not be altered or amended after the submission deadline. However: before a bid/proposal is opened CAPCOG may waive a non-material omission or error in the bid/proposal if the omission or error:
      - (a) relates to a matter of form, not substance;
      - (b) has merely a negligible effect on price, quantity, delivery or other contractual conditions; and
      - (c) does not otherwise prejudice the other bidders/offerors.
  - b. Withdrawal of Bids/Proposals
    - 1) Unless a bid/proposal contains a material mistake, it may not be withdrawn or canceled by the bidder/offeror, without the written permission of CAPCOG, for a period of 90 days following the date designated for the receipt of bids. The bidder/offeror so agrees upon submittal of the bid/offer.
    - 2) A bid bond may be required on a public works project or for bids/proposals exceeding \$100,000 to ensure that if a bidder/offeror withdraws the bid/proposal after acceptance, CAPCOG will not suffer a loss.

The FB/RFP may require the bidder/offeror to furnish a good and sufficient bid bond in the amount of 5% of the total contract price.
7. Rejection of IFBs or RFPs
  - a. Any or all bids/proposals may be rejected.
  - b. If no bid/proposal is accepted, CAPCOG may repeat the solicitation process if in CAPCOG's best interest.

8. Disqualification of Bids or Proposals
- a. The following occurrences, among others, require disqualification of the bid/proposal:
    - 1) Bids: to either the lowest responsible bidder or to the bidder who provides supplies, equipment or services at the best value for CAPCOG.
    - 2) Proposals: to the responsible offeror whose proposal is the most advantageous to CAPCOG considering the relative importance of price and other evaluation factors included in the request for proposals.
  - b. Notify all unsuccessful bidders/offerors of the award in writing.
9. Certifications  
CAPCOG requires that interested bidders and proposers comply with the certifications listed below:
- a. Executive Orders 12549 and 12689, Debarment and Suspension, 29 CFR Part 98.5120 and Part 180, certification requirement;
    - 1) No award may be made at any tier, under a federal assistance program valued at \$25,000 or more, to a party who is debarred, suspended or is otherwise excluded from or ineligible for participation in federal assistance programs.
  - b. Prohibition Against Lobbying with Appropriated Funds.
    - 1) No appropriated funds may be expended by the recipient of a federal contract, grant or subgrant, loan or cooperative agreement, valued at \$100,000 or more, to pay any person for influencing or attempting to influence an officer or employee of any agency, Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in the awarding, making, entering into, extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement. Each person who requests or receives a federal contract, grant, loan or cooperative agreement must file a declaration affirming the above.
    - 2) The successful bidder/offeror must certify that he or she has not made a prohibited payment:
      - (a) upon submission of any request for consideration for award of a federal contract, grant or subgrant, loan or cooperative agreement;
      - (b) upon receipt of such federal monies unless such a certification was previously filed; and
      - (c) at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in said declaration.
  - c. Any other certification required under the State of Texas Procurement and Contract Management Guide.

**3-204. Small Purchases (\$50,000.00 or below)**

A small purchase is the procurement of supplies, equipment, services, or other property, that does not cost more than \$50,000.00 in the aggregate.

1. Competitive sealed bidding requirements and competitive procedures do not apply to small purchases. A small purchase procurement requires that price or rate quotations be obtained from an adequate number of qualified sources.
2. CAPCOG may not split purchases to circumvent the competitive requirements or the \$50,000.00 limit. Split purchases to avoid competitive bidding requirements will be considered an unauthorized purchase and may be disallowed.
3. Procedures.
  - a. Micro-Purchases of \$5,000.00 or less:
    - 1) For purchases of \$5,000.00 or less in the aggregate, a quote combined with an independent cost analysis as described in 3-104. is sufficient to justify the selection of a vendor, although where possible, three quotes is preferred;
    - 2) The purchase shall be approved, in writing, by the Finance Director.
    - 3) Any quotations obtained must be recorded, in writing, and made part of the procurement files..
    - 4) An award should be made consistent with competitive bidding policies and in conformance with maximizing free and open competition.
  - b. Small Purchases of \$5,000.01 up to \$50,000.00.
    - 1) For purchases of more than \$5,000.00 in the aggregate, the Division Director must solicit written bids or quotations.
    - 2) Written quotations (including fax and email) must be obtained from three (3) or more qualified contractors/suppliers, if available, to ensure the price is fair and in line with the current market.
    - 3) The Finance Director shall submit quotations to the Executive Director, who shall review them to determine cost reasonableness and to avoid the purchase of unnecessary or duplicative items.
    - 4) The selected quotation, along with those that were not selected, shall be made part of the procurement files.

**3-205. Non-Competitive Procurement**

1. Non-competitive procurements can only be awarded if one or more of the following circumstances apply, as authorized under 2 CFR 200.320:
  - 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 from only a single source (such as the examples identified in Section 252.022(7) of the Texas Local Government Code);
  - c. The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;

- d. The grantor agency expressly authorizes a noncompetitive procurement in response to a written request, if applicable; or
- e. After solicitation of a number of sources, competition is determined inadequate.

2. Procedures

- a. The process for a non-competitive procurement may be initiated with an RFP or RFQ.
- b. The source should be required to submit a relatively complete proposal or quote, including a description of the work to be accomplished and a proposed contract price.
- c. Negotiations should be conducted with the sole source to obtain the best possible price.
- d. The negotiations should be documented and retained in the procurement file along with the sole source justification.

3. Approval of Grantor Agency.

- a. CAPCOG must receive prior written approval from the grantor agency:
  - 1) for a sole source procurement expected to exceed \$100,000; or
  - 2) if the procurement, which is expected to exceed \$100,000, specifies " a "brand name" product.

**3-206. Emergency Procurements**

- 1. A procurement qualifies as an emergency if:
  - a. a public calamity requires the prompt purchase of items to provide for public needs or preserve property;
  - b. the item is necessary to preserve or protect the public health or safety of residents; or
  - c. the item is made necessary by unforeseen damage to public property.
- 2. Procedures.
  - a. Procedures set forth in either Section 3-204, regarding small purchases, or Section 3-205 for sole source procurements, should be followed to the extent possible.
  - b. All documents relating to the emergency procurement and its justification must be retained in the procurement files.
- 3. Emergency procurement may be made without competitive bidding.

**3-207. State Contracts, Interlocal Agreements, and Cooperative Purchases**

- 1. CAPCOG shall consider the possibility of entering into intergovernmental agreements for procurement or use of common supplies, equipment or services.

2. CAPCOG is authorized, under Texas law, to procure supplies, equipment and services through an approved program of cooperative purchasing which has been certified as having met all applicable laws and regulations for competitive procurement.
3. Examples of cooperative purchasing programs CAPCOG may utilize include those of the Texas Comptroller of Public Accounts, the Department of Information Resources (DIR), the Houston-Galveston Area Council, or purchases made under the Interlocal Cooperation Act.
4. CAPCOG is also authorized under Chapter 791 of the Texas Government Code to enter into interlocal contracts/agreements with other governmental entities to contract for governmental functions and services as defined under Section 791.003 of the Texas Government Code.
5. Approval thresholds for interlocal agreements pursuant to Chapter 791 are the same as the thresholds identified in Table 1 of this policy.

**3-208. Professional and Personal Services Procurements**

1. Definitions:
  - a. "Professional Services" are those performed by an independent contractor licensed by state government or otherwise identified in Chapter 2254 of the Texas Government Code, such as certified public accountants, architects, landscape architects, land surveyors, physicians (including surgeons), optometrists, professional engineers, real estate appraisers, registered nurses, forensic analysts or forensic science experts, or interior designers, and include the services of accounting, architecture, landscape architecture, land surveying, law, medicine, optometry, professional engineering, or forensic science.
  - b.
  - c. "Personal Services" involve a contract characterized by the employer-employee relationship it creates between CAPCOG and the contractor's personnel, as described in 48 CFR §37.104 and in accordance with 2 CFR §200.430.
2. Professional Services:
  - a. Selection of professional services shall be based on demonstrated competence and qualifications to perform the services for a fair and reasonable price.
  - b. In accordance with Chapter 2254, selection of professional services based competitive bids as described in sections 3-201 and 3-203 of this policy.
  - c. Contracts should be selected through the use of a Request for Qualifications (RFQ).
    - 1) The solicitation should track the RFQ process including:
      - (a) a statement of qualifications;
      - (b) public notice; and,
      - (c) describing the services required and outlining in detail the information and data required of each offeror.

**Commented [HA9]:** Update reference once moved to 3-202

- 2) Award shall be made to the offeror determined, in writing, to be the best qualified based upon the enumerated evaluation factors and compensation determined to be fair and reasonable.
- 3) Contracts for legal services shall be procured in compliance with Sections 2254.1032-2254.110 of the Texas Government Code.

3. Personal Services

- a. Personal services contracts are authorized under this procurement policy.
- b. Personal services contracts may include contracts with temporary staffing agencies or with individual staff members who are uniquely capable of assisting CAPCOG with a particular programmatic or administrative issue.
- c. Personal services contracts may not exceed one year in length.
- d. For personal service contracts, compensation for services will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities at CAPCOG or for similar work in the labor market, and may include wages/salaries and fringe benefits.
- e. For personal services contracts entered into with former employees, the employee pay rate at the time of separation plus the fringe rate in effect at that time is the maximum rate that CAPCOG may authorize.
- f.

4. Two-tiered Selection Process

- a. CAPCOG shall select a person capable of performing the service, on the basis of demonstrated competence and qualifications.
- b. CAPCOG shall enter into negotiation for a contract at a fair and reasonable price. The professional fees under the contract may not exceed any maximum provided by law.

**Commented [HA10]:** As stipulated in 2254.003(b) of the Texas Government Code

3-209. Direct Purchase of Service Vendor Pools

1. Under 26 TAC §213.55, CAPCOG's Area Agency on Aging is authorized by the Texas Health and Human Services Commission to use a procurement method called "Direct Purchase of Service" for services provided under the Older Americans Act (OAA).
2. This methodology provides a flexible mechanism for CAPCOG to offer services on a client-by-client basis as determined by an assessment of the individual's needs, and in situations in which the total dollar value that an individual vendor may ultimately receive under a contract is unknown.
3. Under this methodology, CAPCOG may establish and maintain a vendor pool by soliciting qualified vendors and entering into vendor agreements to authorize the use of that vendor to provide defined services under the Older Americans Act (OAA) based on client preference and needs.
4. In accordance with written guidelines adopted by the Executive Director and 26 TAC §213.55, the Executive Director may establish a direct purchase of service vendor pool and award contracts to vendors through this methodology without direct approval from

the Executive Committee of individual contracts, even if the amount paid to a vendor ultimately exceeds the relevant threshold.

**3-210. Unsolicited Bids or Proposals**

1. An unsolicited bid/proposal is any offer/proposal other than one submitted in response to an IFB or RFP.
2. To be considered by CAPCOG, the unsolicited offer/proposal must:
  - a. not be for an item required by law to be competitively bid or proposed;
  - b. be in writing; and,
  - c. meet the sole source procurement standards.
3. If an unsolicited bid/proposal meets the requirements of subsection 2. above, the Director of Administration shall determine its utility and benefit to CAPCOG.

**Commented [HA11]:** Cross-reference

**3-211. Unlawful Solicitations and Awards**

A contract awarded in violation of CAPCOG's Procurement Policy or otherwise in violation of the law is void.

**3-212. Lease/Purchase Agreements**

The leasing of property and/or equipment is encouraged in lieu of purchasing where leasing is the most economical procurement approach. This policy applies to lease or lease/purchase procurement.

**3-213. Excess or Surplus Property**

CAPCOG is encouraged to use Federal, State, and local excess and surplus property in lieu of purchasing new property whenever feasible and for the purpose of reducing procurement costs.

**Commented [HA12]:** Consider update to add state and local governments

## Article IV. Modification and Termination of Contracts

### 4-101. Modification and Change Orders

#### 1. Definitions

- a. "Change Order" means a written order signed by the Division Director directing the contractor to make changes authorized by the changes clause of the contract.
- b. "Modification" means any written alteration in specifications, delivery point, rate of delivery, period of performance, quantity or other provisions of the contract as well as any associated price adjustments, accomplished by mutual action of the parties to the contract.

#### 2. All modifications or changes to the contract must be in writing.

- a. For a cumulative increase or decrease in the contract price of \$500.00 or less, from the original contract amount the Finance Director may approve the change order.
- b. For a cumulative increase of \$500.01 - \$25,000.00 from the original contract amount, the Executive Director must approve the change order.
- c. For a cumulative increase of \$25,000.01 or more from the original contract amount, the Executive Committee must approve the change order, unless it is for a CAECD contract.
- d. For a cumulative increase of \$25,000.01 to \$50,000.00 from the original contract amount for CAECD, the Executive Director may approve the change order.
- e. For an increase of more than \$50,000.01 from the original contract amount for the CAECD, the Executive Committee must approve the change order in its capacity as the CAECD Board of Managers.
- f. The original contract price may not be increased by more than 25% unless the change order is necessary to comply with a federal or state statute, rule, regulation or judicial decision enacted, adopted or rendered after the contract was made.
- g. Changes that bring the contract total above an approval threshold in Table 1 that are below the amounts listed in this section are not required to be approved by the next-highest authorizing entity (for example, a change from \$24,000.00 to \$26,000.00 can be approved by the Executive Director without going to the Executive Committee since the change itself does not exceed \$25,000.00).
- h. The original contract price may not be decreased by more than 25% without the contractor's written consent.
- i. Total contract price may not be increased unless the cost of the change can be paid from available funds.

#### 3. If a modification requires a new solicitation, the contract must be terminated and a new solicitation issued.

**Commented [HA13]:** Re-aligns to match threshold for Division Director/Finance Director approval for initial contract

**Commented [HA14]:** Re-aligns to match range for Executive Director approval for initial contract.

**Commented [HA15]:** Re-aligns to match range required for Executive Committee approval

**Commented [HA16]:** Re-aligns to match range for Executive Director approval for initial contract

**Commented [HA17]:** Re-aligns to match range for CAECD Board of Managers approval.

**Commented [HA18]:** Clarifies ambiguity on whether an amendment to a contract that pushes a total over a threshold requires the next-higher level of approval



4. Requirements to Recompete

- a. CAPCOG must recompete if the modification results in the procurement of equipment, supplies or services that:
  - 1) are materially different from that for which competition was held;
  - 2) result in a change in the terms or conditions of a contract that interferes with or defeats the purpose of competitive procurements; or
  - 3) is tantamount to an unjustified sole source procurement.
- b. To determine whether the modification is outside the scope of the RFP/IFB, and thus violates subsection a. above, the Deputy Executive Director must review:
  - 1) the language of RFP/IFB;
  - 2) the instructions to offerors/bidders;
  - 3) the content and weighting of evaluation factors;
  - 4) the preliminary efforts required before the contractor can begin work;
  - 5) whether the Statement of Work must be amended to include the modification;
  - 6) the cost or value of the modification in relation to the original contract price;
  - 7) whether a substantial extension of time is required; and,
  - 8) whether the modification was in connection with the work contemplated or specified by the contract.
- c. Improper Justifications for Modification:  
Making an award with the intent to change contract specifications by a subsequent modification, i.e., CAPCOG may not make an award when the Division Director knows or should know it is not based on the conditions under which the performance will occur and will thus require a modification.

4-102. Termination of Contracts

1. General

- a. A contract may be terminated because of circumstances beyond the contractor's control, for default and for convenience.
- b. The termination for convenience clause must include the termination procedure and the basis for settlement.

2. Termination for Default

- a. CAPCOG may terminate a contract, in whole or in part, when it has determined that the contractor has violated any material provision of this contract.
- b. Grounds for default include, but are not limited to:
  - 1) failure to perform pursuant to the terms and conditions of the contract; and

- 2) violation of applicable law.
  - c. The termination for default clause must be included in all contracts.
- 3. Breach or default
  - a. Upon breach or default, CAPCOG shall give the contractor written notice of default. If the default is not remedied to the satisfaction and approval of CAPCOG, CAPCOG will declare the vendor in default.
  - b. Upon breach of contract or default, CAPCOG may exercise any and all of its rights afforded by law, including by not limited to those referenced in CAPCOG's general contract terms and conditions.

## Article V. Resolution of Controversies

### 5-101. Protest of solicitations and awards

1. Protest in Writing

An unsuccessful 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 (for example, if there are milestones in the RFP indicating when certain information will become publicly available or decisions will be made, those are the dates the proposer "should have known" that something had occurred, even if they only actually became aware of it later through no fault of CAPCOG's). 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 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 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.

2. Action Following Protest

Upon receipt of the written protest, CAPCOG shall furnish a copy of the protest to all of the other 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.

3. 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 – Intragency Memorandum" on each page, and forward the complete procurement file to the Executive Director.

4. 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 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.

5. Appeal to Executive Committee's Appeal Subcommittee
  - a. The Executive Director may permit appeal of the Executive Director's decision denying the protest to the Executive Committee or a subcommittee consisting of CAPCOG's officers if the protester requests the appeal in writing and the request is received by the Executive Director within five business days following the date of the decision. In deciding whether to permit the appeal, the Executive Director shall consider the dollar amount of the bid/proposal/quote or contract award and the cost to CAPCOG of delaying the award or performance of the contract; the protester's good faith in requesting the appeal; the seriousness of the alleged violation of CAPCOG's Procurement Policy or applicable law; the novelty of the protest; and any other factors relevant to the Executive Director's decision denying the protest. The Executive Director's decision to permit or reject appeal to the Executive Committee or its subcommittee must be in writing, made within five business days following receipt of the protestor's request, and shall be furnished to the protester and to all of the other bidders/offerors/quoters for the procurement.
  - b. The decision of the Executive Committee or its subcommittee is final unless the protester files suit challenging the decision, in a court of competent jurisdiction in Travis County, Texas, within 15 business days following the date of the decision.
6. Action Following Final Decision on Protest
  - a. If the Executive Director denies the protest, and there is no timely appeal or court challenge, the procurement process shall resume and the contract awarded or the award confirmed if already made before the protest was received. If the Executive Director sustains the protest, or the appeal or court challenge is successful, the Executive Committee shall revoke the contract award (if made), reject all the bids/proposals/quotes, and solicit new bids/proposals/quotes if in CAPCOG's best interest.
  - b. After the protest is finally resolved, CAPCOG shall notify the grantor agency, if any, of the details of the protest.

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

### 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. Bidder/Offeree Statement

Every solicitation for procurement must require that each bidder or offeror include a statement that the 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 Bidders' List. State lists may be utilized to locate such businesses by contacting the General Services Commission;
2. Assure that small, MBEs, DBEs, women-owned businesses, and HUBs are solicited whenever they may be potential sources. In this regard, CAPCOG should investigate new sources and advertise when feasible in minority publications;
3. When economically feasible, and where not in contravention of competitive bidding requirements, CAPCOG 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 Comptroller 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 Bidders' List.

6-104. For such affirmative steps to be meaningful, CAPCOG 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

**Commented [HA19]:** I don't think we're really doing a lot of these things

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 bidder.

- 6-106. For procurements costing more than \$5,000.00 up to \$50,000.00 the Division Director shall contact at least two HUBs on a rotating basis, based on information provided by the Texas General Services Commission. If the list fails to identify a historically underutilized business in the area, CAPCOG is exempt from this section.

**Commented [HA20]:** Review thresholds; less than \$50,000 should be "up to \$50,000"

## Article VII. Conflict of Interest

### Part A. Standard of Conduct

#### 7-101. Elected Officials and Executive Staff

Chapter 176 of the Local Government Code outlines conflict disclosure filing requirements for elected officials and chief executive officers of Texas political subdivisions, including regional councils. There are also disclosure requirements for those seeking to do business with CAPCOG.

1. Conflict Disclosure Filing  
CAPCOG Executive Committee members, the Executive Director and Division Directors are required to file a conflicts disclosure statement when the official becomes aware that CAPCOG has a contractual or business relationship or is considering such a relationship and:
  - a. The person has a business or employment relationship with the official; or
  - b. The person has a business or employment relationship with a family member of the official, within the first degree of consanguinity; or
  - c. The person has given the official or the official's family a gift, excluding food, lodging, transportation or entertainment, with an aggregate value of \$250 or more within the preceding twelve months.

2. Vendor and Consultant Disclosures  
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 Division Directors.

In addition, Section 2252.908 of the Government Code requires Disclosure of Interested Parties for all contracts of a governmental entity that:

- a. requires an action or vote by the governing body of the entity or agency before the contract may be signed; or
- b. has a value of at least \$1 million.

#### 7-102. Conflict of Interest Questionnaire

1. The completed Questionnaire must be delivered to CAPCOG's Deputy Executive Director, who serves as its Records Administrator, not later than the seventh (7th) 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](http://www.ethics.state.tx.us), and the names of the members of CAPCOG's Executive Committee, its Executive Director, and Division Directors are available on CAPCOG's website, [www.CAPCOG.org](http://www.CAPCOG.org).
2. The Texas Ethics Commission's legal department will answer questions about chapter 176 and the Questionnaire at 512-463-5800 or 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.

3. If an Executive Committee member is named in a Questionnaire filed by a vendor or contractor under subsection 1, the Records Administrator shall promptly inform the Executive Director who shall explain to the member his or her duty to comply with chapter 176 and, if required, to complete and file with CAPCOG's Records Administrator the Local Government Officer Conflicts Disclosure Statement by 5 p.m. of the seventh business day after receiving the Executive Director's explanation. If the Executive Director or a Division Director is named in a Questionnaire, the Records Administrator shall promptly notify the individual so named who shall complete and file the Statement if required by 5 p.m. of the seventh business day after receiving the notice.
4. An Executive Committee member or CAPCOG employee who files a Statement under this section must abstain from discussing, explaining, lobbying for, rating, scoring, recommending, or approving a procurement from a current or prospective vendor or contractor named in the Statement.

**7-103. Disclosure of Interested Parties (Form 1295)**

1. CAPCOG may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties (Form 1295) as required to the Texas Ethics Commission online, with a notarized copy of the filing to CAPCOG at the time the contract is signed.
2. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission. The business entity is responsible for accessing and filing Form 1295 online. The form may be found on the Texas Ethics Commission website at <https://www.ethics.state.tx.us/tec/1295-Info.htm>.
3. A business entity must use the application to enter the required information on Form 1295 and print a copy of the completed form, which will include a certification of filing that will contain a unique certification number. An authorized agent of the business entity must sign the printed copy of the form and have the form notarized.
4. The completed Form 1295 with the certification of filing must be delivered to CAPCOG's Deputy Executive Director, who serves as its Records Administrator.

**7-104. Employees and Agents**

1. No employee or agent of CAPCOG shall participate in the negotiation, evaluation, selection, discussion, award or administration of a contract or procurement supported by public funds if a conflict of interest, either real or apparent, would be involved. An employee or agent of CAPCOG shall at all times avoid the appearance of impropriety.
2. A conflict arises when a CAPCOG employee or agent, or any member of his/her immediate family, a partner or a person or an organization which employs or may employ in the near future any of these individuals, has a financial or other substantial interest in any entity which may be considered for the award.
  - a. "Immediate family" means to refer to any person related within the second degree of affinity (marriage) or within the third degree of consanguinity (blood) to the party involved.
  - b. "Substantial interest" for purposes of this section, means the person:
    - 1) owns 10% or more of the voting stock or shares of the entity; or



- 2) 10% or more or \$15,000 or more of the fair market value of the entity;  
or
- 3) received funds from the entity in excess of 10% of the person's gross income for the previous year; or
- 4) is related to an employee or agent in the first degree of consanguinity or affinity.

## **Part B. Violations and Remedies**

- 7-201. An employee's violation of the provisions of Sections 3.05 or 3.06 of the Personnel Policies, which regulate conflict of interest, constitutes misconduct and subjects the violator to discipline and to all penalties prescribed by law.
- 7-202. A contract or grant made in violation of Section 3.05 or 3.06 of the Personnel Policies is voidable.

**Commented [HA21]:** Review relevant references from Personnel Policies to ensure consistency

## **Article VIII. Audits**

### **8-101. Independent Audit Requirements**

1. CAPCOG must have an audit conducted in accordance with the Single Audit Act of 1984, as amended, and the federal Uniform Grant Guidance 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
2. The audit shall be made by an independent auditor in accordance with generally accepted government auditing standards.
3. When CAPCOG subgrants \$750,000 or more in a fiscal year to a subgrantee, CAPCOG shall:
  - a. determine whether the subgrantee has met the state or federal requirements as appropriate and ensure that prompt corrective action is taken in the event of material non-compliance;
  - b. if no audit is conducted by the subgrantee, determine if expenditures are in accordance with applicable laws and regulations and ensure prompt corrective action is taken in the event of material non-compliance; and,
  - c. require each subgrantee to permit independent auditors to have access to all records and financial statements, as a condition of receiving funds.

## EXECUTIVE COMMITTEE MEETING

**MEETING DATE:** September 13, 2023

**AGENDA ITEM:** #4 Consider Approving FY 2024-2025 Senior Nutrition Grant Awards

### GENERAL DESCRIPTION OF ITEM:

CAPCOG's Aging Services Division sponsors home meal delivery and congregate meal services across the 10-county region through grants to four regional non-profit organizations using funding from Title III-C of the Older Americans Act (OAA). These non-profits can be reimbursed up to 90% of the cost for these services at fixed rates, and CAPCOG periodically conducts an open Request for Applications (RFAs) to: a) identify any new non-profits that may wish to provide meals under this program, b) assess performance of existing providers, c) enable existing providers to propose updated rates and volumes, and d) align services with any updates to the area plan.

Based on the RFA conducted this year, we are proposing to award the following nutrition grants for fiscal years (FYs) 2024 and 2025, and with option to renew for FY 2026, and authority to add any carry-over money to these contracts if and when they become available from the Texas Health and Human Services Commission:

- |  |             |
|--|-------------|
| 1. Meals on Wheels of Central Texas:                                 | \$1,888,030 |
| a. \$916,138 for FY 2024, \$971,893 for FY 2025                      |             |
| b. Serves Travis County and parts of Williamson County:              |             |
| 2. Combined Community Action, Inc.:                                  | \$1,067,146 |
| a. \$530,613 for FY 2024; \$536,533 for FY 2025,                     |             |
| b. Serves Bastrop, Blanco, Caldwell, Fayette, Hays, and Lee Counties |             |
| 3. Opportunities for Williamson and Burnet Counties:                 | \$691,446   |
| a. \$335,570 for FY 2024, \$355,876 for FY 2025                      |             |
| b. Serves Burnet County and part of Williamson County                |             |
| 4. Hill Country Combined Community Action:                           | \$113,723   |
| a. \$55,474 for FY 2024, \$58,248 for FY 2025                        |             |
| b. Serves Llano County (limited to Kingsland and Llano)              |             |

The \$3.7 million total funding proposed above fits within the \$4 million available from the annual funding CAPCOG expects to receive in FY 2024 and 2025 from Title III-C funding available, but it is significantly below the \$8.4 million requested from the four providers. We expect that another \$3.3 million in one-time carry-forward funding from the American Rescue Plan and from prior fiscal years will be able to be added to these contracts once HHSC releases these funds to CAPCOG, and we are requesting authority to add those funds to these contracts at that time without needing to return to Executive Committee for further approval. Since the combined total of the \$3.7 million, we are able to commit from current fiscal year funding for FYs 2024 and 2025, and expected carry-forward will not be able to cover the full amounts requested by providers for the two-year period, we will negotiate the rates and volumes prior to executing these contracts, and also at the time additional funding is added. We expect to have the new contracts in place by October 1.

The attached memo elaborates on the details of the RFA process and the basis for the funding amounts being recommended for each provider.

### THIS ITEM REPRESENTS A:

- New issue, project, or purchase
- Routine, regularly scheduled item
- Follow-up to a previously discussed item
- Special item requested by board member
- Other

**PRIMARY CONTACT/STAFF MEMBER:**

**Patricia Bordie, Director of Aging Services  
Andrew Hoekzema, Deputy Executive Director**

**BUDGETARY IMPACT:**

Total estimated cost: n/a

Source of Funds: Health and Human Services; Title III-C1, and Title III-C2

Is item already included in fiscal year budget?  Yes  No

Does item represent a new expenditure?  Yes  No

Does item represent a pass-through purchase?  Yes  No

If so, for what city/county/etc.? four non-profit grant subrecipients

**PROCUREMENT:** Request for Applications

**ACTION REQUESTED:**

Award four (4) 2024-2025 Nutrition Grants Detailed Above and in the Accompanying Memo

**BACK-UP DOCUMENTS ATTACHED:**

Nutrition Grant Award Recommendation Details

**BACK-UP DOCUMENTS NOT ATTACHED** *(to be sent prior to meeting or will be a handout at the meeting):*

None



BASTROP BLANCO BURNET CALDWELL FAYETTE HAYS LEE LLANO TRAVIS  
WILLIAMSON

**MEMORANDUM**  
**August 28, 2023**

**TO: Executive Committee**

**FROM: Patricia Bordie, Director of Aging Services**  
**Andrew Hoekzema, Deputy Executive Director**

**RE: Explanation of Proposed Older Americans Act Nutrition Grant Recommendations**

This memo provides details on the basis for the recommended Older American Act (OAA) nutrition grant awards to the following organizations:

- **Meals on Wheels of Central Texas (MOWCT);**
- **Combined Community Action, Inc. (CCA);**
- **Opportunities for Williamson and Burnet Counties (OWBC); and**
- **Hill Country Combined Community Action (HCCCA).**

**Initial Not-to-Exceed Amounts by Fiscal Year and Meal Category**

The following table contains the “not-to-exceed” amounts for each provider in each meal category.

*Table 1. Initial Grant Contract "Not-to-Exceed" Amounts by Provider and Meal Service Type*

<b>Provider</b>	<b>Meal Service Type</b>	<b>FY 2024 Amount</b>	<b>FY 2025 Amount</b>	<b>Total Amount</b>
<b>MOWCT</b>	Congregate	\$397,918	\$427,762	\$825,681
<b>CCA</b>	Congregate	\$92,893	\$99,860	\$192,754
<b>OWBC</b>	Congregate	\$65,519	\$69,476	\$134,995
<b>HCCCA</b>	Congregate	\$7,684	\$8,068	\$15,753
<b>SUBTOTAL</b>	<b>Congregate</b>	<b>\$564,015</b>	<b>\$605,167</b>	<b>\$1,169,182</b>
<b>MOWCT</b>	Home-Delivered	\$518,219	\$544,130	\$1,062,350
<b>CCA</b>	Home-Delivered	\$437,720	\$436,673	\$874,392
<b>OWBC</b>	Home-Delivered	\$270,051	\$286,400	\$556,452
<b>HCCCA</b>	Home-Delivered	\$47,790	\$50,180	\$97,970
<b>SUBTOTAL</b>	<b>Home-Delivered</b>	<b>\$1,273,780</b>	<b>\$1,317,383</b>	<b>\$2,591,163</b>
<b>TOTAL</b>	<b>TOTAL</b>	<b>\$1,837,795</b>	<b>\$1,922,550</b>	<b>\$3,760,345</b>

The amounts listed above are based on the “not to exceed amounts” for current fiscal year funding for FY 2024 and FY 2025 in CAPCOG’s AAA contract with the Texas Health and Human Services Commission (HHSC). A

significant amount of carry-forward will also be able to be added to these amounts following closeout of the previous year and it is possible that CAPCOG can also receive additional actual allocations from the Administration for Community Living for FY 2024 and 2025.

CAPCOG’s calculation of the “not-to-exceed” amounts listed above is based on:

1. Information included in the each provider’s applications;
2. Recent state legislation related to “common providers” (MOWCT is the only such provider in the region);
3. Current service levels and areas;
4. Senior population growth data from the U.S. Census Bureau;
5. The amounts available to CAPCOG for each type of meal service; and
6. The extent to which CAPCOG may transfer funding between categories.

**Review of Applications**

CAPCOG conducted an open solicitation for grant applications earlier, with applications due on August 4. For nutrition providers, CAPCOG received applications from the same four providers that we currently work with. CAPCOG established a scoring committee consisting of three members of CAPCOG’s Aging Advisory Council. Each committee member scored the applications according to the following criteria:

1. Organizational structure: 20 points;
2. Community assessment: 10 points;
3. Service workplan: 40 points; and
4. Financial overview: 30 points.

Scores were used to determine if an application was going to be recommended for funding. Applications were required to receive an average of at least 70 to be considered recommended for funding. In the case of overlapping service areas, the provider with the higher score may be given the first opportunity to serve a particular client if AAA staff were coordinating services. The following table summarizes the average score for each application, which ranged from 86.0 – 93.3.

*Table 2. Grant Application Scores*

<b>Provider</b>	<b>Congregate Meal Score</b>	<b>Home-Delivered Meal Score</b>
<b>MOWCT</b>	91.0	93.3
<b>OWBC</b>	89.0	89.7
<b>HCCCA</b>	87.3	88.7
<b>CCA</b>	86.0	87.0

Since all applications scored at least 70, CAPCOG is recommending funding all of them. This provides coverage for all areas of the region except for areas of Llano County outside of Kingsland and Llano. With the exception of Williamson County, there is no overlap – Williamson County (the entire county) was listed as within the service area of both MOWCT and OWBC. However, CAPCOG’s analysis of service delivery patterns indicates that MOWCT does not serve all of Williamson County, but may provide some service in limited areas of Williamson County to ensure unmet needs are addressed, while OWBC covers the remaining areas.

***Funding Requests***

The following table summarizes the funding requests CAPCOG received for Title III-C1 and Title III-C2 funding at the rates and volumes proposed by each provider.

*Table 3. Nutrition Funding Requested for FY 2024 and FY 2025*

<b>Budget Category</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>Total</b>
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<b>Title III-C1: Congregate Meals</b>	\$1,122,074	\$1,122,635	<b>\$2,303,781</b>
<b>Title III-C2: Home-Delivered Meals</b>	\$3,031,052	\$3,045,769	<b>\$6,076,820</b>
<b>TOTAL</b>	<b>\$4,154,983</b>	<b>\$4,225,619</b>	<b>\$8,380,601</b>

### **Funding Availability**

CAPCOG’s current contract with the Texas Health and Human Services Commission (HHSC) includes “not to exceed” amounts for FY 2024 and FY 2025 in Title III-C1 and Title III-C2 categories, which fund congregate meals and home-delivered meals, respectively. The following table summarizes the total amounts for each category and year, excluding any carry-forward that might be made available to CAPCOG after the start of each fiscal year. This represents the maximum amount that CAPCOG can commit to before HHSC releases carry-forward money to CAPCOG, particularly since CAPCOG works on a reimbursement basis. We expect the actual allocated carryover amounts to significantly narrow the gap between provider requests and funding availability.

*Table 4. Nutrition Funding Available for FY 2024 and FY 2025*

<b>Budget Category</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>Total</b>
<b>Title III-C1: Congregate Meals</b>	\$1,123,931	\$1,179,850	<b>\$1,123,931</b>
<b>Title III-C2: Home-Delivered Meals</b>	\$898,141	\$898,590	<b>\$1,796,731</b>
<b>TOTAL</b>	<b>\$2,020,215</b>	<b>\$2,021,225</b>	<b>\$4,041,440</b>

In total, these amounts represent less than half of the funding requested, so CAPCOG had to develop a basis for adjusting the volumes that each provider requested for the purpose of determining the initial “not to exceed” amount for each contract as required by HHSC.

### **Calculated Funding Requirements Compared to Available Funding and Transfer Authority**

Using the factors described earlier, CAPCOG calculated funding requirements for each provider and meal service type, and compared those amounts to the amounts available in each funding category. The table below shows this comparison:

*Table 5. Comparison of Funding Requirements to Funding Availability*

<b>Meal Type</b>	<b>Fiscal Year</b>	<b>Funding Available (not including carry-forward)</b>	<b>Funding Required</b>	<b>Difference</b>	<b>% Difference Relative to Required</b>
<b>Congregate Meals</b>	2024	\$1,122,074	\$564,015	\$558,059	98.94%
<b>Congregate Meals</b>	2025	\$1,122,635	\$605,167	\$517,468	85.51%
<b>Home-Delivered Meals</b>	2024	\$898,141	\$2,547,561	(\$1,649,420)	(64.75%)
<b>Home-Delivered Meals</b>	2025	\$898,590	\$2,634,766	(\$1,736,176)	(65.89%)
<b>TOTAL</b>	<b>TOTAL</b>	<b>\$4,041,440</b>	<b>\$6,351,508</b>	<b>(\$2,310,068)</b>	<b>(36.37%)</b>

Since CAPCOG has more money than it needs in congregate meals and less money than it needs in home-delivered meals, and since we are able to shift up to 40% of our funds from one category to the other, that mitigates some of the shortage for home-delivered meals. The amounts eligible for transfer are listed below:

- FY 2024: 40% \* \$1,122,074 = \$448,830, compared to a \$558,059 projected surplus; and
- FY 2025: 40% \* \$1,122,635 = \$449,054, compared to a \$517,468 projected surplus.

For FY 2024, this would leave a \$109,230 surplus in congregate meals in FY 2024 and \$68,414 in FY 2025 that cannot be transferred and could be added to these contracts later in the year if there is adequate demand. The table below summarizes the comparison of funding availability and funding required for each category after the transfer of funds from C1 to C2.

Table 6. Comparison of Funding Requirements to Funding Availability After Transferring 40% of C1 Money to C2

Meal Type	Fiscal Year	Funding Available (not including carry-forward)	Funding Required	Difference	% Difference Relative to Required
Congregate Meals	2024	\$673,244	\$564,015	\$109,230	19.37%
Congregate Meals	2025	\$673,581	\$605,167	\$68,414	11.30%
Home-Delivered Meals	2024	\$1,346,971	\$2,547,561	(\$1,200,590)	(47.13%)
Home-Delivered Meals	2025	\$1,347,644	\$2,634,766	(\$1,218,708)	(48.85%)
<b>TOTAL</b>	<b>TOTAL</b>	<b>\$4,041,440</b>	<b>\$6,351,508</b>	<b>(\$2,310,068)</b>	<b>(36.37%)</b>

The total deficit post-transfer for home-delivered meals is \$2,419,298, while the surplus for congregate meals is \$177,644. This analysis indicates that even after using the maximum authority available to CAPCOG to transfer funds from one category to another, we still only have about half of the funding needed to cover anticipated needs for home-delivered meals from current year funding. Therefore, we reduced all grant recipients FY 2024 and FY 2025 volumes by 50% in order to enable the available funding to cover the projected volumes at the rates we are using to calculate the not-to-exceed amounts. The volumes listed in Table 1 of this memo reflect those adjusted volumes.

**Availability of Carry-Forward Funding**

CAPCOG’s FY 2024 budget includes a significant amount of anticipated carry-forward from American Rescue Plan (ARP) funds and CAPCOG’s FY 2023 allocations for C1 and C2. The following table shows the amounts that were included in CAPCOG’s Budget, along with the maximum amount that can be shifted from C1 to C2. These are estimates developed in mid-July, however, and final amounts won’t be known until November-December, and funding won’t be made available to CAPCOG until next June or July at the earliest.

Table 7. Estimated Carry-Forward Expected to be Available

Carry-Forward Funding Source	Estimated Carry-Forward Available	40% Shift from C1 to C2	Available after 40% Shift
ARP – C1 Congregate Meals	\$304,202	(\$121,680.80)	\$182,521.20
ARP – C2 Home-Delivered Meals	\$533,621	\$121,680.80	\$655,301.80
FY 2023 – C1 Congregate Meals	\$1,246,501	(\$498,600.40)	\$747,900.60
FY 2023 – C2 Home-Delivered Meals	\$1,961,615	\$498,600.40	\$2,460,215.40
<b>SUBTOTAL – C1 Congregate Meals</b>	<b>\$1,550,703</b>	<b>(\$620,281)</b>	<b>\$930,422</b>
<b>SUBTOTAL – C2 Home-Delivered Meals</b>	<b>\$2,495,236</b>	<b>\$620,281</b>	<b>\$3,115,517</b>
<b>TOTAL</b>	<b>\$4,045,939</b>	<b>\$0</b>	<b>\$4,045,939</b>

The estimated \$3.1 million in carry-forward available for home-delivered meals should be able to cover the \$2.4 million deficit described above for the two-year period. However, it is important for providers to understand that there is likely to much less carry-forward available from 2025 to 2026, if any, and they should be planning to find other funding sources to make up for this difference or they will need to scale back services.

**Contracts and Authority to Negotiate and Add Funds**

The initial “not to exceed” amounts calculated as described in this memo provide an initial basis for CAPCOG to negotiate the final rates and volumes for each contract. CAPCOG will negotiate rates with each provider, calculating the expected number of units based on the “not-to-exceed” amount. Once agreed to and approved by HHSC, the rate will remain in effect for the applicable period regardless of the volume authorized by CAPCOG. Expenses will be tracked month to month, and if funding is available and necessary to meet demand, it can be added through a contract amendment increasing the not-to-exceed amount and the expected volumes. The rate for FY 2025 will not be negotiated until late 2024.



The total not-to-exceed amount for each category will constrain the rate negotiations. Historically, reductions in volume of meals served is the method for keeping contract amounts within the available budget. This reduction causes some providers to implement a waiting list for new participants seeking enrollment. All providers will also be charged with paying close attention to the Older Americans Act target populations (low-income, geographically/socially isolated, minority, rural residing and those at risk for institutionalization) to prioritize serving individuals most in need. Once these negotiations are finalized, new 2-year contracts will be executed with each vendor with an option to extend an additional year included. If we decide to recommend extensions rather than initiating a new request for applications, we will bring those extensions back to the Executive Committee for approval.

Within FY 2024 and 2025, we are seeking authority to amend these contracts within FY 2024 and 2025 to add any new HHSC allocations, surplus, or carry-forward funds available without needing to return to Executive Committee for approval. This will expedite process of making additional funding available to these grant recipients.

## EXECUTIVE COMMITTEE MEETING

**MEETING DATE:** September 13, 2023

**AGENDA ITEM:** #5 Consider Approving FY 2024 and FY 2025 Senior Center Operations Grant Awards

### GENERAL DESCRIPTION OF ITEM:

CAPCOG's Aging Services Division sponsors senior center operations services in the majority of the 10-county region through grants to six regional non-profit organizations using funding from Title III-B of the Older Americans Act (OAA). These non-profits can be reimbursed up to 90% of the cost for these services at fixed rates, and CAPCOG periodically conducts an open Request for Applications (RFAs) to identify any new non-profits that may wish to provide senior center operations under this program, assess performance of existing providers, existing providers to propose updated rates, and to align services with any updates to the area plan.

Based on the RFA conducted this year, we are proposing to award the following senior center operations grants for fiscal years (FYs) 2024 and 2025, and with option to renew for FY 2026, and authority to add any carry-over money to these grants should they become available from the Texas Health and Human Services Commission.

- |  |             |
|--|-------------|
| 1. Combined Community Action, Inc.:                                  | \$130,000   |
| a. \$65,000 for FY 2024, \$65,000 for FY 2025                        |             |
| b. Serves Bastrop, Blanco, Caldwell, Fayette, Hays, and Lee Counties |             |
| 2. Community Action Inc. of Central Texas:                           | \$91,400    |
| a. \$45,700 for FY 2024, \$45,700 for FY 2025                        |             |
| b. Serves Hays County (San Marcos)                                   |             |
| 3. Hill Country Community Action Association:                        | \$48,000    |
| a. \$24,000 for FY 2024, \$24,000 for FY 2025                        |             |
| b. Serves Llano County (limited to Kingsland and Llano)              |             |
| 4. Hill Country Senior Center:                                       | \$62,068    |
| a. \$31,034 for FY 2024, \$31,034 for FY 2025                        |             |
| b. Serves Hays County (Dripping Springs)                             |             |
| 5. Opportunities for Williamson and Burnet Counties:                 | \$86,368.82 |
| a. \$42,756.84 for FY 2024, \$43,611.98 for FY 2025                  |             |
| b. Serves Burnet County and part of Williamson County                |             |
| 6. WellMed Foundation:   | \$120,000   |
| a. \$60,000 for FY 2024, \$60,000 for FY 2025                        |             |
| b. Serves Travis County (Austin)                                     |             |

The \$537,836.82 total funding proposed above fits within the annual funding CAPCOG expects to receive in FY 2024 and 2025 from Title III-B funding available,

We hope to have the new grants in place by October 1.

The attached memo elaborates on the details of the RFA process and the basis for the funding amounts being recommended for each provider.

**THIS ITEM REPRESENTS A:**

- New issue, project, or purchase
- Routine, regularly scheduled item
- Follow-up to a previously discussed item
- Special item requested by board member.
- Other

**PRIMARY CONTACT/STAFF MEMBER:** **Patty Bordie, Director Aging Services**

**BUDGETARY IMPACT:**

Total estimated cost: \$537,836.82 in additional funds to nutrition provider  
Source of Funds: Title III – Older Americans Act funding, American Rescue Act Funding

- Is item already included in fiscal year budget?  Yes  No
  - Does item represent a new expenditure?  Yes  No
  - Does item represent a pass-through purchase?  Yes  No
- If so, for what city/county/etc.? \_\_\_\_\_

**PROCUREMENT: Request for Applications**

**ACTION REQUESTED:** Award Six 2024-2025 Senior Center Operations Grants Detailed Above and in the Accompanying Memo

**BACK-UP DOCUMENTS ATTACHED:**

1. Senior Center Operations Grant Award Recommendation

**BACK-UP DOCUMENTS NOT ATTACHED:** None.



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BASTROP BLANCO BURNET CALDWELL FAYETTE HAYS LEE LLANO TRAVIS  
WILLIAMSON

## MEMORANDUM August 28, 2023

**TO:** Executive Committee

**FROM:** Patricia Bordie, Director of Aging Services  
Andrew Hoekzema, Deputy Executive Director

**RE:** Explanation of Proposed Older Americans Act Senior Center Operations Grant Recommendations

---

This memo provides details on the basis for the recommended Older American Act (OAA) senior center operations grant awards to the following organizations:

- Combined Community Action, Inc.
- Community Action Inc. of Central Texas (Community Action Inc.)
- Hill Country Combined Community Action (HCCCA).
- Hill Country Senior Center (Hill Country SC)
- Opportunities for Williamson and Burnet Counties (OWBC); and
- WellMed Foundation (WellMed)

### Initial Not-to-Exceed Amounts by Fiscal Year

The following table contains the “not-to-exceed” amounts for each provider.

*Table 1. Initial Grant "Not-to-Exceed" Amounts by Provider*

Provider	FY 2024 Amount	FY 2025 Amount	Total Amount
CCA	\$65,000.00	\$65,000.00	\$130,000.00
Community Action Inc.	\$45,700.00	\$45,700.00	\$91,400.00
HCCCA	\$24,000.00	\$24,000.00	\$48,000.00
Hill Country SC	\$31,034.00	\$31,034.00	\$62,068.00
OWBC	\$42,756.84	\$43,611.98	\$86,368.82
WellMed	\$60,000.00	\$60,000.00	\$120,000.00
<b>TOTAL</b>	<b>\$268,490.84</b>	<b>\$269,345.98</b>	<b>\$537,836.82</b>

The amounts listed above are based on the “not to exceed amounts” for fiscal year funding for FY 2024 and FY 2025 in CAPCOG’s AAA contract with the Texas Health and Human Services Commission (HHSC). A significant amount of carry-forward will also be able to be added to these amounts following closeout of the previous year and it is possible that CAPCOG can also receive additional actual allocations from the Administration for Community Living for FY 2024 and 2025.

The amounts recommended match what was requested.

**Review of Applications**

CAPCOG conducted an open solicitation for grant applications earlier, with applications due on August 4. For senior center operations providers, CAPCOG received applications from the same six providers that it currently works with. CAPCOG established a scoring committee consisting of three members of CAPCOG’s Aging Advisory Council. Each committee member scored the applications according to the following criteria:

- 1. Organizational structure: 20 points.
- 2. Community assessment: 10 points.
- 3. Service workplan: 40 points; and
- 4. Financial overview: 30 points.

Scores were used to determine if an application was going to be recommended for funding. Applications were required to receive an average of at least 70 to be considered recommended for funding. The following table summarizes the average score for each application, which ranged from 91.3 – 82.3.

*Table 2. Grant Application Scores*

<b><u>Senior Center Operations</u></b>	<b>Score</b>
HCCA	91.3
WellMed	91.3
OWBC	89.3
CCA	88.3
Hill Country SC	85.0
Community Action Inc	82.3

Since all applications scored at least 70, CAPCOG is recommending funding all of them. There are three providers that serve unique community needs in Hays County: CCA, Community Action Inc, and Hill Country SC); HCCA serves Llano County and Opportunities of Williamson and Burnet County serve these counties.

**Funding Availability**

CAPCOG’s contract with the Texas Health and Human Services Commission (HHSC) includes “not to exceed” amounts for FY 2024 and FY 2025 in Title III-B which funds service center operations. Senior Center Operations are historically funded through Title III-B funding (the most flexible funding source).

There is no budgetary reason foreseen for FY 2024 or FY 2025 to reduce the amounts proposed by the providers.

The following table summarizes the total amounts for each category and year, excluding any carry-forward that might be made available to CAPCOG after the start of each fiscal year. This represents the maximum amount that CAPCOG can commit to before HHSC releases carry-forward money to CAPCOG, particularly since CAPCOG works on a reimbursement basis. Program and fiscal staff will monitor expenses through the monthly request for reimbursement process, communicating with providers to make adjustments as needed to reflect actual funding levels.

Table 3. Title III B Funding Available for FY 2024 and FY 2025

<b>Annual: FFY Allocations</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>Total</b>
<b>Total Funding Available for OAA Title III-B Supportive Services (Includes Older Americans Act , Carry Over, and American Rescue Plan Funding</b>	\$2,654,791.00	\$2,187,272.00	\$4,842,063.00
<b>Total Amount, Proposals for Senior Center Operations</b>	\$268,490.84	\$269,345.98	\$537,836.82
<b>Percentage for Senior Center Operations, Title III-B Supportive Services</b>	10.100%	12.300%	1.11%

## EXECUTIVE COMMITTEE MEETING

MEETING DATE: September 13, 2023

AGENDA ITEM: #6 Consider Approving CAPCOG FY 2024/2025 TCEQ Solid Waste Grant Application to the TCEQ

### GENERAL DESCRIPTION OF ITEM:

At the beginning of each biennium, CAPCOG must submit an application to the Texas Commission on Environmental Quality (TCEQ) in order to receive funding to operate its solid waste program. The application is effectively the proposed budget for CAPCOG's solid waste program for the FY2024/2025 biennium and includes a resolution of the Executive Committee which authorizes the application as well as acknowledges that all activities and related expenses included in the application will serve to implement the goals, objectives, and recommendations of the Regional Solid Waste Management Plan

The amount allocated to CAPCOG for the solid waste program for the FY2024/2025 biennium is \$705,868.00 – an increase of \$42,652 over the FY2022/2023 allocation. The funding received from TCEQ covers the cost of the program including all staff support for planning, technical assistance, and implementation projects of the grant program.

Although it is not a part of the TCEQ application, the proposed timeline for the CAPCOG solid waste grants is included with this item for your information.

### THIS ITEM REPRESENTS A:

- New issue, project, or purchase
- Routine, regularly scheduled item
- Follow-up to a previously discussed item
- Special item requested by board member
- Other

### PRIMARY CONTACT/STAFF MEMBER:

**Charles Simon, Director of Regional Planning and Services**  
**Ken May, Regional Programs Manager**

### BUDGETARY IMPACT:

Total estimated cost: \$705,868.00

Source of Funds: TCEQ

Is item already included in fiscal year budget?  Yes  No

Does item represent a new expenditure?  Yes  No

Does item represent a pass-through purchase?  Yes  No

If so, for what city/county/etc.? \_\_\_\_\_

### PROCUREMENT: N/A

### ACTION REQUESTED:

Consider adopting a resolution to authorize submitting the FY2024/2025 solid waste application to the TCEQ.

### BACK-UP DOCUMENTS ATTACHED:

1. Memo with additional information regarding the FY 2024-2025 TCEQ Solid Waste Program Application
2. Resolution authorizing submittal of the FY 2024-2025 Solid Waste Program Application
3. FY 2024-2025 TCEQ Solid Waste Program Application
4. FY 2024-2025 CAPCOG Solid Waste Grants Timeline



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**BASTROP BLANCO BURNET CALDWELL FAYETTE HAYS LEE LLANO TRAVIS WILLIAMSON**

**MEMORANDUM**  
**September 13, 2023**

**TO: CAPCOG Executive Committee**

**FROM: Charles Simon, Director of Regional Planning and Services**

**RE: Approve CAPCOG FY 2024/2025 TCEQ Solid Waste Grant Application to the TCEQ**

The amount allocated to CAPCOG for the solid waste program each biennium – as well as the amounts for each of the 24 councils of government – are tied to a formula that is based on population, land area, number of local governments served, solid waste fees collected, and socioeconomic data. The \$705,868.00 allocated to CAPCOG for FY2024/2025 represents an increase of \$42,652 over the FY2022/2023 allocation. The increase in the amount allocated to CAPCOG is largely due to population increase and fees collected.

The funding received from TCEQ covers the cost of the program including all staff support for planning, technical assistance, and implementation projects of the grant program. The proposed amount available for grant applications to support projects that typically include collection events, litter/illegal dumping clean-up, collection stations, source reduction and recycling, outreach and education, and local enforcement is \$274,000.00 – a \$10,000.00 increase from the amount proposed last biennium. The actual amount allocated to implementation projects typically increases in the second year of the biennium as savings in other budget categories are realized.

**FY2024/2025 Solid Waste Grants Timeline**

The timeline for the solid waste grants program includes dates that involve both staff-only actions and events and deadlines that must be observed by grant applicants and recipients. Some of the most important dates are:

Event	Date
Request for Applications is posted	October 2, 2023
Grant-writing workshops	Various dates in October
Request for Applications is closed	November 15, 2023
Executive Committee makes grant award decisions	January 10, 2024
Notice to proceed for FY2024 projects	March 1, 2024
Completion date for FY2024 projects (except facilities)	August 31, 2024
Notice to proceed for FY2025 projects	September 3, 2024
Completion date for FY2025 and remaining FY2024 projects	April 30, 2025





## **A RESOLUTION APPROVING CAPCOG'S FY 2024/2025 SOLID WASTE PROGRAM APPLICATION**

**WHEREAS**, the mission of the Capital Area Council of Governments (CAPCOG) is to be the catalyst for regional planning through effective utilization of resources; and

**WHEREAS**, management of solid waste is and will continue to be a critical issue facing the CAPCOG region; and,

**WHEREAS**, funds for the coordination of region-wide solid waste management programs have been made available by the Texas Commission on Environmental Quality (TCEQ); and,

**WHEREAS**, the Executive Committee of CAPCOG finds that all activities and related expenses included in this application will serve to implement the goals, objectives, and recommendations of the regional solid waste management plan; and,

**WHEREAS**, CAPCOG will comply with the financial program reporting requirements of the TCEQ and the State of Texas; and,

**WHEREAS**, grant funds will be used only for the purposes for which they are provided

**THEREFORE, BE IT RESOLVED**, that the Executive Committee of CAPCOG has reviewed, approves of, and hereby authorizes preparation and submittal of CAPCOG's FY 2024/2025 Solid Waste Program Application to the TCEQ.

Resolution adopted by the CAPCOG Executive Committee on this 13<sup>th</sup> day of September 2023.

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Judge James Oakley, Chair  
Executive Committee  
Capital Area Council of Governments

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Council Member Matthew Baker, Secretary  
Executive Committee  
Capital Area Council of Governments

**Form 1. Cover Page**

CAPITAL AREA COUNCIL OF GOVERNMENTS - #12

FY 24/25

Performing Party FEI#:	74-1689381	
<b>Funding Amount For 1st Year:</b>	FY 24	<b>\$352,934.00</b>
<b>Funding Amount For 2nd Year:</b>	FY 25	<b>\$352,934.00</b>
<b>Total Biennium Amount:</b>	FY 24/25	<b>\$705,868.00</b>

**Required Attachments to the Application**

\* A copy of the latest membership list for the COG's Solid Waste Advisory Committee.

\* State Coordinating Agency Letter/Federal Cognizant Agency Letter indicating indirect/fringe benefits cost rates, and/or a letter of proposed rates.

**Certifications**

***The person signing this Application hereby certifies that:***

1. He/she has authority from the COG to sign the Application;
2. The information contained in this application is, to the best of his/her knowledge and understanding, complete and accurate;
3. This Application, along with any changes or addenda, shall become a binding part of the contract terms upon approval by TCEQ; and
4. This Application has no false statements and that signing this Application with a false statement is a material breach and TCEQ may terminate the grant;

**Signature/Title Certification**

<b>Title:</b>	<b>Executive Director</b>
<b>Typed/Printed Name:</b>	<b>Betty Voights</b>
<b>Signature:</b>	
<b>Date:</b>	

**Form 2. Resolution**

CAPITAL AREA COUNCIL OF GOVERNMENTS - #12

FY 24/25

**A signed resolution of the COG governing body approving this application must be provided in order for your grant application to be processed. The following points must be included in the resolution, at a minimum:**

1. The governing body of the COG has reviewed this application and authorizes its submittal to the TCEQ;
2. The governing body of the COG finds that all activities and related expenses included in this application will serve to implement the goals, objectives, and recommendations of the Regional Solid Waste Management Plan;
3. The COG will comply with all applicable state and local laws and regulations pertaining to the use of state funds, including laws concerning the procurement of goods and services, competitive purchasing requirements and financial and program reporting requirements; and
4. Grant funds will be used only for the purposes for which they are provided.

**To complete your application, please remove this page and replace it with a signed resolution of your COG's governing body.**

**Form 5. Budget**

CAPITAL AREA COUNCIL OF GOVERNMENTS - #12

FY 24/25

Budget Category	Proposed Budget	Proposed Budget	Biennium Total Budget
	FY 24	FY 25	FY 24/25
1. Personnel/Salary ( Form 5 A)	\$ 85,461.50	\$ 85,461.50	\$ 170,923.00
2. Travel (Form 5 B)	\$ 1,100.00	\$ 1,100.00	\$ 2,200.00
3. Equipment (Form 5 C)	\$ -	\$ -	\$ -
4. Contractual (Form 5 D)	\$ 13,000.00	\$ 13,000.00	\$ 26,000.00
5. Other (Form 5 E)	\$ 45,197.96	\$ 45,197.96	\$ 90,395.92
6. Implementation Projects (Form 5 F)	\$ 137,000.00	\$ 137,000.00	\$ 274,000.00
7. Supplies (Form 5 G)	\$ 1,019.20	\$ 1,019.20	\$ 2,038.40
8. Fringe Benefits (Form 5 H)	\$ 48,644.69	\$ 48,644.69	\$ 97,289.37
<b>9. Total Direct Costs (sum of 1-8)</b>	\$ 331,423.34	\$ 331,423.34	\$ 662,846.69
10. Indirect Costs (Form 5 H)	\$ 21,510.66	\$ 21,510.66	\$ 43,021.32
<b>11. Total Costs (sum of 9-10)</b>	\$ 352,934.00	\$ 352,934.00	\$ 705,868.01
<b>12. Fringe Benefit Rate:</b>	<b>56.920%</b>	<b>56.920%</b>	<b>56.920%</b>
<b>13. Indirect Cost Rate:</b>	<b>25.170%</b>	<b>25.170%</b>	<b>25.170%</b>
Authorized Signature: <i>(only needed for revisions and must be an authorized representative listed on Form 4)</i>			
Date:			



6800 Burleson Road, Building 310, Suite 165

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## TIMELINE for FY 2024-25 Solid Waste Grants

- 9/1/2023: CAPCOG – TCEQ ILA Start Date
- 9/13/2023: CAPCOG Application goes to Executive Committee for approval
- 9/22/2023: SWAC Meeting
- **10/2/2023: Request for Application (RFA) opens**
- TBD: **First grant-writing workshop**  
Burnet County  
TBD  
Registration Link: TBD  
Capacity ~ 30
- 10/13/2023: **Second grant-writing workshop**  
Bastrop County – 10 a.m. to noon  
LL Conference Room  
804 Pecan Street  
Bastrop, TX 78682  
Registration Link: TBD  
Capacity ~24
- 11/10/2023: **Third grant writing workshop**  
CAPCOG Pecan Room – 10 a.m. to noon  
6800 Burleson Road, Bldg 310, Ste 165  
Austin, TX 78754  
Registration Link: TBD  
Capacity ~50
- 11/03/2023: Last date to submit questions for grant Q&A summary and last date to request pre-application assistance
- 11/10/2023: Final Q&A Summary posted online
- **11/15/2023: RFA closes at 5:00 pm**
- 11/20/2023: CAPCOG notice to private industry review for opportunity to review applications prior to public review, through 11/28/2023
- 11/24/2023: Due date for any resolutions from governing bodies if not included in original application package and due date for private industry objections to any applications
- 11/27/2023: Scoring meeting materials distributed to SWAC
- 12/8/2023: SWAC meeting to score and rank applications & make funding recommendation to CAPCOG Executive Committee (Applicant attendance is mandatory)
- 12/20/2023: CAPCOG staff submit SWAC's recommendations to Executive Director

- 1/10/2024: CAPCOG Executive Committee Meeting makes grant award decisions
- 1/11/2024: Staff submit Executive Committee grant award decisions to TCEQ
- 1/25/2024: Target date for TCEQ approval of grant awards, distribution of grant contracts to awardees for execution
- 2/29/2024: Target date for return of signed grant contracts
- 3/1/2024: Target Date for Notice to Proceed with FY 2024 Contracts
- 3/1/2024: Mandatory grant management training for all funded entities, a.m. or p.m. classes available. Training registration will open the week of TBD.

**Mandatory Grant Management #1**

CAPCOG Pecan Room – 10 a.m. to noon  
 6800 Burleson Road  
 Bldg 310, Suite 165  
 Austin, TX 78744  
 Registration Link: TBD  
 Capacity ~50

**Mandatory Grant Management #2**

CAPCOG Pecan Room – 2 to 4 p.m.  
 6800 Burleson Road  
 Bldg 310, Suite 165  
 Austin, TX 78744  
 Registration Link: TBD  
 Capacity ~50

- 8/31/2024: Target End Date for FY 2024 Contracts
- 9/3/2024: Target Date for Notice to Proceed with FY 2025 Contracts, except for Facilities contracts
- 9/30/2024: Target end date for submittal of Reimbursement Requests
- 4/30/2025: Target End Date for FY 2025 Contracts and FY 2024 Facilities Contracts
- 5/30/2025: Target End Date for FY 2025 Reimbursement Submittals
- 8/31/2025: End of Biennium

# EXECUTIVE COMMITTEE MEETING

MEETING DATE: September 13, 2023

AGENDA ITEM: #7 Consider Approving Purchase of O<sub>3</sub> and PM<sub>2.5</sub> Monitoring Equipment

### GENERAL DESCRIPTION OF ITEM:

Under CAPCOG's 2022-2023 "Near-Nonattainment"/Rider 7 grant from the Texas Commission on Environmental Quality (TCEQ), CAPCOG has access to state funding to conduct air monitoring and emissions inventory development related to ground-level ozone (O<sub>3</sub>) for the Austin-Round Rock-San Marcos Metropolitan Statistical Area (MSA). Staff is requesting authorization to purchase the following equipment to support CAPCOG's O<sub>3</sub> monitoring network:

- Data Loggers – up to ten loggers used to store and upload to CAPCOG's servers monitored data;
- O<sub>3</sub> Primary Standard – one standard used to manually calibrate CAPCOG's O<sub>3</sub> monitors; and
- Automated Multi-Gas Calibrator – up to six auto calibrators which complete calibration checks automatically.

In 2022 CAPCOG applied for and was awarded funding for two projects under the US Environmental Protection Agency's (EPA) "Enhanced Air Quality Monitoring for Communities" grant opportunity. One project is for "speciated" fine particulate (PM<sub>2.5</sub>) monitoring to better understand the types of particles contributing to high PM<sub>2.5</sub> pollution levels. The other project is to expand "continuous" PM<sub>2.5</sub> monitoring at several locations around the region to improve the understanding of the extent of PM air pollution and public access to information about PM pollution within their communities. Staff is requesting authorization to purchase the following equipment to support these PM<sub>2.5</sub> monitoring projects:

- Continuous PM<sub>2.5</sub> Monitors – up to seven monitors capable of continuously sampling the total mass of PM<sub>2.5</sub>; and
- Speciated PM<sub>2.5</sub> Monitors – two air quality monitors capable of collecting 24-hour PM<sub>2.5</sub> samples at that can be analyzed to provide speciated data on the composition of the PM<sub>2.5</sub>.

Staff in CAPCOG's Air Quality Program issued a request for quotes (RFQ) for all the O<sub>3</sub> and PM<sub>2.5</sub> equipment listed above. The quotes are due after the date that the meeting packet materials were prepared. The evaluation of the quotes received will be provided at the meeting.

### THIS ITEM REPRESENTS A:

- New issue, project, or purchase
- Routine, regularly scheduled item
- Follow-up to a previously discussed item
- Special item requested by board member
- Other

PRIMARY CONTACT/STAFF MEMBER:

Anton Cox, Air Quality Program Manager

### BUDGETARY IMPACT:

Total estimated cost: Up to \$272,000 including \$79,500 from the TCEQ Rider 7 Grant, \$47,300 from the EPA Speciated Grant and \$145,200 from the EPA Continuous Grant

Source of Funds: TCEQ Rider 7 "Near-Nonattainment" Grant and Two EPA Enhanced Air Quality Monitoring for Communities

- |   |   |  |
|---|---|--|
| Is item already included in fiscal year budget? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| Does item represent a new expenditure?          | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| Does item represent a pass-through purchase?    | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| If so, for what city/county/etc.? <u>n/a</u>    |   |  |

**PROCUREMENT:** Request for Quotes

**ACTION REQUESTED:**

Consider approval to purchase air quality monitoring equipment

**BACK-UP DOCUMENTS ATTACHED:**

Monitoring RFQ Memo

Monitoring Equipment RFQ

**BACK-UP DOCUMENTS NOT ATTACHED:**

Monitoring Equipment Quotes





6800 Burleson Road, Building 310, Suite 165  
Austin, Texas 78744-2306  
Ph: 512-916-6000 Fax: 512-916-6001  
[www.capcog.org](http://www.capcog.org)

**BASTROP BLANCO BURNET CALDWELL FAYETTE HAYS LEE LLANO TRAVIS WILLIAMSON**

**MEMORANDUM**  
**September 13, 2023**

**TO: CAPCOG Executive Committee**

**FROM: Anton Cox, Air Quality Program Manager**

**RE: Purchase of O<sub>3</sub> and PM<sub>2.5</sub> Monitoring Equipment**

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The Air Quality Program is requesting to spend up to \$272,000 on air quality monitoring equipment including up to \$79,500 from the TCEQ Rider 7 Grant, up to \$47,300 from the EPA Speciated Grant and up to \$145,200 from the EPA Continuous Grant.

On August 14, 2023, CAPCOG's Air Quality Program issued a Request for Quotes (RFQ) for various types of equipment to support CAPCOG monitoring operations in 2024 and 2025.

The equipment that CAPCOG was seeking quotes for included the following:

1. Continuous fine particulate matter (PM<sub>2.5</sub>) monitors;
2. Speciated PM<sub>2.5</sub> monitors;
3. Data loggers;
4. Ozone (O<sub>3</sub>) primary standard; and
5. Automated multi-gas calibrator equipment.

Vendors were not required to submit proposals for all equipment types, and each equipment type was evaluated separately. This equipment will be used at CAPCOG's existing O<sub>3</sub> monitoring site and future PM<sub>2.5</sub> monitoring sites.

**RFQ Distribution List**

CAPCOG posted the RFQ on the CAPCOG website and sent it to the following vendors via emails:

- Aecom
- Ambilabs
- Axiom
- Campbell Scientific
- Clean Air Engineering
- Intermountain Environmental
- MetOne
- Pioneer
- Teledyne
- Thermo Fisher
- Tisch
- TSI
- Vector
- Western Weather
- Wilbur Technical Services

**Evaluation of Proposals**

Quotes received will be scored using the following scoring criteria to select the recommended vendors:

- Equipment Quality ----- 60 points
- Delivery Time ----- 20 points
- Price ----- 20 points

CAPCOG staff formed a Monitoring subcommittee of the Clean Air Coalition Advisory Committee (CACAC) to help evaluate the proposals, as needed. This committee includes following members:

*Table 1. CACAC Monitoring Subcommittee Members*

<b>Organization</b>	<b>First Name</b>	<b>Last Name</b>
<b>Texas Lehigh Cement Company LP</b>	Chris	Keffer
<b>St. Edwards University</b>	Jim	Morris
<b>City of Buda</b>	Micah	Grau
<b>Clean Air Force</b>	Bill	Gibbs
<b>City of Pflugerville</b>	Bill	Dyess
<b>Travis County</b>	Adele	Noel
<b>Huston-Tillotson</b>	Amanda	Masino

The committee is scheduled to meet during the week of September 4, 2023 to review the qualified quotes.

# CAPITAL AREA COUNCIL OF GOVERNMENTS REQUEST FOR QUOTES FOR AMBIENT AIR QUALITY MONITORING EQUIPMENT

## **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. CAPCOG serves a 10-county region in Central Texas that includes Bastrop, Blanco, Burnet, Caldwell, Fayette, Hays, Lee, Llano, Travis, and Williamson Counties. CAPCOG is issuing this request for quotes (RFQ) to solicit bids from interested parties for equipment used for collecting and quality-assuring ambient ozone (O<sub>3</sub>) and fine particulate matter (PM<sub>2.5</sub>) air pollution in the region.

## **Schedule**

*Table 1. RFQ Schedule*

<b>Milestone</b>	<b>Date</b>
<b>RFQ Issued</b>	8/14/2023
<b>RFQ Correction Issued</b>	8/28/2023
<b>Quotes Due</b>	<b><u>8/30/2023, 4:00 pm Central Time</u></b>
<b>Quote Evaluation</b>	8/31/2023 – 9/6/2023
<b>Executive Committee Approval</b>	9/13/2023
<b>Target Equipment Delivery Date</b>	11/30/2023

## **Notice**

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

## **Background**

CAPCOG owns ten (10) continuous air quality monitoring stations (CAMS) across the five-county Austin-Round Rock-San Marcos Metropolitan Statistical Area (MSA), which includes Bastrop, Caldwell, Hays, Travis, and Williamson counties. CAPCOG uses these stations to monitor ozone (O<sub>3</sub>) and fine particulate matter (PM<sub>2.5</sub>) air pollution levels. CAPCOG is seeking proposals from vendors for various types of equipment to support CAPCOG monitoring operations in 2024 and 2025. The equipment that CAPCOG is seeking proposals for include the following:

1. Continuous PM<sub>2.5</sub> monitors (up to 7);
2. Speciated PM<sub>2.5</sub> monitors (2);
3. Data loggers (10);
4. O<sub>3</sub> primary standard (1); and
5. Automated multi-gas calibrator equipment (up to 6).

Vendors are not required to submit proposals for all equipment types, and each equipment type will be evaluated separately. Note that CAPCOG is a tax-exempt organization, so prices quoted should not include any sales tax.

## **Note on Correction Issued 8/28/2023**

CAPCOG issued a correction to the RFQ on 8/28/2023 to fix the following errors:

1. There were references to January 31, 2023, delivery dates that should have read January 31, 2024; this has been corrected.
2. There was a typo in the reference to the number of continuous PM<sub>2.5</sub> monitors CAPCOG is seeking – it read “CAPCOG is seeking quotes for to seven (7) air quality monitors,” that should have read, “CAPCOG is seeking quotes for up to seven (7) air quality monitors,”

## **Note on Quantities and Scalability**

CAPCOG will need to evaluate a range of options for the quantities of equipment it will purchase. Unless a vendor provides multiple quotes for different quantities due to there being price breaks at certain levels of purchase within the ranges identified in this RFQ, CAPCOG will assume that all prices quoted can be scaled linearly. For example, if a vendor provides a quote for 7 continuous PM<sub>2.5</sub> monitors, and CAPCOG decides to only purchase one, CAPCOG will assume (and the vendor will be held to) a price at 1/7 of the total for all 7 monitors. If the per-unit costs (including shipping) changes, the vendor must note the way that the price is scaled so that CAPCOG can independently calculate the total if it chooses to purchase a smaller quantity.

## **Selection Criteria**

Each equipment type will be evaluated based on best value to CAPCOG. CAPCOG air quality program staff will assign scores as follows:

1. **Equipment quality:** **60 points**
  - a. Evaluated holistically by a selection committee that will include CAPCOG staff and potentially some members of CAPCOG’s Clean Air Coalition Advisory Committee;
  - b. Among the factors that the committee will consider will be:
    - i. Accuracy
    - ii. Precision
    - iii. Ease of use

Quotes are due by email to [ahoekzema@capcog.org](mailto:ahoekzema@capcog.org) by 4 pm, August 30, 2023

CAPCOG RFQ FOR AMBIENT AIR QUALITY MONITORING EQUIPMENT, 8/14/2023  
CORRECTION ISSUED 8/28/2023

- iv. Ease of maintenance
  - v. Durability
  - vi. Data reporting capabilities
  - vii. Warranty provisions
  - viii. References and demonstrated in-field use
2. **Delivery time guarantee if ordered by September 15, 2023:** **20 points**
- a. November 30, 2023 = 20 points
  - b. December 31, 2023 = 10 points
  - c. January 31, 2023 = 5 points
  - d. After January 31, 2024 = 0 points
3. **Price:** **20 points**
- a. Lowest-priced quote = 20 points
  - b. Highest priced quote = 0 points
  - c. Other prices will be scaled based on position within the range from the lowest to the highest

### **Continuous PM<sub>2.5</sub> Monitors**

CAPCOG is seeking quotes for up to seven (7) air quality monitors capable of continuously sampling the total mass of PM<sub>2.5</sub> to support one of two EPA grants CAPCOG received. Data must be available and reported no less frequently than hourly. Equipment must be designated as U.S. EPA Federal Equivalent Method (FEM) or Federal Reference Method (FRM). CAPCOG's proposed start date for this project is January 1, 2024, so it is important to CAPCOG to receive this equipment by November 30, 2023, if possible, since delays beyond that may cause CAPCOG to delay the start of data collection. CAPCOG may need to scale down the total number of monitors purchased, but it expects to purchase at least five (5).

### **Speciated PM<sub>2.5</sub> Monitors**

CAPCOG is seeking quotes for two air quality monitors capable of collecting 24-hour PM<sub>2.5</sub> samples at intervals ranging from 3 to 24 days that can be analyzed to provide speciated data on the composition of the PM<sub>2.5</sub> for one of two EPA grants CAPCOG received. One of the samplers will need to use a Teflon filter and one will need to use a quartz filter. CAPCOG's proposed start date for this project is January 1, 2024, so it is important to CAPCOG to receive this equipment by November 30, 2023, if possible, since delays beyond that may cause CAPCOG to delay the start of data collection. Vendor may include related supplies (such as the required filters) in any quote provided to CAPCOG, but those will be evaluated separately.

### **Data Loggers**

CAPCOG is seeking quotes for up to ten (10) data loggers to store air pollution and meteorological data collected at CAPCOG's 10 continuous air monitoring stations, and must be capable of transmitting the data through a wireless modem to CAPCOG's server, which in turn reports the data to EPA's AirNow system and to TCEQ. Therefore, data must be stored in formats consistent with EPA's AirNow system. Delivery of at least five units by November 30, 2023, would be important to being able to support CAPCOG's upcoming PM<sub>2.5</sub> monitoring, while delivery by January 31, 2024, would be important to being able to support CAPCOG's 2024 O<sub>3</sub> monitoring.

## **O<sub>3</sub> Primary Standard**

CAPCOG is seeking quotes for one (1) O<sub>3</sub> primary standard device to assist CAPCOG with quality assurance and quality control (QA and QC) of CAPCOG's O<sub>3</sub> monitoring network. Delivery by January 31, 2023, would be important to being able to support CAPCOG's 2024 O<sub>3</sub> monitoring.

## **Automated Multi-Gas Calibrator Equipment**

CAPCOG is seeking quotes for equipment capable of conducting frequent calibration checks and calibrations of CAPCOG's O<sub>3</sub> monitoring equipment at up to six O<sub>3</sub> monitoring sites. Currently, CAPCOG contractors perform manual calibrations monthly at each CAPCOG site, and CAPCOG desires to be able to conduct automated calibration checks and calibrations throughout the month in order to enhance data quality. Delivery by January 31, 2024, would be important to being able to support CAPCOG's 2024 O<sub>3</sub> monitoring.

## **Method of Payment**

Payment shall be made for goods within 30 days of receipt of an invoice and acceptance of goods by CAPCOG.

## **Submission of Quotes**

Quotes must be submitted to CAPCOG via e-mail to [ahoekzema@capcog.org](mailto:ahoekzema@capcog.org) and received by CAPCOG no later than 4:00 pm Central Time, Wednesday, August 30, 2023. CAPCOG is not liable for any costs incurred by a vendor in preparing and submitting quotes.

## **Updates and Additional Information**

Updates and additional information related to this RFQ may be obtained from CAPCOG's "Doing Business with CAPCOG" webpage at <https://www.capcog.org/divisions/administrative-services#doing-business>. Any questions regarding this RFQ may be e-mailed to Andrew Hoekzema at [ahoekzema@capcog.org](mailto:ahoekzema@capcog.org) by 4:00 pm Central Time, Thursday, August 24, 2023. CAPCOG will post answers to any questions on the "Doing Business with CAPCOG" page shortly thereafter.

## **Format and Content**

Quotes shall be in Adobe PDF or Microsoft Word, with any supplemental attachments being in either PDF, Word, or another Microsoft Office file type.

## **Required Elements in the Quote**

Below is a list of require elements in each quote submitted:

1. Company name;
2. Physical address;
3. Point of contact name and title;
4. Point of contact phone number;
5. Point of contact e-mail address;
6. Date;
7. Statement that the quote is valid through 11/28/2023;
8. Model number;
9. Unit price and any information on price breaks based on quantity;

Quotes are due by email to [ahoekzema@capcog.org](mailto:ahoekzema@capcog.org) by 4 pm, August 30, 2023

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10. Shipping costs, including any differences in shipping costs based on quantity;
11. Date that the vendor can guarantee delivery;
12. Product information and specifications (including citation for FEM/FRM for continuous PM<sub>2.5</sub> monitoring equipment);
13. Any warranty offered;
14. A list of at least 3 other customers who have purchased the equipment and can vouch for its quality, along with a point of contact and contact information.

## **Additional Information**

CAPCOG may request in writing additional information from a proposer relating to the quote and the vendor agrees to furnish it within a reasonable time.

## **Use of Copyrighted Material in Response**

CAPCOG reserves an irrevocable, nonexclusive, and royalty-free right to use, reproduce, and copy, for a governmental purpose, all copyrighted material included in the Statement of Work.

## **Amendment or Withdrawal of Quote**

Prior to the due date, a vendor may withdraw its quote if there is a material mistake and may submit a corrected quote. For a period of 90 days following the due date, a proposer may not withdraw or amend its quote. CAPCOG may waive an error in or omission from a quote if the error or omission is not material.

## **Award of Purchase Orders**

CAPCOG will award one or more contracts to the combination of vendors that it determines will provide the best value to CAPCOG. Approval of the purchase orders is subject to CAPCOG's Executive Committee. CAPCOG reserves the right to reject any or all quotes. If CAPCOG rejects all proposals, it may solicit new quotes if CAPCOG determines that it is in its best interest to do so.

## **Resolution of Protested Solicitation or Contract Award**

An unsuccessful bidder/offeree/quoter may protest the procurement process by following the procedure as available on the CAPCOG website, <https://www.capcog.org/divisions/administrative-services#doing-business>. 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. A protest shall be submitted to CAPCOG to the attention of Betty Voights, Executive Director, at 6800 Burleson Road, Building 310, Suite 165, Austin, TX 78744.

## **State of Texas Purchasing Requirements**

Due to the use of state funding in this contract, the following requirements from the State of Texas Purchasing Guide apply to purchase orders awarded pursuant to this procurement, and by virtue of providing a quote in response to this RFQ, vendor is agreeing to the following terms:

1. If the total amount of this Agreement is in excess of \$100,000, and if the VENDOR is required to make a certification pursuant to Texas Government Code, Section 2274.002 (as added by Acts 2021, 87th Leg., R.S., S.B. 13, § 2), the VENDOR certifies that it does not boycott energy companies and will not boycott energy companies during the term of this Agreement. If the

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VENDOR does not make that certification, the VENDOR must state why the certification is not required.

2. The VENDOR represents that neither the VENDOR, nor any affiliate of the VENDOR, (i) is an entity listed by the Texas Comptroller of Public Accounts under Texas Government Code, Sections 2252.153 or 2270.0201; (ii) constitutes a "scrutinized company" as defined by Texas Government Code, Section 2270.0001 (9); or (iii) has contracts with, provides supplies or services to, or is otherwise engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Texas Government Code, Section 2252.152.
3. VENDOR understands that CAPCOG will adhere to the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing - Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, and VENDOR certifies that it and its principals are eligible to participate in this Agreement and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity; that it is in compliance with Texas statutes and rules; and that it is not listed on the federal government's terrorism watch list.
4. If the total amount of this Agreement is in excess of \$100,000, and if the VENDOR is required to make a certification pursuant to Texas Government Code, Section 2274.002 (as added by Acts 2021, 87th Leg., R.S., S.B. 19, § I), the VENDOR certifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate during the term of this Agreement against a firearm entity or firearm trade association. If the VENDOR does not make that certification, the VENDOR must state why the certification is not required.
5. If the total amount of this Agreement is in excess of \$100,000, and if the VENDOR is required to make a certification pursuant to Texas Government Code, Section 2271.002, the VENDOR certifies that the VENDOR: (1) does not boycott Israel; and (2) will not boycott Israel during the term of this Agreement.
6. If the total amount of this Agreement is in excess of \$100,000, VENDOR certifies that it will not use 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. VENDOR also agrees to disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award or contract.
7. If the total amount of this Agreement is in excess of \$150,000, the VENDOR certifies it will 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 (33 U.S.C. §§ 1251-1387).
8. The VENDOR represents and warrants that it will comply with Section 6002 of the federal Solid Waste Disposal Act (42 USC§ 6962), as amended by the Resource Conservation and Recovery Act, and Title 40, Pa11 247 of the Code of Federal Regulations.
9. To the extent applicable, VENDOR represents and warrants that it will buy Texas products, services, and materials for use in providing the services authorized herein when such products, services, and materials are available at a comparable price and in a comparable period of time when compared to non-Texas products, services, and materials.



## **Reference Information - Other contractual requirements**

### **General Terms of CAPCOG Purchase Orders**

This purchase will be subject to the general terms of CAPCOG purchase orders, a copy of which is posted on CAPCOG's website at: <https://www.capcog.org/divisions/administrative-services#doing-business>.

### **Section 1.113 CAPCOG Procurement Policies: Public Access to Procurement Information**

**Public Access to Procurement Information:** Procurement information shall be a public record to the extent provided by the Texas Public Information Act and the Freedom of Information Act, as applicable, and shall be available to the public as provided therein. If a proposal contains information that the bidder considers proprietary and does not want disclosed to the public or used for any purpose other than the evaluation of the offer, all such information must be indicated and clearly marked on each page of the proprietary or confidential document(s).

The information submitted during a procurement process is protected from disclosure until a contract is awarded. All proposals are open for public inspection after the contract is awarded, but proprietary and confidential information in the proposals are not open for public inspection.

### **Equal Opportunity/Non-Discrimination**

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

1. The VENDOR will not discriminate against any employee or applicant for employment because of race, color, sex, religion, national origin, age or disability. The VENDOR 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 VENDOR 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 VENDOR will state, in all solicitations or advertisements for employment (by or on behalf of the VENDOR), that all qualified applicants will receive consideration for employment regardless of race, color, sex, religion, national origin, age, or disability.

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

#### **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. Bidder/Offeror Statement**

Every solicitation for procurement must require that each bidder or offeror include a statement that the 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 VENDORS and subcontractors should take the following affirmative steps:

Quotes are due by email to [ahoekzema@capcog.org](mailto:ahoekzema@capcog.org) by 4 pm, August 30, 2023

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1. Include qualified small, MBEs, DBEs, women-owned businesses, and HUBs on the Bidders' List. State lists may be utilized to locate such businesses by contacting the General Services Commission;
  2. Assure that small, MBEs, DBEs, women-owned businesses, and HUBs are solicited whenever they may be potential sources. In this regard, CAPCOG should investigate new sources and advertise when feasible in minority publications;
  3. When economically feasible, and where not in contravention of competitive bidding requirements, CAPCOG 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 General Services Commission and other similar agencies for locating such businesses;
  5. Require that prime VENDORS 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 Bidders' List.
- 6-104. For such affirmative steps to be meaningful, CAPCOG 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 VENDOR with such a subcontractor, that such business is retained during the entire performance of the contract.
- 6-105. Failure of a VENDOR 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 bidder.
- 6-106. For procurements costing more than \$3,500 but less than \$50,000 the Division Director shall contact at least two HUBs on a rotating basis, based on information provided by the Texas General Services Commission. If the list fails to identify a historically underutilized business in the area, CAPCOG is exempt from this section.

EXECUTIVE COMMITTEE MEETING

MEETING DATE: September 13, 2022

AGENDA ITEM: #8 Consider Adopting a Proclamation Recognizing October 2023 as CAPCOG Cybersecurity Awareness Month

GENERAL DESCRIPTION OF ITEM:

Since 2004, October has been declared Cybersecurity Awareness Month. The Cybersecurity and Infrastructure Security Agency (CISA) and the National Cybersecurity Alliance (NCA) lead the collaborative effort between government and industry to raise cybersecurity awareness, both nationally and internationally. Cybersecurity attacks and intrusions are major threats to the Nation, State, CAPCOG, our regional jurisdictions, agencies, and private sector partners.

2023 will be the 20<sup>th</sup> annual Cybersecurity Awareness Month and CISA will launch a new awareness program that will encourage every American to take four simple steps to stay safe online. These four steps are already practiced by individuals, businesses, organizations, and agencies:

1. Using strong passwords and a password manager,
2. Turning on multifactor authentication,
3. Recognizing and reporting phishing, and
4. Updating software to the most current versions for OS, antivirus, browsers, and applications.

CAPCOG Homeland Security has prepared a regional campaign around to encourage our jurisdictional and private sector partners to register for cybersecurity training and encourage safe cyber practices throughout October. Materials for the public will be posted online and distributed through CAPCOG stakeholders.

THIS ITEM REPRESENTS A:

- New issue, project, or purchase
- Routine, regularly scheduled item
- Follow-up to previously discussed item
- Special item requested by board member
- Other

PRIMARY CONTACT/STAFF MEMBER: **Dee Harrison, Homeland Security Program Manager**

BUDGETARY IMPACT:

Total estimated cost: N/A

Source of Funds: N/A

Is item already included in fiscal year budget?  Yes  No

Does item represent a new expenditure?  Yes  No

Does item represent a pass-through purchase?  Yes  No

If so, for what city/county/etc.? \_\_\_\_\_

PROCUREMENT: N/A

**ACTION REQUESTED:**

Consider Adoption of a Proclamation Recognizing October 2023 as CAPCOG Cybersecurity Awareness Month

**BACK-UP DOCUMENTS ATTACHED:**

1. Proclamation of October 2023 as CAPCOG Cybersecurity Awareness Month

**BACK-UP DOCUMENTS NOT ATTACHED** *(to be sent prior to meeting or will be a handout at the meeting):*

None



## A PROCLAMATION DECLARING SEPTEMBER AS CAPCOG PREPAREDNESS MONTH

**WHEREAS**, the Capital Area Council of Governments (CAPCOG) is a political subdivision of the State, serving Bastrop, Blanco, Burnet, Caldwell, Fayette, Hays, Lee, Llano, Travis, and Williamson Counties; and,

**WHEREAS**, The State of Texas historically leads the nation in the number of federally-declared disasters; be they natural hazards, technological, or human-caused; and,

**WHEREAS**, National Preparedness Month is an opportunity for CAPCOG to inform and educate residents, businesses, schools, and communities in the region to be more prepared by developing the capabilities needed to prevent, protect against, respond to, recover from, and mitigate against all threats and hazards; and,

**WHEREAS**, preparedness is the responsibility of every resident of the ten-county CAPCOG region; and,

**WHEREAS**, preparedness is a national priority with the goal of shared individual and community safety and resilience; and,

**WHEREAS**, personal, business, animal, and private-sector preparedness may serve to mitigate the impacts of various emergencies, incidents, and disasters in the CAPCOG region; and

**WHEREAS**, the CAPCOG Executive Committee encourages all residents to participate in preparedness activities and are asked to review preparedness information at *Ready.gov*, and to sign up to receive emergency alerts via *WarnCentralTexas.org* to become more knowledgeable and prepared;

**THEREFORE, BE IT RESOLVED**, that on behalf of the members of CAPCOG, the Executive Committee of the Capital Area Council of Governments hereby declares the month of September 2023, as CAPCOG Preparedness Month and encourages all residents, businesses, schools, and communities to develop emergency preparedness and resiliency plans and to register at *WarnCentralTexas.org* to receive emergency alerts.

Resolution adopted by the Capital Area Council of Governments Executive Committee this 9th day of August, 2023.

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Judge James Oakley, Chair  
Executive Committee  
Capital Area Council of Governments

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Council Member Matthew Baker, Secretary  
Executive Committee  
Capital Area Council of Governments

## EXECUTIVE COMMITTEE MEETING

MEETING DATE: September 13, 2023

AGENDA ITEM: #9 Consider Approving Committee Appointments

### GENERAL DESCRIPTION OF ITEM:

This is the monthly item for filling positions on our Advisory Committees; please let us know if our staff can assist in identifying interested persons to serve. It is presumed that both city and county representatives will collaborate when making appointments.

### THIS ITEM REPRESENTS A:

- New issue, project, or purchase
- Routine, regularly scheduled item
- Follow-up to a previously discussed item
- Special item requested by board member
- Other

PRIMARY CONTACT/STAFF MEMBER: **Betty Voights, Executive Director**

### BUDGETARY IMPACT:

Total estimated cost: N/A

Source of Funds: N/A

Is item already included in fiscal year budget?  Yes  No

Does item represent a new expenditure?  Yes  No

Does item represent a pass-through purchase?  Yes  No

If so, for what city/county/etc.? \_\_\_\_\_

PROCUREMENT: N/A

### ACTION REQUESTED:

Approve any advisory committee recommendations.

### BACK-UP DOCUMENTS ATTACHED:

1. Summary memo with recommended appointments and vacancies

### BACK-UP DOCUMENTS NOT ATTACHED (to be sent prior to meeting or will be a handout at the meeting):

1. Executive Committee attendance roster
2. Advisory Committee attendance rosters



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**BASTROP BLANCO BURNET CALDWELL FAYETTE HAYS LEE LLANO TRAVIS WILLIAMSON**

## **MEMORANDUM**

### **September 13, 2023**

**TO: Executive Committee Members**

**FROM: Betty Voights, Executive Director**

**RE: Advisory Committee Recommendations**

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This memo identifies current recommendations to CAPCOG Advisory Committees and serves as a reminder of vacancies that still need to be filled. Please see the Attendance Rosters for the Requirements & Responsibilities. For questions, please contact the Advisory Committee staff liaison.

#### **Burnet County**

- The Aging Advisory Council (AAC) has one representative vacancy (as of 11/21).

#### **City of Austin**

- The Criminal Justice Advisory Committee (CJAC) has two representative vacancies (as of 5/22 and 3/23).

#### **Hays County**

- The Aging Advisory Council (AAC) has one representative vacancy (as of 4/23).

#### **Travis County**

- The Aging Advisory Council (AAC) has one representative vacancy (as of 3/23).

#### **Williamson County**

- The Aging Advisory Council (AAC) has one representative vacancy (as of 12/20).

#### **Homeland Security Task Force**

- One EMC (Small) position is vacant (as of 2/23).

#### **Law Enforcement Education Committee (LEEC)**

- One Citizen Representative (CR) position is vacant (as of 5/22).
- One Law Enforcement At-Large position is vacant.

#### **Solid Waste Advisory Committee (SWAC)**

- One Private Operator position is vacant (as of 5/22).