

AGENDA
PERFORMANCE AND ENGAGEMENT COMMITTEE
WEDNESDAY, APRIL 5, 2017
WOLF CREEK PASS CONFERENCE ROOM
1290 Broadway
→ 4:00 PM ←

1. Call to Order
2. Summary of March 15, 2017 Performance and Engagement Committee meeting
(Attachment A)

INFORMATIONAL ITEMS

3. Draft Board workshop agenda
(Attachment B) Douglas W. Rex, Acting Executive Director
4. Board Collaborative Assessment
(Attachment C) Jerry Stigall, Director, Organizational Development

ACTION ITEM

5. *Discussion of Request for Qualifications for executive director recruitment
(Attachment D)

ADMINISTRATIVE ITEMS

6. Report of the Chair
7. Report of the Executive Director
8. Other Matters by Members
9. **Next Meeting – May 3, 2017**
10. Adjournment

***Motion requested**

Persons in need of auxiliary aids or services, such as interpretation services or assisted listening devices, are asked to contact DRCOG at least 48 hours in advance of the meeting by calling (303) 480-6701.



ATTACH A

SUMMARY
PERFORMANCE AND ENGAGEMENT COMMITTEE
Wednesday, March 15, 2017

Present:

Bob Fifer, Chair	Arvada
Bob Roth	Aurora
David Beacom	Broomfield
Rich Teter	Commerce City
Robin Kniech	Denver
Steve Conklin	Edgewater
Ron Rakowsky	Greenwood Village
Colleen Whitlow	Mead
Heidi Williams	Thornton
Herb Atchison	Westminster

Others present: Roxie Ronsen, DRCOG Administrative Officer.

Chair Bob Fifer called the meeting to order at 5:32 p.m. with a quorum present.

Summary of March 1, 2017 Performance and Engagement Committee meeting
The summary was accepted as presented.

Election of Vice Chair

Chair Fifer asked for nominations for vice chair of the Performance and Engagement Committee. Director Beacom indicated he was interested and no other members expressed interest.

Director Rakowsky **moved** to elect Director Beacom as vice chair of the Performance and Engagement Committee. The motion was **seconded** and **passed** unanimously.

Discussion of establishing an executive director recruitment subcommittee

Roxie Ronsen indicated that at the Performance and Engagement Committee's last meeting it was discussed to engage the services of a search firm to conduct the recruitment for the DRCOG executive director. At that meeting the members also discussed forming a subcommittee with a suggested minimum of 3 and maximum of 5 members, to oversee the recruitment process.

At the March meeting, Director Atchison indicated that three members expressed interest in sitting on the subcommittee: Directors Whitlow, Rakowsky and Atchison. After the March meeting, Director Atchison sent an email to the members and received four responses from interested members to serve on the subcommittee: Directors

Conklin, Beacom, Fifer and Shakti. After discussion of group size, Director Fifer withdrew his name.

Director Atchison **moved** to appoint Directors Conklin, Beacom, Whitlow, Rakowsky, Atchison and Shakti to the executive director recruitment subcommittee. The motion was **seconded** and **passed** unanimously.

Feedback on search firm request for qualifications (RFQ) draft

Roxie Ronsen mentioned that two RFQ's were provided in the agenda packet for members to provide feedback on. One of the RFQ's was provided by Director Atchison, the other RFQ was a template that DRCOG currently uses for its request for proposals.

Director Atchison indicated that he had put together a draft RFQ based on samples of others and mentioned that he would work with DRCOG staff on the formatting. Director Fifer distributed the DRCOG RFQ template. Paragraphs highlighted in red are mandatory to retain. Yellow highlights may not be required but for consistency should remain. He stated that we should follow the DRCOG template.

Discussion followed on what aspects should be included in the RFQ. Director Atchison said he would work with Ms. Ronsen to incorporate the suggestions made and update the format and then he would email the updated draft to the subcommittee for review at their meeting.

Report of the Chair

No report was provided.

Report of the Executive Director

No report was provided.

Other Matters by Members

No other matters were discussed.

Next Meeting

The next meeting is scheduled for April 5, 2017 at 4 p.m., as there is not a Board Work Session scheduled.

The meeting adjourned at 6:02 p.m.

ATTACH B

To: Chair and Members of the Performance and Engagement Committee

From: Douglas W. Rex, Acting Executive Director
(303) 480-6747 or drex@drcog.org

Meeting Date	Agenda Category	Agenda Item #
April 5, 2017	Informational	3

SUBJECT

This item concerns the draft agenda for the annual Board workshop.

PROPOSED ACTION/RECOMMENDATIONS

No action requested, this item is for information only.

ACTION BY OTHERS

N/A

SUMMARY

At the last meeting of the Performance and Engagement Committee, members discussed several ideas for the annual workshop scheduled for August 25 and 26.

Staff took suggestions from committee members and drafted the attached agenda for committee review and input.

PREVIOUS DISCUSSIONS/ACTIONS

N/A

PROPOSED MOTION

N/A

ATTACHMENT

Draft workshop agenda.

ADDITIONAL INFORMATION

Should you have any questions regarding this item, please contact Douglas W. Rex, Acting Executive Director, at 303-480-6747 or drex@drcog.org.

Working Together 2017 BOARD WORKSHOP

DRAFT AGENDA

Aug. 25-26, 2017
Colorado Springs Marriott
5580 Tech Center Dr.,
Colorado Springs, CO 80919

Friday afternoon training sessions (Participants can attend at least two sessions)

3 – 4 p.m.

Session 1

4:15 – 5:15 p.m.

Session 2

For newer members or those who just want a quick refresher, in-service training includes abbreviated versions of the following:

- Area Agency on Aging mini course
- Metro Vision mini course
- Transportation Improvement Program mini course

Friday evening

5:30 p.m.

Chair's remarks

5:45 – 7 p.m.

Social time, networking with Directors and key staff

7 – 9 p.m. Dinner

Saturday morning

7 a.m.

Breakfast

8 – 9 a.m.

Review and discussion of the 2018 strategic initiatives

The Board will adopt the 2018 budget no later than November 2017. The purpose of this review and discussion is to suggest any changes, additions, etc. to the draft strategic initiatives to be included in the planned budget.

Plenary sessions:

9:15 – 10:30 a.m. Transportation for Older Adults

Getting older adults and other vulnerable populations (low-income, veterans, individuals with disabilities) where they need to go is a regionally critical issue for DRCOG. Within the DRCOG region, the senior population is growing much faster than the general population. By 2040, the number of area residents 60 and older is expected to almost double and those 75 and older are forecast to increase by 200 percent (from 2015). Changing demographics, as well as many older adults choosing to age in place, will create the need for the region's communities to improve accessibility and expand transportation services for the aging population.

DRCOG funds and coordinates transportation services for older adults and helps communities plan for an aging population. Board Directors will be asked to share their experiences, best practices and suggestions for dealing with this regional challenge.

10:45 a.m. – noon Focus Areas for the 2020-2023 Transportation Improvement Program (TIP)

The TIP Review Work Group encouraged the Board to develop specific goals or focus areas for what it hopes to accomplish in the next TIP call for projects. In this session, the Board will finalize its TIP focus areas so overarching project/program scoring criteria can be developed ahead of the call for projects in early 2018.

12:15 – 1:30 p.m. Lunch (Community Caucuses)

This time is set aside for communities to discuss common threads, challenges and opportunities to support one another and identify any opportunities for DRCOG to be more supportive.

1:45 – 3 p.m. Scenario Planning

DRCOG has been asking regional transportation and land use scenario “what if?” questions periodically since its inception. The agency has made significant investment in its ability to model potential futures and understand their different impacts. In this session, Board Directors will learn about scenario planning at DRCOG and new directions in the field, including exploratory scenario-planning analysis and small-area scenario analysis. Directors will be asked to offer guidance to staff on how these scenario tools and capabilities should be used to help inform their decision-making as Board Directors and local elected officials.

Wrap-up at approximately 3 p.m.

ATTACH C

To: Chair and Members of the Performance and Engagement Committee

From: Douglas W. Rex, Acting Executive Director
303-480-6747 or drex@drcog.org

Meeting Date	Agenda Category	Agenda Item #
April 5, 2017	Informational	4

SUBJECT

DRCOG Board Director Collaboration Assessment - 2017

PROPOSED ACTION/RECOMMENDATIONS

No action is needed; this item is for information only.

ACTION BY OTHERS

N/A

SUMMARY

The DRCOG Board Collaboration Assessment is a feedback mechanism that allows Board Directors to voice their opinions about their experience at DRCOG as it relates to Board Director collaboration and the achievement of desired results.

PREVIOUS DISCUSSIONS/ACTIONS

In May 2015, the first collaboration assessment was completed by Board Directors. Numeric scores, comments and an analysis by the assessment developer, Dr. Carl E. Larson, were provided to Board Directors for review. In May 2016, the collaboration assessment was administered and results were reviewed and analyzed by Dr. Larson. A report was provided to Performance & Engagement Committee members for an initial review and then provided to all Board Directors.

The 2017 collaboration assessment survey instrument will be available to Board Directors following the May Board meeting.

PROPOSED MOTION

N/A

ATTACHMENT

Attachment: DRCOG Board Collaboration Assessment

ADDITIONAL INFORMATION

If you have questions about the assessment, please contact Douglas W. Rex, Acting Executive Director, at 303-480-6747 or drex@drcog.org; or Jerry Stigall, Director, Organizational Development at 303-480-6780 or jstigall@drcog.org.



DRCOG Board Collaboration Assessment - 2017

Introduction

The Board Collaboration Assessment is a continuous improvement tool to help the DRCOG Board refine their governance process using input exclusively from its own Board Directors. The assessment will be administered yearly to provide Board Directors feedback and recommended actions for improving collaboration. Individual responses are completely anonymous and only group results will be shared with all Board Directors.

Instructions

The estimated time to complete is 15-20 minutes. All questions require a response and you will not be able to submit without answering each question. Please review the items in each section and rate them to the best of your knowledge. Many are broadly stated to include any and all examples you may have knowledge of from attending Board meetings and reading Board Director information provided by DRCOG.

Use the comment boxes to cite examples, explain your ratings or to provide additional comments for consideration. If you cannot complete the assessment in one attempt, you will see an option at the top of the page to save and continue survey later. When selecting that option, you will be asked to provide your email address so a link can be sent to you that will take you back to the assessment site. Please save this email until you complete the assessment. The assessment site will remain open until (XXXX) at midnight.

The results of the assessment will be presented in the (XXXX) Board meeting. The Board Executive Committee would appreciate full participation in this assessment. A Board Officer may contact you if you have not completed the assessment as the deadline approaches.

Thank you for your participation!
DRCOG Board Executive Committee

Note: The terms collaborative, members, and group used in this assessment refer to the Board as a whole in their role as a policy-setting and decision-making body. Reference to 'the process' in some survey items relates to Board Director deliberations and the decision making process in general.

Contact Jerry Stigall at DRCOG for assistance.

Email: jstigall@drcog.org
C: 720.375.1742

Our Mission

The Denver Regional Council of Governments is a planning organization where local governments collaborate to establish guidelines, set policy and allocate funding in the areas of:

- Transportation and Personal Mobility
 - Growth and Development
- Aging and Disability Resources

Our Vision

Our region is a diverse network of vibrant, connected, lifelong communities with a broad spectrum of housing, transportation and employment, complemented by world-class natural and built environments.

*** I. Structural Integrity refers to how Board Directors perceive the fairness of the collaborative process. A process that has high structural integrity applies criteria for making decisions and allocating resources in a fair and consistent manner, treats all members equitably, and allows sufficient opportunity for members to challenge and revise decisions.**

	True	More True than False	More False than True	False	Don't know/Not applicable
The people involved in the process usually are focused on broader goals (outcomes) of the region, rather than individual agendas.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The process is free of favoritism.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In the process, everyone has an equal opportunity to influence decisions.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The process responds fairly to the needs of its members.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Decisions made in the process are based on fair criteria.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The allocation of resources is decided fairly.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The criteria for allocations are fairly applied.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	True	More True than False	More False than True	False	Don't know/Not applicable
In the process, there is sufficient opportunity to challenge decisions.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The decisions made in the process are consistent.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Decisions are based on accurate information.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please provide comments for the Structural Integrity section in the space below.

*** II. Authenticity refers to the extent Board Directors perceive the collaborative process is free from undue outside influence. An authentic process is one where members are confident the group has the power to make independent judgments and evaluations of the issues, and can make decisions on how to respond to those issues that will be respected by all members as well as those in positions of authority.**

	True	More True than False	More False than True	False	Don't know/Not applicable
The process gives some people more than they deserve, while shortchanging others.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In the process, some people's opinions are accepted while other people are asked to justify themselves.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In the process, strings are being pulled from outside Board discussions which influence important decisions.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In discussions about decisions or procedures, some people are discounted because of the organizations/jurisdictions that they represent.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please provide comments for the Authenticity section in the space below.

*** III. Strong Leadership reflects the perception the Board has an effective organizing/ coordinating body and, is led by committed and effective leaders. The role of the organizing/ coordinating body is to provide a convening location, collaborative environment and relevant information for Board Director deliberation and decision-making.**

Note: The first item below regarding Organizer/coordinator refers to DRCOG's role as the convener/convening location. The second item refers to Board Director leadership.

Our collaborative...

	True	More True than False	More False than True	False	Don't know/Not applicable
...has an effective organizer/coordinator.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
...is led by individuals who are strongly dedicated to the Mission and Vision of DRCOG.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please provide comments for the Strong Leadership section in the space below.

*** IV. Members refers to how Board Directors perceive other Director's capacity to collaborate: Are they willing to devote their efforts to furthering the goals of the collaborative rather than simply garner additional resources for their individual programs? Will they support the ideas that have the most merit even at the expense of their own interests? And, do they think there is sufficient trust among members to honestly share information and feedback?**

Members...

	True	More True than False	More False than True	False	Don't know/Not applicable
...are effective liaisons between their home organizations and our group.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
...trust each other sufficiently to honestly and accurately share information, perceptions, and feedback.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
...are willing to let go of an idea for one that appears to have more merit.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
...are willing to devote the effort necessary to achieve Metro Vision Outcomes.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please provide comments for the Members section in the space below.

* **V. Structure** refers to the clarity members have about the scope of the Board's authority and the roles and responsibilities assigned to its Directors.

Note: This section also pertains to Board Committees. Please use the space below to provide comments on committees as they relate to (Board) Structure.

	True	More True than False	More False than True	False	Don't know/Not applicable
Our group has set ground rules and norms about how we will work together.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
We have a method for communicating the activities and decisions of the group to all members.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There are clearly defined roles for group members.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please provide comments for the Structure section in the space below.

*** VI. General Success reflects the perceived level of success achieved by the collaborative and assesses the extent to which members accomplished the objectives set out for the most recent performance period. The term objectives in this section refers to for example; Reduce VMT, Improve Air Quality, Reduce GHG, etc. as opposed to 'outcomes' that describe an end state or destination point. Outcomes will be assessed in section VIII.**

Our Collaborative...

	True	More True than False	More False than True	False	Don't know/Not applicable
has accomplished its specific objective	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
has achieved more than its original objectives.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
has led to new projects or efforts.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
has achieved extraordinary success.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please provide comments for the General Success section in the space below.

*** VII. Community Involvement & Collaboration refers to the extent to which the collaborative has engaged a wider or more diverse set of partners, or has stimulated greater commitment to collaboration among communities/jurisdictions.**

Our Collaborative...

	True	More True than False	More False than True	False	Don't know/Not applicable
has led to broader and more meaningful engagement of diverse partners.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
has resulted in the emergence of new leaders committed to collaboration.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
has helped improve the way our participating jurisdictions work together.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
has increased my knowledge of resources outside of my agency/organization.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
has increased my access to resources outside of my agency/organization for my community.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please provide comments for the Community Involvement & Collaboration section in the space below.

*** VIII. Outcomes refer to the extent to which members believe the collaborative has had an impact on the outcomes it is targeting. For example an outcome is; The built environment accommodates the needs of residents of all ages, incomes, and abilities; Development patterns are easy to navigate, enhance multimodal connectivity, and maximize the ability for all people to access opportunities. (Metro Vision 2035)**

Our Collaborative...

	True	More True than False	More False than True	False	Don't know/Not applicable
is committed to a “no wrong door” approach where any idea can be considered.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
has had an impact on the outcomes it is targeting.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
has resulted in improved outcomes for the population served.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please provide comments for the Outcomes section in the space below.

*** IX. Quality of Services assesses members' perceptions about the level of improvement in the quality of services for the population served, in areas such as access to needed services, navigating the system of services, time to obtain services, etc.**

Our Collaborative...

	True	More True than False	More False than True	False	Don't know/Not applicable
has improved the quality of services for the population served.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
has resulted in more streamlined service provision across participating jurisdictions/organizations.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
has resulted in the creation of a system that is easier for the population served to navigate.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
has resulted in a system that makes it easier for population served to access needed services.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
has resulted in improved quality of services within my agency/organization due to our participation on the DRCOG Board.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
has reduced the cost of delivering services for the population served by my agency/organization that are also served by DRCOG.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please provide comments for the Quality of Services section in the space below.

*** X. Fragmentation of Services refers to the extent to which members of the collaborative perceive a reduction in the fragmentation of services for the population served. This reduced fragmentation may result from increased availability of continuous and uninterrupted services, greater integration of services, more comprehensive service plans, or other improvements.**

Our Collaborative...

	True	More True than False	More False than True	False	Don't know/Not applicable
has increased the availability of continuous and uninterrupted services for the population served by DRCOG, regardless of the funding source.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
has generally led to the creation of more comprehensive services plans for the population served by participating jurisdictions/organizations.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please provide comments for the Fragmentation of Services section in the space below.

* **XI. Duplication of Services** refers to two qualities of duplication: a reduction in the duplication of services; and a reduction in the number of professionals providing services for the population served by DRCOG.

Our Collaborative...

	True	More True than False	More False than True	False	Don't know/Not applicable
has led to a reduction in the duplication of overlapping services across all participating jurisdictions/organizations when serving the region's population.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
has led to a reduction in the number of professionals providing overlapping services for the population served.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
has resulted in greater integration of services for the population served.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
has generally led to the creation of more comprehensive services plans for the population served.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please provide comments for the Duplication of Services section in the space below.

* **XII. Costs** refers to the extent to which members view the collaborative as reducing costs, either by reducing the costs of delivering services to the population served or by promoting a sharing of costs between jurisdictions/organizations participating in the collaborative.

Our Collaborative...

	True	More True than False	More False than True	False	Don't know/Not applicable
has reduced the costs of delivering services to the population served.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
has resulted in the sharing of costs between jurisdictions/organizations participating in the collaborative.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please provide comments for the Costs section in the space below.

* **Membership Value**

	True	More True than False	More False than True	False	Don't know/Not applicable
My community receives value from being a member of DRCOG.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please provide comments for the Membership Value section in the space below.

Please provide additional comments in the section below.

ATTACH D

To: Chair and Members of the Performance and Engagement Committee

From: Roxie Ronsen, Administrative Officer, Administration & Finance
(303) 480-6709 or rropsen@drcog.org

Meeting Date	Agenda Category	Agenda Item #
April 5, 2017	Action	5

SUBJECT

This item is related to approval of a Request for Qualifications (RFQ) for hiring a search firm for recruitment of the DRCOG executive director.

PROPOSED ACTION/RECOMMENDATIONS

Staff recommends approval of a Request for Qualifications (RFQ) for hiring a search firm for recruitment of the DRCOG executive director.

ACTION BY OTHERS

Members of the Executive Director Recruitment Subcommittee recommend approval of the Request for Qualifications

SUMMARY

At the Performance & Engagement Committee (P&E) meeting on March 15, 2017, the members established an executive director recruitment subcommittee and moved to appoint six members to that committee.

The subcommittee met to review and discuss the attached draft RFQ and recommends its approval for use in hiring a search firm for recruitment of the DRCOG executive director.

PREVIOUS DISCUSSIONS/ACTIONS

N/A

PROPOSED MOTION

Move to approve the final draft of the RFQ to use in hiring a search firm for recruitment of the DRCOG executive director.

ATTACHMENT

Draft RFQ

ADDITIONAL INFORMATION

If you need additional information, please contact Roxie Ronsen, Administrative Officer, Administration & Finance, at 303-480-6709 or rropsen@drcog.org.

DRAFT

A REQUEST FOR QUALIFICATIONS

for

**SEARCH FIRM TO CONDUCT DENVER REGIONAL COUNCIL
OF GOVERNMENTS (DRCOG) EXECUTIVE DIRECTOR RECRUITMENT**

April 13, 2017

DENVER REGIONAL COUNCIL OF GOVERNMENTS

1290 Broadway, Suite 100

Denver, Colorado 80203-5606

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I. INSTRUCTIONS FOR SUBMITTAL OF PROPOSAL

A. Summary

The Denver Regional Council of Governments (DRCOG) hereby issues this Request for Qualifications (referred to further herein also as solicitation) in order to solicit proposals from individuals, firms, and teams (referred to further herein also as “respondent”, “contractor” or “consultant” interchangeably) with experience in conducting executive director recruitments.

B. Solicitation Schedule

Consideration of the responses will be governed by the following schedule, which is subject to revision by DRCOG.

Milestone	Details	Date
Distribution	Solicitation will be forwarded to respondents and firms who have indicated an interest in participating in this project.	April 13, 2017
Questions and Inquiries	The solicitation is posted on the BidNet Direct System at: www.bidnetdirect.com Questions and inquiries should be sent to bids@drcog.org .	April 19, 2017
Question Responses	DRCOG will respond to questions and inquiries via the BidNet Direct System. Responses are posted as an addendum to the solicitation by this date.	April 21, 2017
Submittals Due	Responses to this request must be received no later than 5 p.m. Mountain time. Proposals must be submitted via the BidNet Direct System at www.bidnetdirect.com .	April 27, 2017
Interviews	Registration for the site is free. If you have any questions related to registration or the BidNet Direct site, please call the BidNet customer support line at 1-800-835-4603. Note that DRCOG staff is unable to assist with the registration process. Interviews, if required, will be held on or before this date. Notification of selection for an interview will be given on or before May 10, 2017.	May 17, 2017
Contract Execution	DRCOG staff to begin contract negotiations with selected	May 19, 2017

respondent(s). DRCOG may contract with one (or more) respondent(s) to complete the entire scope of work. This date is approximate.

C. General Instructions

1. **Questions** – Questions regarding this solicitation must be submitted by the date listed above. Questions should be submitted electronically to bids@drcog.org.
2. **Signatory Requirements** – Responses must be signed by a duly authorized official of the respondent. Consortiums, joint ventures, or teams submitting responses will not be considered responsive unless it is established that all contractual responsibility to DRCOG with regard to the project shall rest solely with one contractor or legal entity, which shall not be a subsidiary or affiliate with limited resources. Each response should indicate the entity responsible for execution on behalf of the team.
3. **Responses to Solicitation** – All responses to this solicitation become the property of DRCOG upon receipt and will not be returned to the respondent. Selection or rejection will not affect this right. DRCOG shall have the right to use any or all of the ideas or adaptations of the ideas contained in any response received, excluding case study materials or other reference materials prepared for clients of respondent. Any confidential/proprietary information submitted in response to this request shall be readily identified, clearly marked and separated from the rest of the response. Co-mingling of confidential/proprietary and other information is not acceptable. Submittals will be handled in accordance with applicable federal and state public records laws and procurement regulations. Neither cost information nor the total response will be considered confidential/proprietary.

D. Required Elements in Response/Response Format

1. **Cover Letter** – Respondents should submit a cover letter expressing their interest in the project. The letter must contain, at a minimum, the following information:
 - a. Statement of interest in completion of the work as described herein.
 - b. Certification that the information and data submitted is true and complete to the best knowledge of the individual signing the letter.
 - c. Respondent's name, address, telephone number, fax number and e-mail address of the individual to contact regarding the submittal.
 - d. An authorized principal or partner of a firm shall sign the letter.
2. **Qualifications and Experience of the Respondent (s)** – Respondents shall describe projects and experience of the past three years relevant to the draft scope of services described in Section II, Project Description, below. Respondents should place particular emphasis on projects for which key staff to be assigned to this project have either been primarily responsible or have performed substantial work. If subcontractors are to be used, the means by which these firms will participate must be specified and their experience and credentials presented in this section.

3. **Qualifications and Experience of Key Staff** – Respondents shall identify the key individuals to be assigned to this project (by name and position) and describe the work tasks assigned to each individual. The respondent must also provide experience summaries of these key individuals, describing for each individual their previous experience on similar projects in similar roles, their educational background, and their length of tenure with the consulting firm. Resumes of these key individuals may also be included and can be added in the optional section. Respondents shall also list any professional affiliations, licensures, and certifications that are pertinent to the work described in Section II, Project Description.
4. **References** – Respondents shall submit names, addresses, and phone numbers of references familiar with the Respondent's ability, experience, and reliability in the performance and management of projects of a similar nature.
5. **Cost Information** – Both cost and other factors listed herein will be weighed in selecting a respondent.

Respondents shall provide a listing of the hourly billing rates for each job classification and job title they would expect to deploy on this project, including any supporting personnel.

Respondents shall also include a breakout of general operating expenses, the costs associated with any materials or services that may be required, or any other miscellaneous costs that are anticipated in the course of performing the tasks outlined below. Overhead costs, including, without limitation, faxing, cellular phone air time, and computer processing time, must be borne exclusively by the selected respondent(s) as a cost of doing business.

Allowable costs under any contract with the selected Respondent will be administered in accordance with Attachment A of this solicitation.

6. **Contract Review** – The successful Respondent will be required to sign a Contract for Services substantially similar to the contract form in Attachment D. DRCOG reserves the right to add or delete provisions to the form prior to contract execution. Respondents shall undertake a detailed review of the Sample Contract and submit with their proposal a list of all questions, issues, or modifications which the Respondent would like DRCOG to review and address, should they be selected as the top ranked respondent. Respondents are strongly advised to seek legal counsel prior to preparing such a list. DRCOG shall assume that the Sample Contract has been thoroughly reviewed and discussed with legal counsel prior to submission of the list of issues.

Comments to Sample Contract for Services.

Prospective respondents are required to provide any and all comments, concerns, suggested edits, and clarifying questions pertaining to the provided sample Contract for Services (Attachment D). The intent of this section is to expedite the negotiation time between respondent selection and final contracting. Any objections to the legal terms and conditions of the sample contract submitted after the submission of the proposal will not be considered by DRCOG and may result in the rejection of the proposal. Respondents are strongly advised to seek legal counsel prior to preparing this section. DRCOG shall assume that the sample Contract has been thoroughly reviewed and

discussed with legal counsel prior to the submission of this comments list. Comments submitted in this section do not count toward the prescribed page limits (if any). DRCOG reserves the right to add or delete provisions to the form prior to contract execution.

7. **Project Management and Scheduling Expertise** – Respondents shall identify the management techniques that they are using to assure the completion of projects within schedule and budget.
8. **Insurance Requirements** – Respondents shall provide acknowledgement of the following insurance requirements and a statement ensuring they are able to meet these minimum requirements. Any Contract resulting from award of this solicitation will require the selected respondent(s) to procure and maintain, and shall cause each subcontractor of respondent to procure and maintain the minimum insurance coverages listed below:
 - a. Workers' Compensation in statutory limits.
 - b. Employer's Liability Insurance: \$100,000/ each accident, \$500,000/ disease - policy limit, and \$100,000/ disease - each employee.
 - c. Comprehensive General Liability Insurance \$1,000,000/ Occurrence.
 - d. Automobile Liability or Hired & Non-Owned Vehicle Liability Insurance: \$1,000,000/each accident.
 - e. Professional Liability Insurance: \$1,000,000 per occurrence.

DRCOG, its officers, and employees are to be named as additional insured under both the Contractor's General Liability and Automobile Liability policies. Said insurance will be required to be maintained in full force and effect during the term of the contract.

The foregoing insurance types, limits, and coverages may be modified only with the express written consent of DRCOG and shall be subject to additional terms and conditions of any contract awarded pursuant to this solicitation.
9. **Equal Employment Opportunity Clause** – Parties hereby incorporate the requirements of 41 C.F.R. § 60-1.4(a), 60-250-5, 60-300.5(a), 60-741.5(a) and 29 C.F.R. § 471, Appendix A, if applicable. This contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a), if applicable. These regulations prohibit discrimination against qualified protected veterans and qualified individuals with disabilities, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and qualified individuals with disabilities.
10. **Reservations and Special Conditions** – The respondent should review the Special Conditions in Section F below, the principles for determining costs in Attachment A, and the Federal and State Requirements in Attachment B. The respondent should note any elements/reservations, special conditions, constraints, and exclusions related to the terms of this solicitation. Failure to comply with the requirements in Attachments A and B may result in termination of the contract with the selected respondent.

E. Selection Process

Evaluations of proposals will be based on the following criteria:

1. **Experience and Capability** – Respondents will be evaluated with respect to the experience of the respondent(s) and personnel assigned to the project both in terms of past efforts in this type of work and the quality and level of commitment to this project. Of prime concern, will be the capabilities and accomplishments of the individuals to be assigned to this particular project.
2. **Management Qualifications** – Qualifications of the respondent in terms of its ability, experience, and reliability in performing and managing work within a schedule and budget will be included in the evaluation process.
3. **Cost Information** – Likely project cost, determined from the standard service fee break out provided by the respondent, will be considered in the selection; however, it will not be the only determining factor. Specific attention will be given to the commitment implied for key staff and the overall labor effort proposed, and their relationship to the estimated project cost.
4. **References** – Information provided by respondent's references addressing the knowledge, skills, abilities and performance of the respondent to complete the work outlined below will be included in the staff evaluation of the response.
5. **Other** – Other factors that may be determined by DRCOG to be necessary or appropriate in its discretion.

F. Special Conditions

1. **Rejection Rights** – All respondents are notified that the execution of a contract pursuant to this solicitation is dependent upon approval by DRCOG. DRCOG reserves the right to reject all responses and re-solicit if deemed by DRCOG to be in its best interests, and to abandon the project and this solicitation at any time for any or no reason. Selection of a respondent or respondents is also conditioned on the negotiation of an acceptable contract.
2. **Other Conditions; Reservation of Rights** – This is a solicitation and not an offer to contract. The provisions in this solicitation and any procurement or purchasing policies or procedures of DRCOG are solely for the fiscal responsibility of DRCOG and confer no rights, duties, or entitlements to any party submitting responses to this solicitation. DRCOG reserves the right to issue clarifications and other directives concerning this solicitation, to make and issue modifications to the solicitation schedule; to require clarification or further information with respect to any response or proposal received; to waive any informalities or irregularities; and to determine the final scope and terms of any contract, and whether to enter any contract. The provisions herein confer no rights, duties or entitlements to any respondent.
3. **Costs of Response Preparation and Other Charges** – Respondents are solely responsible for all costs of preparing their proposals and participation in this solicitation and DRCOG assumes no responsibility for payment of any expenses incurred by a respondent as part of this process. For the selected firm, no reimbursement will be

made by DRCOG for any costs incurred prior to full execution of a contract and issuance of written notice by DRCOG to commence project services.

4. **Conflict of Interest** – Respondents shall not engage in any business or personal activities or practices or maintain any relationships which conflict in any way with the full performance of respondent's obligations in this project. Respondents shall acknowledge that with respect to any subsequent contract, even the appearance of a conflict of interest is harmful to DRCOG's interests. Absent DRCOG's prior written approval, respondents shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of respondents' obligations to DRCOG. If a conflict or appearance exists, or if respondent is uncertain whether a conflict or the appearance of a conflict of interest exists, respondent shall submit to DRCOG a disclosure statement setting forth the relevant details for DRCOG's consideration. Failure to promptly submit a disclosure statement or to follow DRCOG's direction in regard to the apparent conflict constitutes a breach of contract.
5. **Federal and State Requirements** – The selected respondent shall be responsible, at all times during the execution of the project, for strictly adhering to and complying with all applicable federal and state laws and regulations, including but not limited to those set forth in Attachment B.
6. **Suspension and Debarment** – By submitting a proposal in response to this solicitation, the respondent represents its organization and its principals are not suspended or debarred per Federal requirements.
7. **Period of Performance** – Performance of the contract resulting from this solicitation will commence on or about May 19, 2017.

II. PROJECT DESCRIPTION

A. Introduction

The Denver Regional Council of Governments (DRCOG) was formed in 1955 as the Inter-County Regional Planning Commission and was reorganized in 1968 as the Denver Regional Council of Governments. DRCOG is organized as a nonprofit corporation and operates under its Adopted Articles. DRCOG's membership includes the nine counties comprising the Denver metropolitan area and 46 municipalities. DRCOG's Board of Directors consists of one elected representative (two from the City and County of Denver) from each jurisdiction. DRCOG's revenue is comprised primarily of federal and state grants and membership dues (approximately 83 percent of operating budget) and other income derived from services to its members and the public. DRCOG has 100 employees and an annual operating budget of approximately \$18 million not including pass through funds totaling almost \$14 million.

DRCOG's Mission and Vision Statement:

Mission Statement: The Denver Regional Council of Governments is a planning organization where local governments collaborate to establish guidelines, set policy and allocated funding in the areas of: transportation and personal mobility; growth and development; aging and disability resources.

Vision Statement: Our region is a diverse network of vibrant, connected, lifelong communities with a broad spectrum of housing, transportation and employment, complemented by world-class natural and built environments.

DRCOG is the designated regional planning agency and prepares and adopts a regional plan to guide growth and the development of the region. DRCOG collects and analyzes demographic and economic data and prepares growth and development forecasts for state and local government planning officials. DRCOG is designated, under federal law, as the Metropolitan Planning Organization (MPO) for transportation planning in the region and works with the Colorado Department of Transportation, Regional Transportation District and local jurisdictions to prepare transportation plans and programs. DRCOG is the state designated Area Agency on Aging and administers grants and programs funded under the Older Americans Act. DRCOG operates a variety of ridesharing programs to reduce vehicle miles traveled in the region including carpool matching services, vanpools, and school ridesharing programs.

The Executive Director functions as the Chief Administrative Officer. The Executive Director administers and executes all functions and duties authorized by the Board of Directors, Finance & Budget Committee, or Performance & Engagement Committee, including appointment, removal, compensation and establishment of the number and duties of the DRCOG staff. The Executive Director acts on behalf of DRCOG as the primary contact point for all partner organizations and interfaces with not only local but national organizations engaged in similar work. As the chief executive of the organization the Executive Director must be able to demonstrate a high level of ability to engage with all levels of individuals and organizations. Their professional qualifications must be beyond reproach and a demonstrated ability to represent DRCOG in a light of cooperation and partnership must be of the highest quality. The ability to develop and maintain partnerships with all organizations is a key component of a successful executive director.

The Executive Director must demonstrate a proven ability to work with a large board of directors representing both counties and municipalities of varying size. The successful candidate will work with each member equally and share information pertinent to the organization equally. DRCOG recently completed a reorganization of a number of previous working committees. Under the current alignment, only two major committees help to guide the organization. The Finance & Budget (F&B) committee set, review and provide oversight to the organization's financial dealings and are responsible for all compliance requirements on the spending and tracking of Federal dollars. The Performance & Engagement (P&E) Committee is responsible for all policy setting for the organization as well as direct oversight of the Executive Director. The organization also went to a more structured set of monthly meetings where a workshop, similar to municipal and county study sessions, was instituted to prepare the Board for items that are coming to formal Board meetings. This allowed the Board to deal with formal actions on a monthly basis with members being able to come prepared for those actions by having already gone through the materials in the work session.

The current Executive Director of DRCOG has submitted her resignation after nearly thirteen years in the position. The Performance & Engagement Committee of DRCOG will interview applicants and select and negotiate a contract with the prospective candidate then recommend the appointment to the Board of Directors.

B. Scope of Work

The P&E Committee will be accepting proposals for consulting services for the recruitment of an Executive Director.

DRCOG is interested in retaining services of a company, or an individual, that has executive recruitment expertise relative to special districts or similar government executive positions, has considerable knowledge of how to conduct an executive recruitment (again, specific to special districts or similar government positions), has the ability to recruit a diverse set of qualified applicants with respect to minorities and women, and can successfully conduct an effective, timely nationwide recruitment.

The Consultant selected for the Project will be responsible for the following:

1. Developing a recruitment strategy, process, and timetable for completion of the work in consultation with the P&E Committee.
2. Conducting a national recruitment; ads to be placed in ICMA Newsletter, Colorado Special Districts (SDA), other TBD websites, and national publications and websites recommended by the Consultant; the Consultant will also use available social media and on-line job listing services.
3. Acknowledging receipt of candidates' application materials.
4. Providing initial screening of all candidates' applications through means including but not limited to; written questionnaires, telephone screening, and review of background and experience.
5. Developing list of semi-finalists in conjunction with the P&E sub-committee.

6. Conducting telephone, Skype, Facetime, video-conferencing, or in-person interviews of all qualified and experienced semi-finalists either with the P&E sub-committee or reviewing the results of these interviews with the P & E sub-committee.
7. Assisting the P&E sub-committee in the selection of finalists.
8. Credential verification and background referencing prior to on-site process.
9. Setting up the final on-site selection process which should occur over a two-day period as determined at a time designated by the P&E sub-committee. Exercises included during this period should include the formal interview with the P&E sub-committee, the full P&E Committee, questions and answer sessions for all the candidates with employee representatives, tour of office conducted by DRCOG staff.
10. Making arrangements for the on-site portion of the process including scheduling the interviews and other activities for the two days, and making travel and lodging arrangements per DRCOG specifications.
11. Conducting all background and reference checks on the final candidate(s).
12. Providing timely notification and necessary follow-up and feedback to all candidates not selected for the position.
13. Coordination with all selected finalist for the interview of a physiological profile with a firm to be selected by the P&E sub-committee.
14. The Consultant must provide bi-weekly progress reports to the P&E sub-committee. Periodic meetings are required to discuss progress and to determine the process for screening candidates (i.e. written tests, videotape presentations, etc.). The P&E sub-committee will monitor the Consultant to assure that quality work is being performed and that the project schedule is being met.
15. Proposals must include the following:
 - A detailed timeline.
 - An itemized cost for all the services listed above.
 - A list of any additional activities and techniques that might be useful to incorporate into the recruitment and selection process and the cost for adding such services.
 - An hourly rate at which DRCOG would be billed for any services that DRCOG might request outside the scope of the items listed in this RFP.
 - Specific information concerning the firm's experience with recent similar recruitments, general experience and a list of five references with specific contact information including a name and telephone number.

No extensions for submittal of an RFP will be granted on an individual basis. If P&E sub-committee determines, in its sole discretion, that the response time it has provided is inadequate for the preparation of complete proposals, or if amendments issued have materially changed the proposal requirements, P&E sub-committee may, at its option, extend the opening or response dates to all firms.

All consultants agree that their proposals are a firm offer to provide the requested services to P&E sub-committee. Once submitted, all offers must remain valid for 120 days from submission deadline date for proposals.

ATTACHMENT A
PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO CONTRACTS
WITH THE DENVER REGIONAL COUNCIL OF GOVERNMENTS

A. Purpose and Scope

Objective. This policy procedure sets forth principles for determining the allowable costs of contracts with DRCOG and provides a general summary of applicable policies. Allowable costs are determined and administered in accordance with these principles and applicable federal regulations and requirements, including without limitation 49 C.F.R. Part 18 Subpart C and 49 C.F.R. 18.22.

Applicable Cost Principles. For each kind of organization, there is a set of Federal principles for determining allowable costs. The following table lists the kinds of organizations and the applicable cost principles:

For the costs of a:	Use the principles in:
State, local, or federal-recognized Indian tribal government	2 C.F.R. Part 225 (OMB Circular A-87)
Private nonprofit organization other than: (1) an institution of higher education; (2) a hospital; or (3) organization named in 2 CFR Part 230, Appendix C, as not subject to that part	2 C.F.R. Part 230 (OMB Circular A-122)
Institutions of Higher Education	2 C.F.R. Part 220 (OMB Circular A-21)
For-profit organizations other than: (1) a hospital; (2) a commercial organization; or (3) a non-profit organization listed in 2 CFR Part 230, Appendix C, as not subject to that part	48 C.F.R. Subpart 31.2

Policy Guides. The application of these principles is based on the fundamental premises that:

- a. Contractors are responsible for the efficient and effective administration of contract programs through the application of sound management practices.
- b. Contractors assume the responsibility for seeing that contract funds have been expended and accounted for consistent with underlying agreements and contract objectives and provisions.
- c. Each contractor organization, in recognition of its own unique combination of staff facilities and experience, will have the primary responsibility for employing whatever form of organization and management techniques may be necessary to assure proper and efficient administration.

Application. These principles will be applied to all contracts with DRCOG in determining costs and cost reimbursement type contracts including subcontracts.

B. Definitions

Approval or authorization of DRCOG means documentation evidencing consent prior to incurring specific costs.

Cost allocation plan means the documentation identifying, accumulating, and distributing allowable costs under DRCOG's contracts, together with the allocation methods used.

Cost, as used herein, means cost as determined on a cash, accrual, or other basis acceptable to the DRCOG as a discharge of the Contractor's accountability for DRCOG's funds.

Cost objective means a pool, center, or area established for the accumulation of cost. Such areas include organizational units, functions, objects or items of expense, as well as ultimate cost objectives including specific on-site direct and indirect activities.

Contract program means those activities and operations of the Contractor which are necessary to carry out the purposes of the contract.

Services, as used herein, means goods and facilities, as well as services.

Supporting services, means auxiliary functions necessary to sustain the direct effort involved in administering a contract or an activity providing service to the program. These services may include procurement, payroll, personnel functions, maintenance and operation of space, data processing, accounting, budgeting, auditing, mail and messenger service, and the like.

C. Basic Guidelines

Factors Affecting Allowability of Costs. To be allowable under a DRCOG contract, costs must meet the following general criteria:

- a. Meet the standards and criteria set forth in the applicable federal regulations and requirements.
- b. Be necessary and reasonable for proper and efficient administration of the contract, be allocable thereto under these principles, and except as specifically provided herein, not be a general expense required to carry out the overall responsibilities of the Contractor.
- c. Be authorized or not prohibited under state or local laws or regulations.
- d. Conform to any limitations or exclusions set forth in these principles, federal laws, or other governing limitations as to types or amounts of cost items.
- e. Be consistent with policies, regulations, and procedures that apply uniformly to all activities of the Contractor.
- f. Be accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances.
- g. Not be allocable to or included as a cost of any other program in either the current or a prior period.
- h. Be net of all applicable credits.
- i. Be satisfactorily documented.

Allocable Costs. A cost is allocable to a particular cost objective to the extent of benefits received by such objective.

Applicable Credits. Applicable credits refer to those receipts or reduction of expenditure-type transactions that offset or reduce expense items allocable to contracts as direct or indirect

costs. Examples of such transactions are: purchase discounts; rebates or allowances; recoveries or indemnities on losses; sales or publications, equipment, and scrap; income from personal or incidental services; and adjustments of overpayment or erroneous charges.

D. Composition of Cost

Total Cost. The total cost of a contract is comprised of the allowable direct cost incident to its performance, plus its allocable portion of authorized indirect costs, less applicable credits.

Classification of Costs. There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the contract or other ultimate cost objective. It is essential, therefore, that each item of cost be treated consistently either as a direct or an indirect cost.

E. Direct Costs

General. Direct costs are those that can be identified specifically with a final cost objective.

Application. Typical direct costs chargeable to DRCOG's contracts are:

- a. Compensation of employees for the time and effort devoted specifically to the execution of contract work effort.
- b. Cost of materials acquired, consumed or expended specifically for the purpose of the contract.
- c. Other items of expense incurred specifically to carry out the contract work statement.

F. Indirect Costs

General. Indirect costs are those that, because of their incurrence for common or joint purposes benefitting more than one cost objective, are not readily subject to treatment as a direct cost. The costs must be allowable based on applicable federal cost principles and be the result of an approved Indirect Cost Plan.

Application. After direct costs have been determined and assigned directly to the contract, indirect costs are those remaining to be allocated to benefitted cost objectives. A contractor desiring to claim indirect costs must prepare an indirect cost proposal and related documentation to support those costs and maintain the proposal and documentation for any required review by DRCOG or federal funding agencies.

G. Accounting System.

The Contractor shall establish and maintain a proper accounting system in accordance with generally accepted accounting standards (a separate set of accounts, or as a separate and integral part of its current accounting scheme) to assure that project funds are expended and costs accounted in a manner consistent with the contract and project objectives.

All allowable costs charged to the project, including any approved services contributed by the Contractor or others, shall be supported by properly executed payrolls, time records, invoices, contractors or vouchers evidencing in detail the nature of the charges.

Any check or order drawn up by the Contractor, including any item which is or will be chargeable against the project account, shall only be drawn up in accordance with a properly signed voucher on file in the office of the Contractor, which will detail the purpose for which said check or order is drawn. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents shall be clearly identified, readily accessible, and to the extent feasible, kept separate and apart from all other such documents.

H. Billing Procedure.

Billings shall include appropriate documentation, such as detailed listing of charges being submitted for payment including billable hours and hourly rate, payments to sub-contractors, parking and mileage, supplies, etc. Certain funding sources may require more documentation, such as approved timesheet copies of invoices paid, etc. Contractors must maintain detailed records that are subject to review and/or audit by DRCOG or its representatives.

ATTACHMENT B FEDERAL AND STATE REQUIREMENTS

Nondiscrimination Provisions - In connection with this request, the selected respondent(s) shall not discriminate against any employee or applicant for employment because of age, race, sex, color, religion, veteran status, marital status, national origin, disability, being a disadvantaged person, genetic information, sexual orientation or any other status protected by applicable state or local law. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including any apprenticeship.

Selected respondent shall comply with all applicable provisions of Title VI of the Civil Rights Act of 1964 and Section 162(a) of the Federal Aid Highway Act of 1973 and with the Regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21).

The selected respondent(s) will furnish all necessary information and reports and will permit access to its books, records, and accounts by DRCOG for purposes of investigation to ascertain compliance with the nondiscrimination provisions of any resultant contract.

Prohibition Against Employing Illegal Aliens - Prior to entering into any Contract for this Project, the respondent must certify that it does not knowingly employ or contract with an illegal alien; and that the respondent will participate in the E-Verify program or the Department Program, as defined in C.R.S. §§ 8-17.5-101(3.3) and 8-17.5-101(3.7), respectively in order to verify that it does not employ any illegal aliens.

The respondent acknowledges that any contract shall also include a prohibition against employing illegal aliens in conformance with C.R.S. § 8-17.5-101 et seq., and that respondent will comply with the requirements of C.R.S. § 8-17.5-101 et seq.

Noncompliance - In the event of the selected respondent(s) noncompliance with the nondiscrimination provision of any resultant contract, DRCOG shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to:

- a. Withholding of payments under the contract until the compliance by the selected respondent(s), and/or
- b. Cancellation, termination, or suspension of the contract, in whole or in part.

Single Audit Act Amendment – State and local governments and nonprofit organizations receiving more than \$500,000 in Federal funds (all federal sources, not just FHWA funds), shall comply with the audit requirements of OMB Circular A-133.

Employee Financial Interest/Conflict of Interest (C.R.S. § 24-18-201 and 24-50-507) – These laws require the selected respondent to aver that no State employee has any personal or beneficial interest in the contract and that it has no interest and shall acquire no interest that would conflict with its performance of the services.

The Hatch Act (5 U.S.C. 1501-1508) and Public Law 95-454 Section 4728. These statutes state that federal funds cannot be used for partisan political purposes of any kind by any person or organization involved in the administration of federally-assisted programs.

42 USC 6101 et seq. 42 U.S.C. 2000d, 29 U.S.C. 794, and implementing regulation, 45 C.F.R. Part 80 et. seq. These acts require that no person shall, on the grounds of race, color, national origin, age, or handicap, be excluded from participation in or be subjected to discrimination in any program or activity funded, in whole or part, by federal funds;

The Americans with Disabilities Act (Public Law 101-336); 42 U.S.C. 12101, 12102, 12111-12117, 12131-12134, 12141-12150, 12161-12165, 12181-12189, 12201-12213; 47 U.S.C. 225 and 47 U.S.C. 611.

The Drug-Free Workplace Act (Public Law 100-690 Title V, subtitle D, 41 U.S.C. 701 et seq.).

The Age Discrimination Act of 1975, 42 U.S.C. Sections 6101 et. seq. and its implementing regulation, 45 C.F.R. Part 91; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as amended, and implementing regulation 45 C.F.R. Part 84.

ATTACHMENT C
E-VERIFY FEDERAL CONTRACTOR RULE EMPLOYMENT ELIGIBILITY VERIFICATION

(a) Definitions. As used in this clause—

Commercially available off-the-shelf (COTS) item—

(1) Means any item of supply that is—

(i) A commercial item (as defined in paragraph (1) of the definition at 2.101);

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace; and

Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702), such as agricultural products and petroleum products. Per 46 CFR 525.1(c)(2), “bulk cargo” means cargo that is loaded and carried in bulk onboard ship without mark or count, in a loose unpackaged form, having homogenous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count and, therefore, ceases to be bulk cargo.

Employee assigned to the contract means an employee who was hired after November 6, 1986, who is directly performing work, in the United States, under a contract that is required to include the clause prescribed at 22.1803. An employee is not considered to be directly performing work under a contract if the employee—

Normally performs support work, such as indirect or overhead functions; and

Does not perform any substantial duties applicable to the contract.

Subcontract means any contract, as defined in 2.101, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. It includes but is not limited to purchase orders, and changes and modifications to purchase orders.

Subcontractor means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime Contractor or another subcontractor.

United States, as defined in 8 U.S.C. 1101(a)(38), means the 50 States, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands.

(b) Enrollment and verification requirements.

(1) If the Contractor is not enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall—

(i) Enroll. Enroll as a Federal Contractor in the E-Verify program within 30 calendar days of contract award;

(ii) Verify all new employees. Within 90 calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); and

(iii) Verify employees assigned to the contract. For each employee assigned to the contract, initiate verification within 90 calendar days after date of enrollment or within 30 calendar days of the employee’s assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).

(2) If the Contractor is enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall use E-Verify to initiate verification of employment eligibility of—

(i) All new employees.

(A) Enrolled 90 calendar days or more. The Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or

(B) Enrolled less than 90 calendar days. Within 90 calendar days after enrollment as a Federal Contractor in E-Verify, the Contractor shall initiate verification of all new hires of the Contractor,

who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or

(ii) Employees assigned to the contract. For each employee assigned to the contract, the Contractor shall initiate verification within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).

(3) If the Contractor is an institution of higher education (as defined at 20 U.S.C. 1001(a)); a State or local government or the government of a Federally recognized Indian tribe; or a surety performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond, the Contractor may choose to verify only employees assigned to the contract, whether existing employees or new hires. The Contractor shall follow the applicable verification requirements at (b)(1) or (b)(2), respectively, except that any requirement for verification of new employees applies only to new employees assigned to the contract.

(4) Option to verify employment eligibility of all employees. The Contractor may elect to verify all existing employees hired after November 6, 1986, rather than just those employees assigned to the contract. The Contractor shall initiate verification for each existing employee working in the United States who was hired after November 6, 1986, within 180 calendar days of—

(i) Enrollment in the E-Verify program; or

(ii) Notification to E-Verify Operations of the Contractor's decision to exercise this option, using the contact information provided in the E-Verify program Memorandum of Understanding (MOU).

(5) The Contractor shall comply, for the period of performance of this contract, with the requirements of the E-Verify program MOU.

(i) The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Contractor's MOU and deny access to the E-Verify system in accordance with the terms of the MOU. In such case, the Contractor will be referred to a suspension or debarment official.

(ii) During the period between termination of the MOU and a decision by the suspension or debarment official whether to suspend or debar, the Contractor is excused from its obligations under paragraph (b) of this clause. If the suspension or debarment official determines not to suspend or debar the Contractor, then the Contractor must reenroll in E-Verify.

(c) Web site. Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

(d) Individuals previously verified. The Contractor is not required by this clause to perform additional employment verification using E-Verify for any employee—

(1) Whose employment eligibility was previously verified by the Contractor through the E-Verify program;

(2) Who has been granted and holds an active U.S. Government security clearance for access to confidential, secret, or top secret information in accordance with the National Industrial Security Program Operating Manual; or

(3) Who has undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive (HSPD)-12, Policy for a Common Identification Standard for Federal Employees and Contractors.

(e) Subcontracts. The Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for identification of the parties), in each subcontract that—

(1) Is for—(i) Commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor

modifications), performed by the COTS provider, and are normally provided for that COTS item); or (ii) Construction;

(2) Has a value of more than \$3,000; and

(3) Includes work performed in the United States

**ATTACHMENT D
SAMPLE CONTRACT**

**CONTRACTOR SERVICES AGREEMENT
BY AND BETWEEN THE**

DENVER REGIONAL COUNCIL OF GOVERNMENTS

1290 Broadway, Suite 100
Denver, Colorado 80203-5606

and

CONTRACTOR

Address
City, State, Zip

Project Number:

Contract Number

This Agreement ("Agreement") is made by and between the Denver Regional Council of Governments ("DRCOG") and ("Contractor").

RECITALS:

- A. DRCOG desires to engage the Contractor for the purpose of providing .
- B. Contractor represents that it has the special expertise, qualifications and background necessary to complete the Services.

TERMS:

Section 1. Scope of Services. Contractor shall provide the Services as described in the attached Exhibit A ("Services"), which is incorporated herein by reference. Contractor shall submit invoices on a monthly basis for services actually completed and costs incurred at the time of billing, as well as the total amount paid by DRCOG, shall not exceed the amounts designated in Section 3. Payment will be made in the ordinary course of business. In its sole discretion, DRCOG may contract with other Contractors to provide the same or similar services during the term of this Agreement.

Section 2. Term. The term of this Agreement shall commence upon execution and shall end . No work shall commence and no costs shall be incurred prior to the execution of this Agreement, as reflected by the execution date herein. After the initial term, this Agreement may be extended by mutual written agreement for () additional one-year terms on terms and conditions agreed upon by both parties. Either party must give written notice of its intent to terminate by of the then-current year. If notice of intent is not so given, the contract shall renew for an additional one-year term, subject to the above limitation and to the parties' rights to otherwise terminate as provided herein.

This Agreement may be terminated as follows:

- a. Termination of Agreement for Cause. If through any cause, the Contractor shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Agreement, DRCOG shall thereupon have the right to terminate this Agreement by giving written notice to the Contractor of such termination which shall be effective upon receipt of the written notice. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the Contractor under this Agreement shall, at the option of DRCOG, become its property, and subject to DRCOG's right of setoff, the Contractor shall be entitled to receive compensation for any satisfactory work completed on such documents or other materials which were completed to the satisfaction of DRCOG. Notwithstanding the above, the Contractor shall not be relieved of liability to DRCOG for any damages sustained by DRCOG by virtue of any breach of the Agreement by the Contractor, and DRCOG may withhold all payments to the Contractor for the purpose of setoff for damages due DRCOG.
- b. Termination for Convenience of DRCOG. DRCOG may terminate this Agreement at any time by giving 30 days written notice to the Contractor of such termination, which shall be effective upon receipt of the written notice. In that event, all finished or unfinished documents and other materials shall, at the option of DRCOG, become its property. If the Agreement is terminated by DRCOG as provided herein, the Contractor will be paid for services satisfactorily rendered through the date of termination in accordance with the tasks and rates set forth in Exhibit B.
- c. Termination Due to Loss of Funding. The parties hereto expressly recognize that the Contractor is to be paid, reimbursed, or otherwise compensated with funds provided to DRCOG for the purpose of contracting for the services provided for herein, and therefore, the Contractor expressly understands and agrees that all its rights, demands, and claims to compensation arising under this Agreement are contingent upon receipt of such funds by DRCOG. In the event that such funds or any part thereof are not received by DRCOG, DRCOG may immediately terminate this Agreement without liability, including costs for termination.

Section 3. Payment. The total cost of the Agreement shall not exceed Dollars (\$0.00). The Contractor shall submit monthly invoices to DRCOG's Accounting Department for services rendered and expenses incurred both referenced by task and only in conformity with the project budget attached hereto (Exhibit B). The foregoing amounts of compensation shall be inclusive of all costs of whatsoever nature associated with the Contractor's efforts, including but not limited to salaries, benefits, overhead, administration, profits, and expenses. To be considered for payment, invoices for payment pursuant to this Agreement must be received within 30 days after the period for which payment is being requested and final billing on the Agreement must be received within 30 days after the end of the Agreement term. All payments shall be made via electronic funds transfer into the bank account of the Contractor's choosing by completion of an official DRCOG ACH request form.

Section 4. Allowable Costs. Contractor shall only be reimbursed for costs incurred for the performance of this Agreement which are determined by DRCOG to be allowable, allocable, and reasonable in accordance with the following Federal cost principles: as from time

to time amended: 2 C.F.R. Part 220 (OMB Circular A-21); 2 C.F.R. Part 225 (OMB Circular A-87), 2 C.F.R. Part 230 (OMB Circular A-122); and Federal Acquisition Regulations at 48 C.F.R. Part 31.2, whichever may apply.

- a. Expenses shall not exceed U.S. General Services Administration ("GSA") per diem rates available at: <http://www.gsa.gov/portal/content/104877>.
- b. Reimbursement for automobile travel shall be at the prevailing State rate on the effective date of this contract. Car rental costs shall be reimbursed only when pre-approved by DRCOG.
- c. Air travel must be pre-approved by DRCOG. All air travel must be at the lowest, reasonably available coach fare. First class or business class travel is not authorized.

Section 5. Use of Funds. Contractor shall use funds only for eligible costs identified herein and/or in the Project Budget, Exhibit B. Contractor may adjust budgeted expenditure amounts up to 10% between line items of said Budget without approval of DRCOG. Budget line item adjustments exceeding 10% must be submitted in advance of actual expenditure and receive written approval by DRCOG's appointed Program Manager, or other representative as DRCOG may designate. Approval may be transmitted informally by email or such other means that does not rise to the level of an amendment to this Agreement. Budget adjustments shall not increase DRCOG's total consideration beyond the maximum amounts designated in Section 3 without an amendment to this Agreement.

Section 6. Assurances. In addition to all other obligations contained herein, Contractor agrees: (a) to accurately proceed with diligence and promptness and to perform the Services in accordance with the highest professional workmanship and service standards in the field to the satisfaction of DRCOG; (b) to produce work related to such Services that is free from any material errors or omissions; and (c) to comply, at its own expense, with the provisions of all state, local and federal laws, regulations, ordinances, requirements and codes which are applicable to the performance of the Services hereunder or to Contractor as an employer.

Section 7. Inspection and Audit. DRCOG and its duly authorized representatives shall have access to any books, documents, papers, and records of the Contractor that are related to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

Section 8. Indemnification. Contractor agrees to indemnify and hold harmless DRCOG or any of its officers or employees from any and all claims, damages, liability, or court awards including attorney fees that are or may be awarded as a result of any loss, injury or damage sustained or claimed to have been sustained by anyone, including, but not limited to, any person, firm, partnership, or corporation, to the extent caused by the negligent acts, errors or omissions of Contractor or any of their employees, subcontractors or agents in performing work pursuant to this Agreement. Contractor shall investigate, handle, respond to, and provide defense for and defend against any such liability, claims, and demands. Contractor shall further bear all other costs and expenses incurred by DRCOG and Contractor related to any such liability, claims and demands, including but not limited to court costs, expert witness fees and attorney fees if the court determines that these incurred costs and expenses are related to such negligent acts, errors, and omissions or other fault of the Contractor. Contractor's

indemnification obligation shall not be construed to extend to any injury, loss, or damage which is caused by the act, omission, or other fault of DRCOG.

Section 9. Insurance. Contractor shall procure and maintain, and shall cause each subcontractor hired by Contractor to perform services under this Agreement pursuant to its' obligations herein to procure and maintain, the minimum insurance coverages listed below. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by Contractor pursuant to this Agreement. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured by Contractor to maintain such continuous coverage.

- 1) Workers' Compensation in statutory limits.
 - 2) Employer's Liability Insurance: \$100,000/ each accident, \$500,000/ disease - policy limit, and \$100,000/ disease - each employee.
 - 3) Comprehensive General Liability Insurance: \$1,000,000/ Occurrence; \$1,000,000 general aggregate and \$50,000 any one fire
 - 4) Automobile Liability or Hired & Non-Owned Vehicle Liability Insurance: \$1,000,000/each accident.
 - 5) Professional Liability Insurance: \$1,000,000/ Occurrence.
- a. DRCOG, its officers and employees and the State are to be named as additional insured for both the Contractor's General and Automobile Liability policies under sections Certificate Holder and Description of Operations. In addition, the term of said Agreement and the contract number must be outlined under the Description of Operations. Said insurance will be required to be maintained in full force and effect during the term of the Agreement.
 - b. All coverages shall be continuously maintained from the date of commencement of services hereunder, and in the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured by the Contractor so as to maintain such continuous coverage. The Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types. All insurance policies required hereunder shall include clauses stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against DRCOG, the State, its agencies, institutions, organizations, officers, agents, employees and volunteers.
 - c. The insurance shall include provisions preventing cancellation without 60 days prior notice to DRCOG by certified mail or email notification.
 - d. **The Contractor shall provide certificates showing adequate insurance coverage, as required above to DRCOG with the signed Agreement. No later than 15 days prior to the expiration date of any such coverage, Contractor shall deliver to DRCOG certificates of insurance evidencing renewals thereof. Upon request by DRCOG at any other time during the term of this Agreement, Contractor, shall, within 10 days of such request supply to DRCOG evidence satisfactory to DRCOG or the State of compliance with the provisions of this Section.**

- e. If the Contractor is a “public entity” within the meaning of the Colorado Governmental Immunity Act, CRS 24-10-101, et seq., as amended (“Act”), the Contractor shall at all times during the term of this contract maintain such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Act.

Section 10. Equal Opportunity Employer. Contractor will not discriminate against any employee or applicant for employment because of age 40 and over, race, sex, color, religion, veteran status, national origin, disability, genetic information, sexual orientation or any other status protected by applicable federal, state or local law. Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to age 40 and over, race, sex, color, religion, veteran status, national origin, disability, genetic information, sexual orientation or any other status protected by applicable federal, state or local law. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal government, setting forth the provisions of the Equal Opportunity Laws.

Contractor shall comply with the appropriate areas of the Americans with Disabilities Act of 1990 as enacted and from time to time amended and any other applicable federal, state, or local laws and regulations.

The parties hereby incorporate the requirements of 41 C.F.R. § 60-1.4(a) and 29 C.F.R. § 471, Appendix A to Subpart A, if applicable.

This contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a), if applicable. These regulations prohibit discrimination against qualified protected veterans and qualified individuals with disabilities, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and qualified individuals with disabilities.

Section 11. Assignment. This Agreement shall not be assigned by Contractor without the prior written consent of DRCOG.

Section 12. Rights In Data, Documents, and Computer Software. Any software, research, reports, studies, estimates, data, photographs, negatives or other documents, plans, drawings, memoranda, computation sheets or materials prepared by the Contractor in the performance of its obligations under this contract shall be the exclusive property of DRCOG without restriction and all such materials shall be delivered by the Contractor to DRCOG at no further expense to DRCOG upon completion, termination, or cancellation of this contract. Contractor may, at its own expense, keep copies of all its writings for its personal files. Contractor shall not use, willingly allow, or cause to have such materials used for any purpose other than the performance of Contractor’s obligations under this contract without the prior written consent of DRCOG. The ownership rights described herein shall include, but not be limited to, the right to copy, publish, display, transfer, prepare derivative works, or otherwise use the works.

Section 13. Report. Without limiting the foregoing, Contractor acknowledges that DRCOG is the owner of all final reports produced on behalf of DRCOG as part of this

Agreement, whether produced by Contractor, any subcontractor of Contractor, or any other person or entity for whom Contractor is responsible. This includes all reports, whether they are produced for internal use by DRCOG or external use. All final reports, plans, specifications and other documents completed as a part of this Agreement, other than those exclusively used for internal use by DRCOG, will carry a notation identifying the preparer on the inside back cover of the report, as shown in the attached sample (Appendix A).

Section 14. Notice. Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the party to whom such notice is to be given at the address set forth on the first page of this Agreement, or at such other address as has been previously furnished in writing to the other party or parties. Such notice shall be deemed given two days after deposit in the United States mail.

Section 15. Waiver. A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.

Section 16. Governing Law; Venue. This Agreement shall be governed by the laws of the State of Colorado. Venue for any action relating to this Agreement shall be in the City and County of Denver, Colorado and federal district courts for the State of Colorado. Nothing herein shall preclude the parties from mutually agreeing to submit to arbitration or mediation to resolve a dispute arising hereunder.

Section 17. Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the parties, their respective legal representatives, successors, heirs, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of this Agreement except as otherwise expressly authorized herein.

Section 18. Subcontractors. Contractor may utilize subcontractors to assist with non-specialized works as necessary to complete projects provided that it first submits any proposed subcontractor and the description of their services to DRCOG for approval. DRCOG will not work directly with the subcontractors.

Section 19. Independent Contractor. The Contractor is an independent contractor and not an employee of DRCOG. As an independent contractor, Contractor and its employees are not entitled to workers' compensation benefits except as may be provided by the Contractor nor to unemployment insurance benefits unless unemployment compensation coverage is provided by the Contractor or some other entity. The Contractor is obligated to pay all federal and state income tax on any moneys earned or paid pursuant to this contract relationship. The parties agree that the Contractor is free from the direction and control of DRCOG except such control as may be required by any state or federal statute or regulation, and that DRCOG does not require the Contractor to work exclusively for DRCOG; does not provide tools, training or benefits to the Contractor, and does not dictate the time of performance by the Contractor, except through a completion schedule. Contractor shall not create any indebtedness on behalf of DRCOG.

Section 20. No Third Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to DRCOG and Contractor, and nothing

contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement.

Section 21. Employing Illegal Aliens. **E-Verify** is an Internet-based system that compares information from an employee's Form I-9, Employment Eligibility Verification, to data from U.S. Department of Homeland Security and Social Security Administration records to confirm employment eligibility. **Exhibit C**, the "DRCOG Contractor Services Contract Addendum-Prohibition Against Employing Illegal Aliens", is attached hereto and incorporated herein by reference. **Exhibit D**, Executive Order 12989 requires that federal Contractors agree to verify employment eligibility of their employees using E-verify. It also requires federal Contractors to agree, through language inserted into their federal contracts, to use E-Verify to confirm the employment eligibility of all persons hired during a contract term. In addition, the new rule requires federal Contractors to confirm the employment eligibility of current employees who are "assigned to the federal contract" within the United States.

Section 22. Entire Agreement. This Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties. If any other provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.

Section 23. Debarment, Suspension. By signing this Agreement, the Contractor represents that its organization and its principals are not suspended or debarred per federal requirements.

Section 24. CORA Disclosure. To the extent not prohibited by federal law, this Contract and the performance measures and standards under CRS § 24-103.5-101, if any, are subject to public release through the Colorado Open Records Act, CRS § 24-72-101, et seq., as may updated.

Section 25. Confidential Information – State Records. Contractor shall comply with the provisions of this Section 25 if it becomes privy to confidential information in connection with its performance hereunder. Confidential information, includes, but is not necessarily limited to, any State records, personnel records, and information concerning individuals. Such information shall not include information required to be disclosed pursuant to the Colorado Open Records Act, CRS. §24-72-101 et seq.

- a. **Confidentiality.** Contractor shall keep all State records and information confidential at all times and to comply with all laws and regulations concerning confidentiality of information. Any request or demand by a third party for State records and information in the possession of Contractor shall be immediately forwarded to DRCOG.
- b. **Notification.** Contractor shall notify its agents, employees, subcontractors, and assigns who may come into contact with State records and confidential information that each is subject to the confidentiality requirements set forth herein, and shall provide each with a written explanation of such requirements before they are permitted to access such records and information.

- c. Use, Security, and Retention. Confidential information of any kind shall not be distributed or sold to any third party or used by Contractor or its agents in any way, except as authorized by this Agreement or approved in writing by DRCOG. Contractor shall provide and maintain a secure environment that ensures confidentiality of all State records and other confidential information wherever located. Confidential information shall not be retained in any files or otherwise by Contractor or its agents, except as permitted in this Agreement or approved in writing by DRCOG.
- d. Disclosure-Liability. Disclosure of State records or other confidential information by Contractor for any reason may be cause for legal action by third parties against Contractor, DRCOG, the State or their respective agents. Contractor shall indemnify, save, and hold harmless DRCOG, the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Contractor, or its employees, agents, subcontractors, or assignees pursuant to this Section.

Section 26. Federal Requirements. Contractor shall at all times during the term of this Agreement strictly adhere to, and comply with, all applicable federal and state laws, and their implementing regulations, as they currently exist and may hereafter be amended, which are incorporated herein by this reference as terms and conditions of this Agreement. Contractor shall also require compliance with these statutes and regulations in subcontract agreements associated with this Agreement.

Section 27. Authority. The undersigned signatories of Contractor represent that they have been duly authorized to execute this Agreement and have full power and authority to bind Contractor to the terms and conditions hereof, and certify that their signatures below, whether handwritten, electronic, or digital or submitted by facsimile or electronic mail are their own. Contractor further understands and agrees that no further certification authority or third party verification is necessary to validate any signature hereto and that the lack of such certification or verification will not in any way affect the enforceability of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the _____ day of _____, 20____ and acknowledge that electronic or digital signatures hereto are the legally binding equivalent to handwritten signatures.

**DENVER REGIONAL COUNCIL
OF GOVERNMENTS**

CONTRACTOR

By: _____
Douglas W. Rex, Acting Executive Director

By: _____
Title: _____

ATTEST:

ATTEST:

By: _____
Roxie Ronsen, Administrative Officer

By: _____
Title: _____

Exhibit A

Scope of Services

Exhibit B

Exhibit C

**DRCOG Contractor Services Contract Addendum
Prohibition Against Employing Illegal Aliens**

Prohibition Against Employing Illegal Aliens. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor shall not enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.

Contractor will participate in either the E-verify program or the Department program, as defined in C.R.S. § 8-17.5-101(3.3) and 8-17.5-101(3.7), respectively, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services. Contractor is prohibited from using the E-verify program or the Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed.

If Contractor obtains actual knowledge that a subcontractor performing work under this contract for services knowingly employs or contracts with an illegal alien, Contractor shall:

- a. Notify the subcontractor and DRCOG within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
- b. Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this paragraph the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

Contractor shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. Section 8-17.5-102(5).

If Contractor violates a provision of this Agreement required pursuant to C.R.S. Section 8-17.5-102, DRCOG may terminate the contract for breach of contract. If the contract is so terminated, the Contractor shall be liable for actual and consequential damages to DRCOG.

Pre-Contract Certification in Compliance with C.R.S. Section 8-17.5-102(1)

The undersigned hereby certifies as follows:

That at the time of providing this certification, the undersigned does not knowingly employ or contract with an illegal alien; and that the undersigned will participate in the E-Verify program or the Department program, as defined in C.R.S. § § 8-17.5-101(3.3) and 8-17.5-101(3.7), respectively, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform under the public contract for services.

Contractor:

By _____

Title: _____

Date

EXHIBIT D

E-VERIFY FEDERAL CONTRACTOR RULE EMPLOYMENT ELIGIBILITY VERIFICATION

(a) *Definitions.* As used in this clause—

Commercially available off-the-shelf (COTS) item—

(1) Means any item of supply that is—

- (i) A commercial item (as defined in paragraph (1) of the definition at 2.101);
- (ii) Sold in substantial quantities in the commercial marketplace; and
- (iii) Offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702), such as agricultural products and petroleum products. Per 46 CFR 525.1(c)(2), “bulk cargo” means cargo that is loaded and carried in bulk onboard ship without mark or count, in a loose unpackaged form, having homogenous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count and, therefore, ceases to be bulk cargo.

Employee assigned to the contract means an employee who was hired after November 6, 1986, who is directly performing work, in the United States, under a contract that is required to include the clause prescribed at 22.1803. An employee is not considered to be directly performing work under a contract if the employee—

- (1) Normally performs support work, such as indirect or overhead functions; and
- (2) Does not perform any substantial duties applicable to the contract.

Subcontract means any contract, as defined in 2.101, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. It includes but is not limited to purchase orders, and changes and modifications to purchase orders.

Subcontractor means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime Contractor or another subcontractor.

United States, as defined in 8 U.S.C. 1101(a)(38), means the 50 States, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands.

(b) *Enrollment and verification requirements.*

(1) If the Contractor is not enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall—

(i) *Enroll.* Enroll as a Federal Contractor in the E-Verify program within 30 calendar days of contract award;

(ii) *Verify all new employees.* Within 90 calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); and

(iii) *Verify employees assigned to the contract.* For each employee assigned to the contract, initiate verification within 90 calendar days after date of enrollment or within 30 calendar days of the employee’s assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).

(2) If the Contractor is enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall use E-Verify to initiate verification of employment eligibility of—

(i) *All new employees.*

(A) *Enrolled 90 calendar days or more.* The Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or

(B) *Enrolled less than 90 calendar days.* Within 90 calendar days after enrollment as a Federal Contractor in E-Verify, the Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or

(ii) *Employees assigned to the contract.* For each employee assigned to the contract, the Contractor shall initiate verification within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).

(3) If the Contractor is an institution of higher education (as defined at 20 U.S.C. 1001(a)); a State or local government or the government of a Federally recognized Indian tribe; or a surety performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond, the Contractor may choose to verify only employees assigned to the contract, whether existing employees or new hires. The Contractor shall follow the applicable verification requirements at (b)(1) or (b)(2), respectively, except that any requirement for verification of new employees applies only to new employees assigned to the contract.

(4) *Option to verify employment eligibility of all employees.* The Contractor may elect to verify all existing employees hired after November 6, 1986, rather than just those employees assigned to the contract. The Contractor shall initiate verification for each existing employee working in the United States who was hired after November 6, 1986, within 180 calendar days of—

(i) Enrollment in the E-Verify program; or

(ii) Notification to E-Verify Operations of the Contractor's decision to exercise this option, using the contact information provided in the E-Verify program Memorandum of Understanding (MOU).

(5) The Contractor shall comply, for the period of performance of this contract, with the requirements of the E-Verify program MOU.

(i) The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Contractor's MOU and deny access to the E-Verify system in accordance with the terms of the MOU. In such case, the Contractor will be referred to a suspension or debarment official.

(ii) During the period between termination of the MOU and a decision by the suspension or debarment official whether to suspend or debar, the Contractor is excused from its obligations under paragraph (b) of this clause. If the suspension or debarment official determines not to suspend or debar the Contractor, then the Contractor must reenroll in E-Verify.

(c) *Web site.* Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

(d) *Individuals previously verified.* The Contractor is not required by this clause to perform additional employment verification using E-Verify for any employee—

(1) Whose employment eligibility was previously verified by the Contractor through the E-Verify program;

(2) Who has been granted and holds an active U.S. Government security clearance for access to confidential, secret, or top secret information in accordance with the National Industrial Security Program Operating Manual; or

(3) Who has undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive (HSPD)-12, Policy for a Common Identification Standard for Federal Employees and Contractors.

(e) *Subcontracts*. The Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for identification of the parties), in each subcontract that—

(1) Is for—(i) Commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); or (ii) Construction;

(2) Has a value of more than \$3,000; and

(3) Includes work performed in the United States.

APPENDIX A – DRCOG CONTRACTOR SAMPLE REPORT TEMPLATE

SAMPLE