

A REQUEST FOR PROPOSAL
for
Regional Housing Needs Assessment

March 1, 2024

EAST CENTRAL COUNCIL OF GOVERNMENTS
128 Colorado Ave., Box 28
Stratton, Colorado 80836

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I. INSTRUCTIONS FOR SUBMITTAL OF PROPOSAL

A. Summary

The East Central Council of Governments (ECCOG) hereby issues this Request for (RFP) (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 housing needs assessments and regional housing strategies.

B. Solicitation Schedule

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

Milestone	Details	Date
Distribution	Solicitation will be forwarded to respondents and firms who have indicated an interest in participating in this project.	Mar 1, 2024
Questions and Inquiries	Questions and inquiries should be sent to payne.eccog@gmail.com .	Mar 8, 2024
Question Responses	ECCOG will respond to questions and inquiries via email or phone call to 719-348-5562.	Mar 13, 2024
Submittals Due	Responses to this request must be received no later than 2:00 p.m. Mountain time. Proposals must be submitted via email to payne.eccog@gmail.com .	Mar 20, 2024
Interviews	Interviews, if required, will be held on or before this date. Notification of selection for an interview will be given on or before Mar 22, 2024.	Mar 25, 2024
Recommendation and Authorization	Following review of responses, ECCOG staff to prepare recommendation to proceed to contract with one (or more) of the respondent(s).	Mar 27, 2024
Contract Execution	ECCOG staff to begin contract negotiations with selected respondent(s). ECCOG may contract with one (or more) respondent(s) to complete the entire scope of work. This date is approximate.	Mar 29, 2024

C. General Instructions

1. **Questions** – Questions regarding this solicitation must be submitted by the date listed above. Questions should be submitted electronically to payne.eccog@gmail.com.
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 ECCOG 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 ECCOG upon receipt and will not be returned to the respondent. Selection or rejection will not affect this right. ECCOG 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.
 - e. Identification of whether the prime respondent is certified as a Disadvantage Business Enterprise, or indication as to the Respondent's goals for DBE participation, if any (see Section E.5).
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 E. ECCOG 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 ECCOG 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. ECCOG 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 E). 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 ECCOG and may result in the rejection of the proposal.

Respondents are strongly advised to seek legal counsel prior to preparing this section. ECCOG 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).

ECCOG 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, \$1,000,000/General Aggregate, \$1,000,000/Products and Completed Operations Aggregate, \$50,000.00/Any 1 Fire
- d. Automobile Liability or Hired & Non-Owned Vehicle Liability Insurance: \$1,000,000/each accident.
- e. Professional Liability Insurance: \$1,000,000 per occurrence.

ECCOG, its officers, and employees, and the State of Colorado 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 ECCOG and shall be subject to additional terms and conditions of any contract awarded pursuant to this solicitation.

9. **Disadvantaged Business Enterprise Information** – All Respondents shall complete and return with their response the Disadvantaged Business Enterprise Information Request Form (Attachment C).
10. **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.
11. **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. **Disadvantaged Business Enterprise (DBE) Participation** – It is the policy of ECCOG that equal opportunity to participate in its procurements is provided to disadvantaged business enterprises. The selected respondent(s) shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of contracts.
6. **Other** – Other factors that may be determined by ECCOG 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 ECCOG. ECCOG reserves the right to reject all responses and re-solicit if deemed by ECCOG 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 ECCOG are solely for the fiscal responsibility of ECCOG and confer no rights, duties, or entitlements to any party submitting responses to this solicitation. ECCOG 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 ECCOG 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 ECCOG for any costs incurred prior to full execution of a contract and issuance of written notice by ECCOG 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 ECCOG's interests. Absent ECCOG'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 ECCOG. 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 ECCOG a disclosure statement setting forth the relevant details for ECCOG's consideration. Failure to promptly submit a disclosure statement or to follow ECCOG'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.

Period of Performance – Performance of the contract resulting from this solicitation will commence on or about April 1, 2024. The initial term of the work to be performed will terminate May 31, 2024. ECCOG will have an option to renew for 2 additional one-year terms, upon renewal terms mutually agreed upon by the parties.

II. PROJECT DESCRIPTION

Regional Housing Needs Assessment East Central Council of Governments (ECCOG)

Purpose and Intent

The purpose of this effort is to develop a regional approach to addressing housing needs and leveraging opportunities. It is intended to create broad changes in the housing market while integrating housing, transportation, and economic development strategies. A Regional Housing Needs Assessment will provide guidance to both public and private investment, align resources, and expedite decision-making to increase housing options for residents across the region. It will also compare transportation plans to land use management plans that may affect transportation and housing development while also identifying the location of existing and planned housing, employment, and transportation facilities and services. The Regional Housing Needs Assessment will eventually lead to the future development of a Regional Housing Strategy though this Request for Proposal (RFP) is for the Regional Housing Needs Assessment.

Background

The East Central Council of Governments (ECCOG) was formed in 1973 and a regional planning commission. For over 40 years, ECCOG has been in the long-standing role as a regional planning commission for the rural counties of Elbert, Lincoln, Kit Carson and Cheyenne.

Elected official representatives from each of ECCOG's 13 member governments serve as ECCOG's Board of Directors. Small towns and county commissions serve their communities through the multiple facets of East Central COG, each with an equal voice. This region covers over 8,000 square miles encompassing four rural counties. The region includes 15 municipalities within the four counties. Agriculture is the main economic driver of the resilient-natured residents.

Due to the population growth in Colorado, rural Colorado is experiencing a housing crisis similar to that of the urban areas. Prices of basic homes have risen beyond the typical two-income family wages and is often impossible for a single income family to attain their own home. Finding a suitable home is out of reach for many current residents but urban workers are finding housing more affordable in rural settings, which is putting more pressure on the situation. The available homes may be affordable to one family but are not affordable to another family. Remote work and less congested travel paths have opened rural living to more people with the desire to place children in rural schools while providing a safer, less expensive cost of living.

The development of a Regional Housing Assessment provides the opportunity for local governments, non-profits, industry representatives and other organizations involved in housing preservation and

production across the eastern plains to better understand the scope, scale, and nature of housing needs. An assessment will also be the first step in understanding how best to address housing in the context of existing and planned development across the region. This research and analysis will provide coordinated consideration of housing development patterns so that collectively we can achieve a future where everyone has access to good quality housing, no one is forced to spend more than a third of their income on housing, and housing is placed in areas with access to education, services, and employment. A thorough, up-to-date housing needs assessment will provide the information needed to identify the size of homes, the number of homes and the type of homes needed in our four counties.

Phases of Work

The scope of a Regional Housing Needs Assessment is organized into two phases. Below are descriptions of the two phases outlining the phase objectives, engagement components, deliverables, and timeline. While distinct in their intent, the two phases will blend at points and will overlap in regard to timing. After the description of the two phases, you will see a coordinated timeline for the entire assessment process.

Phase 1: Data Analysis

The data analysis phase creates the foundation for the other phases in the Regional Housing Assessment. Successfully moving forward with a regional approach to housing requires a baseline of information to understand the gaps in the system.

- Phase 1 Objectives:
 - Identify the size and nature of the gaps between current housing needs and housing supply. Housing needs should reflect different housing types and locations suited to, preferred by, or attainable for different demographics, such as age or household size, and economic situations, such as income and access to employment.
 - Project future housing needs and how housing supply gaps may grow. Leverage the ECCOG small-area forecast and Colorado's State Demography Office forecast when possible and document additional assumptions to help with future plan integration by ECCOG.
 - Identify subregional variation in these gaps based on submarket conditions and other demographic, economic or housing type geographic disparities.
 - Explore inequitable outcomes resulting from the housing choices supported in different submarkets, as well as submarket trends affecting displacement and concentrating poverty.
 - Identify key geographies from Northeast CO's Transportation Plan, which includes ECCOG's service area to discover existing and emerging opportunities. Assess the opportunity for additional key geographies across the region that leverage existing and planned transportation infrastructure investment or other key attributes for housing development.
- Engagement Components:
 - Advisory Group meetings – Engage a group of local government staff, non-profit leaders and industry representatives to provide guidance to the development of the Regional Housing Assessment with input from ECCOG staff.
 - Focus Group meetings – ECCOG plans to anchor the analysis process in context from

resident perspectives who have experienced challenges in navigating the complex systems of the region's housing market. These focus groups will help inform the data analysis methods, community outreach material, and outcomes.

- Community Outreach – Develop content to engage community members through newsletters, engagement sites, and standing meetings of local governments and other partners that directs interested participants to engage with data analysis-related materials on ECCOG's web engagement platform to provide additional context for the analysis.
- Key Deliverable:
 - Full Report that addresses the Phase 1 Objectives and presents the findings.
 - Two-page summary document that highlights the key findings of the full report.
 - Presentation materials and speaking notes that allow ECCOG staff to sustain local government and other community or partner engagement.
- Timeline: approximately 2 months

Phase 2: System Barriers Analysis and Strategy Development

A thorough systems analysis should reveal where and what barriers prevent regional housing development. These barriers may include a lack of available land, zoning restrictions, and limited funding. Understanding the barriers to improving access to attainable housing and supporting sustainable development is critical to sufficiently scale and develop future strategies.

Phase 2 Objectives:

- Identify the range of organizations involved in housing production, including local governments, departments of state government, non-profits, housing developers, industry leaders, and others.
- Through organizational engagement, diagnose systematic issues or structural barriers to housing production sufficient to meet the scale and urgency of different housing needs.
- Distinguish between barriers that are due to insufficient resources or capacity and those that are due to adopted policies and existing practices.
- Identify systemic opportunities that will have an impact on housing supply and affordability.
- Assess the system barriers that most impact housing development in the key geographies identified in Phase 1.
- Identify strategies that leverage opportunities to close the gap between regional housing needs and regional housing supply, as well as strategies that address system barriers. Assess the ability of different strategies to address needs based on scale and timeline.
- Engagement Components:
 - Advisory Group – The Advisory Group will continue to be a resource during Phase 2. The group will meet approximately two times during Phase 2.
 - Cross-sector discussions – ECCOG plans to identify key partner organizations who convene stakeholders across the housing continuum and leverage existing convening opportunities to discuss system barriers and opportunities.
 - Key stakeholder interviews – Key stakeholder interviews will provide additional input

into the systems analysis by providing more in-depth conversations with organizations who contribute to housing and infrastructure development across the region.

- Community Outreach – Develop content to engage community members through newsletters, engagement sites, and standing meetings of local governments and other partners that directs interested participants to engage with system analysis and strategy-related materials on ECCOG’s web engagement platform to provide additional context for the analysis.
- Key Deliverable:
 - Full Report that addresses the Phase 2 Objectives and presents the findings.
 - Two-page summary document that highlights the key findings of the full report.
 - Presentation materials and speaking notes that allow ECCOG to communicate the analysis, engage partner organizations and community members, and generate support for additional strategy refinement and implementation planning.
- Timeline: approximately 6 months

Timeline and Deliverables

The development of a Regional Housing Needs Assessment requires diligent analysis and robust engagement in the development of impactful strategies. While good work cannot be rushed, the current housing crisis drives a level of urgency. The following timeline illustrates the interconnected nature of the two phases of work. The following key interim deliverables will allow ECCOG and their member government partners to inform decisions on policy and programs while still in the development stages of a Regional Housing Assessment. ECCOG seeks to take advantage of recent attention on housing-related issues and move quickly. The intent is for a 9-month process with early key deliverables to sustain momentum on the topic. The table below summarizes the timeline for the key deliverables.

Phase	Deadline	Deliverables
Phase 1 Deliverable	May 31, 2024	Housing Needs Analysis Report
Phase 2 Deliverable	July 31, 2024	Preliminary Report on Systems Barriers and Potenal Strategies for addressing those barriers
Phase 2 Deliverable	December 31, 2024	Regional Housing Needs Assessment defining the need and systems barriers, including recommendations for regional strategies.

Engagement Methods

The engagement of partners and residents across the region is critical to the development of a Regional Housing Assessment. Organizing and facilitating meaning opportunities for input and dialogue will be essential in understanding the issues shaping the current state of housing in our region and the opportunities for addressing these issues. The table below begins to outline engagement approaches and articulate roles of a future consultant in these engagement opportunities. The descriptions of Phases 1 and 2 above propose when these approaches may

fit best in the process of developing a Regional Housing Assessment. ECCOG is very interested in hearing from respondents to the RFP on adjustments and additions to engagement opportunities.

Groups	Intended Audience	Convening Model	Future Consultant Role
Advisory Group	Professionals in the areas of housing, transportation, and regional planning	ECCOG convenes	Provides content and facilitation
Cross-sector convenings	Professionals from specific sectors	Partner organization convene or co-convene with ECCOG	Provides content and facilitation
Key Stakeholder Interviews	Key partner organizations who will take on implementation components	Consultant convenes and facilitates	Convenes, provides content, and facilitates
Member government engagement	Member government/or staff who work on regional planning and housing	Consultant convenes and facilitates	Provides content and facilitation
Community engagement	Residents in local government communities and those engaged with specific housing-related partner organizations	Local governments and partner organizations use existing newsletters and websites to direct interested participants toward ECCOG's website	Develops communication strategy, provides content and integrates feedback
Focus groups	People with real experience navigating housing challenges	Consultant convenes and facilitates	Convenes, provides content, and facilitates

ATTACHMENT A
PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO CONTRACTS
WITH THE EAST CENTRAL COUNCIL OF GOVERNMENTS

A. Purpose and Scope

Objective. This policy procedure sets forth principles for determining the allowable costs of contracts with ECCOG 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 ECCOG in determining costs and cost reimbursement type contracts including subcontracts.

B. Definitions

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

Cost allocation plan means the documentation identifying, accumulating, and distributing allowable costs under ECCOG'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 ECCOG as a discharge of the Contractor's accountability for ECCOG'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 ECCOG 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. 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.

E. 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 ECCOG 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 ECCOG for purposes of investigation to ascertain compliance with the nondiscrimination provisions of any resultant contract.

Noncompliance - In the event of the selected respondent(s) noncompliance with the nondiscrimination provision of any resultant contract, ECCOG 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
EAST CENTRAL COUNCIL OF GOVERNMENTS DISADVANTAGED BUSINESS
ENTERPRISE PROGRAM INFORMATION REQUEST FORM

General Information

Business Name: _____

Business Address: _____

Phone: _____ Fax: _____

E-mail: _____

This firm was established
on: _____

MM/DD/YYYY

Specify the gross annual receipts of the firm:

<input type="checkbox"/>	Under \$100,000
<input type="checkbox"/>	\$100,000-\$500,000
<input type="checkbox"/>	\$500,000-\$1,000,000
<input type="checkbox"/>	Over \$1,000,000

Is your company certified as a Disadvantaged Business Enterprise
under the Colorado Unified Certification Program (UCP)?

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

RESPONDENT

TITLE

DATE

ATTACHMENT 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

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 E
SAMPLE CONTRACT

**CONTRACTOR SERVICES AGREEMENT
BY AND BETWEEN THE**

EAST CENTRAL COUNCIL OF GOVERNMENTS

128 Colorado Ave., Box 28
Stratton, Colorado 80836
("ECCOG")

and

CONTRACTOR

Address
City, State, Zip
("CONTRACTOR")

Project Number:

Contract Number

This Agreement ("Agreement") is made by and between the East Central Council of Governments ("ECCOG") and ("Contractor").

RECITALS:

- A. ECCOG 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. In its sole discretion, ECCOG 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.

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, ECCOG 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 ECCOG, become its property, and subject to ECCOG'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 ECCOG. Notwithstanding the above, the Contractor shall not be relieved of liability to ECCOG for any damages sustained by ECCOG by virtue of any breach of the Agreement by the Contractor, and ECCOG may withhold all payments to the Contractor for the purpose of setoff for damages due ECCOG.

- b. Termination for Convenience of ECCOG. ECCOG 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 ECCOG, become its property. If the Agreement is terminated by ECCOG 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 ECCOG 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 ECCOG. In the event that such funds or any part thereof are not received by ECCOG, ECCOG 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 ECCOG's Fiscal Officer 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. ECCOG agrees to pay Contractor each month into the bank account designated by Contractor via Electronic Funds Transfer (EFT) upon approval of invoices during regularly scheduled payment cycles.

Section 4. Allowable Costs. Contractor shall only be reimbursed for costs incurred for the performance of this Agreement which are determined by ECCOG 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 ECCOG.

- c. Air travel must be pre-approved by ECCOG. 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 ECCOG. Budget line item adjustments exceeding 10% must be submitted in advance of actual expenditure and receive written approval by ECCOG's Executive Director, or other representative as ECCOG 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 ECCOG'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 ECCOG; (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. ECCOG 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 ECCOG 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 ECCOG 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 ECCOG.

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 coverage 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, \$1,000,000/Products and Completed Operations Aggregate, \$50,000.00/Any 1 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. ECCOG, its officers and employees, and the State of Colorado 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 ECCOG, its agencies, institutions, organizations, officers, agents, employees and volunteers.
 - c. The insurance shall include provisions preventing cancellation without 30 days prior notice to ECCOG by certified mail or email notification.
 - d. **The Contractor shall provide certificates showing adequate insurance coverage, as required above to ECCOG with the signed Agreement. No later than 15 days prior to the expiration date of any such coverage, Contractor shall deliver to ECCOG certificates of insurance evidencing renewals thereof. Upon request by ECCOG at any other time during the term of this Agreement, Contractor, shall, within 10 days of such request supply to ECCOG evidence satisfactory to ECCOG 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 24-72-200.1, 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 ECCOG.

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 ECCOG without restriction and all such materials shall be delivered by the Contractor to ECCOG at no further expense to ECCOG 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 ECCOG. 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 ECCOG is the owner of all final reports produced on behalf of ECCOG 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 ECCOG 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 ECCOG, 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. The 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 ECCOG for approval. ECCOG will not work directly with the subcontractors.

Section 19. Independent Contractor. The Contractor is an independent contractor and not an employee of ECCOG. 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 monies earned or paid pursuant to this contract relationship. The parties agree that the Contractor is free from the direction and control of ECCOG except such control as may be required by any state or federal statute or regulation, and that ECCOG does not require the Contractor to work exclusively for ECCOG; 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. The Contractor shall not create any indebtedness on behalf of ECCOG.

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 ECCOG 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. E-Verify Employment Eligibility. Exhibit C, 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 § 24-72-200.1, et seq., as may be 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. §24-72-200.1 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 ECCOG.
- 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 ECCOG. 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 ECCOG.
- 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, ECCOG, the State or their respective agents. Contractor shall indemnify, save, and hold harmless ECCOG, 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 _____, 2024 and acknowledge that electronic or digital signatures hereto are the legally binding equivalent to handwritten signatures.

**EAST CENTRAL COUNCIL
OF GOVERNMENTS**

CONTRACTOR

By: _____
Candace M. Payne, Executive Director
ECCOG

By: _____
Title: _____

ATTEST:

ATTEST:

By: _____
Paulette Thompson, Fiscal Officer
ECCOG

By: _____
Title: _____

Exhibit A
Scope of Services

SAMPLE

Exhibit B

SAMPLE

Exhibit 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

(2) Does not include bulk cargo, as defined in 46 U.S.C. 140102(4)), 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 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), 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, the Commonwealth of the Northern Mariana Islands 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 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), 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 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), 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 \$3,500; and

(3) Includes work performed in the United States.

SAMPLE