



**Item #05-11-10
Consent**

Board of Directors

November 10, 2005

Request for Proposals for State Legislative Advocacy Services

Issue: To issue a Request for Proposal for State Legislative Advocacy Services.

Recommendation: Administration Committee recommends that the Board of Directors authorize the release of a Request for Proposal for State Legislative Advocacy Services.

Committee Action/Discussion: On October 26, 2005, Will Gonzalez, our state legislative advocate, informed us that he will be taking a year's leave of absence for personal reasons effective January 1, 2006. Staff feels we need continuous state legislative analyst services and should issue a request for proposal for those services.

Attached is the request for proposal, which is an updated version of the December 2001 draft RFP that was submitted to the Administration Committee.

Approved by:

Mike McKeever
Executive Director

MM:KH:gg
Attachment

Key Staff: Karen Wilcox, Director of Finance, (916) 340-6210

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REQUEST FOR PROPOSALS

STATE LEGISLATIVE LOBBYING SERVICES

**Not to Exceed \$66,000 for the First Year
Negotiable for Subsequent Year(s)**

NOVEMBER 21, 2005



**SACRAMENTO AREA COUNCIL OF GOVERNMENTS
1415 L STREET, SUITE 300
SACRAMENTO, CALIFORNIA 95814
(916) 321-9000**

SACRAMENTO AREA COUNCIL OF GOVERNMENTS

REQUEST FOR PROPOSALS

STATE LEGISLATIVE LOBBYING SERVICES

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I. INTRODUCTION

The Sacramento Area Council of Governments (SACOG) is a voluntary association of governments. Member jurisdictions include: County of Sacramento, County of El Dorado, County of Placer, County of Sutter, County of Yolo, County of Yuba, Cities of Auburn, Citrus Heights, Colfax, Davis, Elk Grove, Folsom, Galt, Isleton, Lincoln, Live Oak, Marysville, Placerville, Rancho Cordova, Rocklin, Roseville, Sacramento, West Sacramento, Wheatland, Winters, Woodland, Yuba City, and the Town of Loomis.

SACOG is the federally designated Metropolitan Planning Organization (MPO) for the Sacramento, Davis and Marysville/Yuba City urbanized areas. SACOG is also the state designated Regional Transportation Planning Agency (RTPA) for the counties of Sacramento, Yolo, Sutter and Yuba.

II. BACKGROUND

SACOG is seeking a highly-qualified representative (“Legislative Representative”) to plan, develop, coordinate, and implement the services described in Section IV of this RFP. The general descriptions listed in the Scope of Work/Services are not all-inclusive, but are intended to be suggestion of the minimum areas to be covered in the respondent’s submittal.

Since 1999, SACOG has contracted with outside firms to ensure that, as a regional agency, SACOG maintains a high level of effective advocacy resources before the Governor’s Office, the State Senate and Assembly, and State agencies. SACOG operates through an Executive Director under the policy direction of a 31-member Board of Directors made up of city and county elected officials. SACOG is committed to maintaining and increasing the effectiveness of its legislative program, to further the legislative and policy objectives of SACOG.

III. PROJECT SUMMARY AND DESCRIPTION

The contract for the State Legislative lobbyist will be an agreement between SACOG and the consultant. SACOG will provide contract administration services. The consultant will invoice SACOG for services rendered and SACOG will compensate the consultant for these services as set forth in the agreement. Funding for the consultant services will be provided by SACOG in an amount not to exceed \$66,000 for year one. This contract may be extended to future years, and the fee would be negotiable. The SACOG Board of Directors will award the contract and project deliverables will be reviewed by the SACOG Project Manager.

IV. SCOPE OF WORK/SERVICES

The scope of work is described below. The selected consultant or consulting team will be expected to perform all technical and other analyses necessary to complete the scope of work. The consultant will receive general direction from the SACOG Board of Directors and be administratively responsible to the Executive Director and the Manager of Communications. The Legislative Representative shall report in writing to SACOG, at least semi-annually, on the

nature and extent of services provided, and to the Executive Director and Manager of Communications as requested.

Tasks and services will include the following:

Tasks:

1. Represent SACOG in interactions with the Governor's Office, legislative representatives and staff persons, State agencies, boards, commissions, and legislative bodies.
2. Research and provide written and oral information to SACOG, as specified by SACOG's Executive Director or other Directors, on matters which include, but are not limited to:
 - (a) Existing and proposed State laws and regulations that affect SACOG's interests;
 - (b) Reports on and testimony from legislative hearings;
 - (c) The development and progress of State issues affecting SACOG interests;
 - (d) State agency and department regulations, guidelines, directives, and other instruments of administrative policy;
 - (e) Grants and other funding opportunities for proposed SACOG projects; and
 - (f) Technical reports and memoranda affecting SACOG operations and fiscal conditions.
3. Develop strategies to successfully implement SACOG's legislative program and to acquire funding for SACOG projects.

Services:

The services required of the Legislative Representative shall be personally provided by the principals of the Legislative Representative identified in the contract between the Legislative Representative and SACOG, except for assistance provided by the Legislative Representative's office staff to assist the Legislative Representative's performance.

Any reports, information, data, statistics, procedures, studies, or other form of communication or information provided by the Legislative Representative shall be the exclusive property of SACOG.

The Legislative Representative shall provide all equipment and personnel needed to fulfill the requirements for representing SACOG. Minimum personnel shall include, in addition to the principals of the Legislative Representative, one secretary or other administrative employee capable of meeting the Legislative Representative's secretarial requirements. All costs for the Legislative Representative's staff shall be paid by the Legislative Representative.

V. CONTRACT DELIVERABLES

Report in writing to SACOG, at least semi-annually, on the nature and extent of services provided, and to the Executive Director and Manager of Communications as requested.

VI. CONTACT PERSONS

For purposes of this Request for Proposal, the contact person shall be:

Karen L. Wilcox
Director of Finance
Sacramento Area Council of Governments
1415 L Street, Suite 300
Sacramento, CA 95815
kwilcox@sacog.org

All questions regarding this RFP shall be presented in writing or by electronic mail to Ms. Wilcox.

For ongoing purposes after award of the contract the Project Manager is:

Rebecca Thornton-Sloan
Manager of Communications
Sacramento Area Council of Governments
1415 L Street, Suite 300
Sacramento, CA 95814
rsloan@sacog.org

Revisions to the Request for Proposal

SACOG reserves the right to revise any section of the RFP prior to the due date, and further reserves the right to extend the due date or any other date on the project timetable below. Revisions of the RFP will be mailed to all RFP holders of record.

VII. PROJECT TIMETABLE

November 18, 2005	Issue Request for Proposals
November 30, 2005	Closing date for receipt of proposals
December 2, 2005	Finalists contacted to schedule interviews
December 6, 2005	Conduct interviews; recommend consultant
December 15, 2005	Contract award, execute contract
January 1, 2006	Start of Project/Begin Work

Proposals must be received by SACOG no later than 4:30 PM PST on November 30, 2005. If mail delivery is used, the Proposer should mail the proposal early enough to provide for arrival by this deadline. Proposer uses mail or courier service at their own risk. SACOG will not be liable or responsible for any late delivery of proposals.

The Proposer shall submit one (1) executed original, clearly marked as original, and seven (7) copies of its response to this RFP. The proposal shall clearly identify the Proposer's legal name and address; the legal form of the Proposer (e.g. partnership, corporation, joint venture, sole proprietorship). If a joint venture, identify the members of the joint venture and provide all the information required under this section for each member, and attach a copy of the joint venture agreement. If the Proposer is a wholly-owned subsidiary of a "parent company," please identify the "parent company".

The Respondent shall submit the firm name, telephone number, and contact person for at least three (3) references.

By submitting a proposal, the Proposer certifies that his/her name or the consultant firm's name, as well as the name of the Proposer's subcontractors, do not appear on the Comptroller General's list of ineligible contractors for federally assisted projects.

Until award of the contract, the proposals shall be held in confidence and shall not be available for public review. Upon award of a contract to the successful Proposer, all proposals shall be public records. Any respondent may withdraw his/her response either in person or by written request, sent by mail or facsimile, at any time prior to the scheduled closing time for receipt of submittal. No proposal shall be returned after the date and time set for opening thereof.

A. Selection Process

1. Selection Panel

A selection panel will be established and will include SACOG's Executive Director and his designees.

2. Selection Process

After the passage of the deadline for receipt of Responses, the Panel will review the qualifications considering the scope of work and the Evaluation Criteria. The Panel may decide to interview a "short list" of a minimum of three (3) firms. After such interviews, the Panel will issue a recommendation to the SACOG Board of Directors. The SACOG Board of Directors shall have final authority for the selection. It is anticipated that a firm will be selected through this process by not later than January 19, 2006.

VIII. GENERAL CONDITIONS

A. Limitations

This request for proposal (RFP) does not commit SACOG to award a contract, to pay any costs incurred in the preparation of proposals in response to this request, or to procure or contract for services or supplies. SACOG expressly reserves the right to reject any and all proposals or to waive any irregularity or informality in any proposal or in the RFP procedure and to be the sole judge of the responsibility of any Proposer and of the suitability of the materials and/or services to be rendered. SACOG reserves the right to withdraw this RFP at any time without prior notice. Further SACOG reserves the right to modify the RFP schedule described above.

B. Award

SACOG may ask RFP finalists to present oral briefings of their proposals. All finalists may be required to participate in negotiations and submit such price, technical, or other revisions of their proposals as may result from negotiations. SACOG also reserves the right to award the contract without oral briefings or discussion, based upon the initial written proposals. Accordingly, each initial proposal should be submitted on the most favorable terms from a price and a technical viewpoint.

C. Qualifications

The Proposer and all personnel assigned to this contract shall submit verification, if required by applicable State or federal laws, that it is a registered lobbyist and meet the applicable industry standards. A resume` or curriculum vitae for each person assigned to the project shall be included. Indicate the roles and responsibilities for each person and all sub-consultants. The Proposer shall ensure that, to the extent within his control, the personnel approved with this contract shall remain on the project for the full term of the assigned task. In the event that key lobbyist personnel handling SACOG's account leave the Proposer's firm, SACOG reserves the right, at its sole discretion, to terminate the contract within thirty (30) days notice and award to the firm that might be the subsequent employer of that lobbyist or key personnel.

C. RFP Addendum

Any changes to the RFP requirements will be made by written addenda issued by SACOG and shall be considered part of the RFP. Upon issuance, such addenda shall be incorporated in the agreement documents, and shall prevail over inconsistent provisions of earlier issued documentation.

D. Verbal Agreement or Conversation

No prior, current, or post award verbal conversations or agreement(s) with any officer, agent, or employee of SACOG shall affect or modify any terms or obligations of the RFP, or any contract resulting from this RFP.

E. Precontractual Expense

Precontractual expenses include any expenses incurred by Proposers and selected contractor in:

1. Preparing proposals in response to this RFP
2. Submitting proposals to SACOG
3. Negotiations with SACOG on any matter related to proposals.
4. Other expenses incurred by a contractor or Proposer prior to the date of award of any agreement.

In any event, SACOG shall not be liable for any precontractual expenses incurred by any Proposer or selected contractor. Proposers shall not include any such expenses as part of the price proposed in response to this RFP. SACOG shall be held harmless and free from any and all liability, claims, or expenses whatsoever incurred by, or on behalf of, any person or organization responding to this RFP.

F. Signature

The proposal will also provide the following information: name, title, address and telephone number of individual with authority to bind the firm and also who may be contacted during the period of proposal evaluation. The proposal shall be signed by an official authorized to bind the consultant or consulting firm and shall contain a statement to the effect that the proposal is a firm offer for at least a sixty (60) day period. Execution of the contract is expected by no later than January 19, 2006.

G. Contract Arrangements

The successful consultant is expected to execute a contract similar to SACOG's Standard Agreement, a sample of which is attached as Part A. The most important provisions of the Standard Agreement are found in Part A. While \$1 million per occurrence in commercial general liability coverage is required, under special circumstances SACOG may consider a lesser amount of insurance coverage, but not an amount less than \$500,000 per occurrence.

1. Disadvantaged Business Enterprise (DBE) Policy: It is the policy of the U.S. Department of Transportation that minority- and women-owned business enterprises (hereby referred to as DBEs) as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds.
2. DBE Obligation: The recipient or its subcontractor agrees to ensure that DBEs have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all recipients or subcontractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that DBEs have the

maximum opportunity to compete for and perform contracts. Recipients and their subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

3. Title VI of the Civil Rights Act of 1964: The contractor agrees to comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (49 USC 2000d) and the regulations of the U.S. Department of Transportation issued thereunder in 49 CFR Part 21.
4. Equal Employment Opportunity: In connection with the performance of the contract, the contractor shall not discriminate against any employee or applicant for employment because of race, color, age, creed, sex or national original. 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.

Each proposal, to be considered responsive, must include the following:

1. A copy of the consultant's affirmative action policy (applicable for firms with 50 or more employees)
2. Discussion of the consultant's program for use of DBEs in the performance of this work, including the following:
 - The names and addresses of DBE firms that will participate
 - The description of the work each named firm will perform
 - The dollar amount of participation by each DBE firm

H. Conflict of Interest

The Legislative Representative shall have no interest in other projects or independent contracts that conflict in any manner with the interests of SACOG. The Legislative Representative shall notify SACOG of any existing contracts or proposed new contracts which may conflict with SACOG's interests. The Legislative Representative, and each principal thereof, will file with SACOG an annual Conflict of Interest statement listing all of its lobbying contracts. Firms submitting proposals in response to this RFP must disclose to SACOG any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided under Agreement for consultant services to be awarded pursuant to this RFP.

If this firm has no conflict of interest, a statement to that effect shall be included in the proposal.

IX. PROPOSAL CONTENT AND ORGANIZATION

Proposals should be limited to specific discussion of the elements outlined in this RFP. The intent of this RFP is to encourage responses which meet the stated requirements, and which propose the best methods to accomplish the work within the stated budget.

The organization of the proposal should follow the general outline below. Each proposal should consist of a technical proposal (items 1-7 below) and a cost proposal (item 8).

1. Transmittal Letter

The transmittal letter should include the name, title, address, phone number, and original signature of an individual with authority to negotiate on behalf of and to contractually bind the consultant or consulting firm, and who may be contacted during the period of proposal evaluation. Only one transmittal letter need be prepared to accompany all copies of the technical and cost proposals.

2. Table of Contents

A listing of the major sections in the proposal and the associated page numbers.

3. Introduction

In this section, the Proposer should demonstrate an adequate understanding of the role and relationships of SACOG. A description of the Proposer's experience providing legislative services as described in this package shall be included. Experience in providing legislative services to similar regional agencies, municipalities, agencies, and other governmental or non-governmental agencies should be identified. The description should, among other things, demonstrate the Proposer's familiarity with State issues that affect SACOG.

4. Technical Approach

This should include:

- a. a summary of the proposed approach
- b. an explanation of the consultant's intended role as related to the role of SACOG
- c. a thorough explanation of the consultant's proposed course of action. References should be made to RFP requirements and the consultant's plans for meeting those requirements. If the consultant proposes major changes to the RFP approach, those changes should be specified clearly.

Describe the format for providing the required reports as identified in Section V, and attach a sample format if available.

5. Project Management

Describe the Respondent's management approach to the work, with discussion of all locations where the work will be done, the responsibilities for coordination of the work with the Agency, and the lines of communication necessary to maintain the required contacts.

6. Consultant and Subcontractor Staff

The proposal must describe the qualifications and experience of each professional who will participate in the project, including a resume for each member of the project team. A project manager must be designated, and an organizational chart showing the manager and all project staff must be included. A matrix must be presented indicating the effort, either in percentage of the total project or in person-hours, which will be contributed by each professional, during each phase or task making up the project. If a subcontractor will be used, the Proposer must include a letter from the subcontractor committing to perform at least the work shown for subcontractor professional in the above-described matrix.

7. Consultant Qualifications and References

The proposal must describe the nature and outcome of projects previously conducted by the consultant which are related to the work described within the RFP. Descriptions should include client contact names, address, phone numbers, descriptions of the type of work performed, approximate dates on which the work was completed, and professional staff who performed the work. If a subcontractor is proposed, two to three similar qualifications and references should be provided for the subcontractor. Up to two samples of the consultant's work on closely related projects can also be included with the proposal, if available.

8. Cost Proposal

The cost proposal shall describe both the total and the detailed price for which the consultant will commit to complete the total scope of work and end products. The cost proposal detail shall describe estimated costs (only the total amount is a binding offer) for each professional's time. The contract price should be reflected in a monthly, fixed rate, inclusive of all fees and costs of operations, including but not limited to: office rent, telephone, facsimile, postage, photocopying, secretarial overtime, travel, and any other expenses incurred in the course of representing SACOG. Work performed by a sub-consultant shall also be compensated from this monthly amount. Maximum funds available for the first year of the contract are \$66,000. However, the contract may, at SACOG's discretion, be extended annually thereafter. Future years will be a negotiated price. Proposal should state annual contract amounts for years one through three.

9. Sub-Consultant Commitment Letters

The Respondent shall submit letters from all proposed sub-consultants, memorializing the sub-consultant's commitment to the proposed scope of work, the percent of the work, and the compensation to be allocated to the sub-consultant.

X. PROPOSAL EVALUATION AND SELECTION

A proposal review panel made up of members of the Selection Panel will evaluate the proposals. Proposers may be telephoned and asked for further information, if necessary, and may be expected to appear for oral interviews. Previous clients may also be called. The panel will make recommendations to the SACOG Executive Director on the basis of the proposal, any oral interviews, and reference check. SACOG reserves the right to select a consultant based solely on written proposals and not convene oral interviews.

Upon receipt of the proposals, a technical evaluation will be performed. Each of the major sections of the proposal will be reviewed and evaluated with criteria designed to help judge the quality of the proposal. Evaluation criteria will include such considerations as:

- Understanding of the background and requirements of the project.
- The overall and technical approaches to be followed and the tasks to be performed, including detailed steps and resources required and proposed project schedule.
- The relative allocation of resources, in terms of quality and quantity, to key tasks including the time and skills of personnel assigned to the tasks and consultant's approach to managing resources and project output.
- Cost analysis and justification.
- Education and experience of proposed personnel

In addition, conformance with SACOG and DBE/WBE goals; and the participation of qualified disadvantaged and minority-owned firms in this project is strongly encouraged.

XI. PAYMENT SCHEDULE

The consultant will be paid based on work actually performed during the preceding month. The consultant should forward a copy of invoices for payment for work performed and by the 15th day of the following month.

PART A

SAMPLE

**AGREEMENT BETWEEN
THE SACRAMENTO AREA COUNCIL OF GOVERNMENTS
(HEREINAFTER DESIGNATED AS "SACOG")
AND**

(HEREINAFTER DESIGNATED AS "CONSULTANT")

- 1. CHANGES:** The parties, from time to time, may change the scope of the services of CONSULTANT to be performed hereunder. Such changes, including any increase or decrease in the amount of CONSULTANT's compensation, which are mutually agreed upon by and between SACOG and CONSULTANT, shall be incorporated in written amendments to this Agreement.
- 2. TERMINATION OF AGREEMENT FOR CAUSE:** If CONSULTANT shall fail to fulfill its obligations under this Agreement, without reasonable cause, in a timely and proper manner, or if CONSULTANT shall violate any of the covenants, agreements, or stipulations of this Agreement, SACOG shall provide written notice to the CONSULTANT identifying the deficiency. The CONSULTANT shall have 20 days to correct the deficiency and to provide written explanation to SACOG of the corrective action taken. Should satisfactory resolution not be reached, SACOG shall thereupon have the right to terminate this Agreement by giving written notice to CONSULTANT of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by CONSULTANT with the funds provided shall, at the option of SACOG, become SACOG's property, and CONSULTANT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials through the date of termination.

Notwithstanding the above, CONSULTANT shall not be relieved of liability to SACOG for damage sustained by SACOG by virtue of any breach of the Agreement by CONSULTANT. In no event shall liability for damages exceed the amount of the agreement.

- 3. TERMINATION FOR CONVENIENCE OF SACOG:** SACOG may terminate this agreement at any time by giving written notice to CONSULTANT of such termination and specifying the effective date thereof, at least fifteen (15) days before the effective date of such termination. In that event, all finished or unfinished documents and other materials as described in Paragraph 2 hereof shall, at the option of SACOG, become SACOG's property. If the Agreement is terminated by SACOG, as provided herein, CONSULTANT will be paid an amount which bears the same ratio to the total compensation as the services actually

performed bear to the total services of CONSULTANT covered by this Agreement, less payments of compensation previously made. However, if less than 60 percent of the services covered by this Agreement have been performed upon the effective date of such termination, CONSULTANT shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expenses (not otherwise reimbursed under this Agreement) incurred by CONSULTANT during the Agreement period which are directly attributable to the uncompleted portion of the services covered by this Agreement. If this Agreement is terminated due to the fault of CONSULTANT, Paragraph 2, Part A hereof relative to termination shall apply.

4. LEGAL RELATIONSHIP:

1. It is understood and agreed that SACOG is an independent entity and that no relationship of employer-employee exists between the parties hereto.
2. It is further understood and agreed by the parties hereto that CONSULTANT, in the performance of its obligations hereunder, is subject to the control or direction of SACOG only as set forth herein and that SACOG shall not exercise direction and control over operating procedures and methodology.

5. HATCH ACT: The CONSULTANT will comply with the provisions of the Hatch Act which limit the political activity of employees.

6. AMERICANS WITH DISABILITIES ACT (ADA): CONSULTANT will comply with the provisions of the Americans with Disabilities Act (ADA) which:

1. Prohibits discrimination against the disabled in hiring and employment;
2. Prohibits discrimination in public transportation and requires public transit systems to provide the same level of public transportation service to individuals with disabilities as to those without disabilities using the same system;
3. Prohibits discrimination against the disabled in public accommodations and in commercial facilities; and
4. Requires interstate and intrastate telecommunication systems to provide telecommunication relay services for individuals with hearing or speech impairments.

7. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS: CONSULTANT understands that it is not to be in violation of any of the following provisions:

1. Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.

2. Has not, within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
 3. Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph B.
 4. Has not, within a three year period preceding this Agreement, had one or more public transactions (federal, state or local) terminated for cause or default.
8. **POLITICAL REFORM ACT REQUIREMENTS:** CONSULTANT agrees that, because of the work to be performed pursuant to this Agreement, its officers, members or employees may be considered "consultants" as defined in the Political Reform Act (Govt. Code § 81000 *et seq.*) (the "Act") and its implementing regulations (2 Cal. Code Regs. § 18110 *et seq.*) (the "Regulations"). CONSULTANT agrees that any of its officers, members or employees who are deemed to be consultants by the Executive Director of SACOG, as provided in the Conflict of Interest Code for SACOG, shall file economic disclosure statements. The extent of the economic disclosure required shall be the broadest disclosure category in the Conflict of Interest Code for SACOG, provided, however, that the Executive Director of SACOG may determine, based upon the scope of work to be performed by CONSULTANT under this Agreement, that more limited disclosure requirements apply. The economic disclosure statements shall be filed at the times and in the place specified by the Conflict of Interest Code for SACOG.
9. **FUNDING REQUIREMENTS:**
1. It is mutually understood between the parties that this Agreement may have been executed before ascertaining the availability of Congressional or Legislative appropriation of funds, for the mutual benefit of both parties in order to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made.
 2. This Agreement is valid and enforceable only if sufficient funds are obligated and made available to SACOG for the purpose of this program. In addition, this Agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress or the State Legislature that may affect the provisions, terms, or funding of this Agreement in any manner.
 3. It is mutually agreed that if sufficient funds are not appropriated for this program, this Agreement shall be amended to reflect any reduction in funds.

10. INDEMNIFICATION AND INSURANCE:

1. CONSULTANT agrees to indemnify, defend and save harmless SACOG, its officers, agents and employees from and against any and all claims, demands, damages or losses accruing, arising or resulting from CONSULTANT's negligence with respect to CONSULTANT's work performance pursuant to this Agreement and/or the work performed by any and all contractors, subcontractors, laborers and any other person, firm or corporation furnishing or supplying work services, materials or supplies in connection with its negligent performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by CONSULTANT in the performance of this Agreement, except claims or losses accruing as a result of the sole negligence or willful misconduct of SACOG.
2. That, as an independent entity, CONSULTANT hereby holds SACOG harmless from any and all claims that may be made against SACOG based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.
3. CONSULTANT, during the term of this Agreement, shall maintain in effect Worker's Compensation Insurance and employer liability coverage in the limits required by State law and no less than One Million Dollars (\$1,000,000) per claim and in the aggregate in comprehensive general liability insurance, or provide SACOG with adequate evidence of self insurance. CONSULTANT shall, upon execution of any agreement, provide SACOG with proof of required insurance, and shall name SACOG as an additional insured on all relevant insurance policies.
4. CONSULTANT shall not, during the term of this Agreement, cancel, or non-renew these insurance requirements until after forty-five (45) days advance written notice to SACOG.

11. ACCESS TO RECORDS AND AUDIT:

1. CONSULTANT shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred, and make such materials available at their respective offices at all reasonable times during the contract period and for five years from the date of final payment to CONSULTANT. CONSULTANT shall, in no event, dispose of, destroy, alter, or mutilate said books, documents, papers, accounting records or other evidence pertaining to costs incurred in any manner whatsoever, for a minimum of five years following the date of final payment. Such materials shall be available for inspection by authorized representatives of SACOG, or copies thereof shall be furnished if requested.
2. CONSULTANT shall permit SACOG to have access to all such relevant data for the purpose of making an annual fiscal and compliance audit of all funds received as part

of this Agreement. Such audit shall be conducted, either separately or in conjunction with other required audits, in accordance with generally accepted governmental auditing standards by an independent CONSULTANT (such as a County Auditor, State Controller, a Certified Public Accountant, etc.). Audit requirements are on the basis of OMB Circular A-133.

3. CONSULTANT shall permit SACOG and State and Federal auditors to have access to all such relevant data for the purpose of making an audit, excerpt, and transcription, for a minimum of five years following the date of final payment.
4. CONSULTANT understands that the purpose of such audit is to establish that all examined costs have been legitimately incurred in conjunction with the work hereunder. Such audit may disallow certain costs, in which case CONSULTANT will be required to make refund payments.

12. PERSONNEL:

1. CONSULTANT represents that it has, or will secure at its own expense, all personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with SACOG.
2. All of the services required hereunder will be performed by CONSULTANT or under its supervision, and all personnel engaged in the work shall be authorized under State and local law to perform such services.
3. CONSULTANT shall not be entitled to any benefits available to employees of SACOG.
4. SACOG is not required to make any deductions from compensation payable to CONSULTANT under the provisions of this Agreement.
5. If, in the performance of this Agreement, any third persons are employed as employees of CONSULTANT, such persons shall be employed by and shall be entirely and exclusively under direction, supervision, and control of CONSULTANT. All terms of employment of said persons, including hours, wages, working conditions, discipline, hiring and discharging, or any other terms of employment or requirements of law, shall be made by CONSULTANT. SACOG shall have no right or authority over said persons or the terms of such employment.
6. CONSULTANT, as an independent employer, shall be liable and hereby expressly assumes and accepts exclusive liability as an employer under the Federal Insurance Contributions Act, the Federal Unemployment Tax Act, Federal Social Security Acts, the Unemployment Compensation or other taxes or penalties arising or levied by reason of the employment of such persons employed by it. SACOG shall not be liable for any Worker's Compensation or other benefits accruing under any Federal or State

Law or acts to any persons employed by CONSULTANT under this Agreement. Such liability, if any, shall be exclusively that of CONSULTANT.

13. **CONVICT LABOR:** In connection with the performance of work under this Agreement, CONSULTANT agrees not to employ any person undergoing sentence of imprisonment.
14. **SPECIFICATIONS:**
 1. All specifications, manuals, standards, etc., either attached to this Agreement or incorporated by reference, are deemed to be the issue in effect as of the date of this Agreement and are binding as to the performance of the work specified in this Agreement unless they are changed by written amendment of the Agreement modified in writing to incorporate such changes.
 2. All tasks hereunder are to be performed on a "best effort" basis with the full completion of all tasks as the goal which CONSULTANT shall seek, with all due diligence, to attain.
15. **RIGHTS:** CONSULTANT agrees, and does hereby grant, to the SACOG a royalty-free, non-exclusive and irrevocable license throughout the world for government purposes to publish, translate, reproduce, and otherwise use and dispose of, and to authorize others to do so, all data, including reports, patents, copyrights, drawings, blueprints and technical information resulting from the performance of the work under this Agreement. CONSULTANT will not include copyrighted matter in the material furnished under this agreement without written permission from the copyright owner.
16. **ASSIGNABILITY:** CONSULTANT shall not assign any interest in this Agreement, and shall not transfer any interest in the same without the prior written consent of SACOG thereto; provided, however, that claims for money due or to become due CONSULTANT from SACOG under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to SACOG.
17. **INTEREST OF CONSULTANT:** CONSULTANT covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONSULTANT further covenants that in the performance of this Agreement no person having any such interest shall be employed.
18. **BONUS OR COMMISSION:** CONSULTANT shall not pay any bonus or commission for the purpose of obtaining this Agreement.
19. **RIGHT TO REUSE CONSULTANT-PREPARED MATERIALS:** If, under the provisions of this Agreement, CONSULTANT develops any products or materials, CONSULTANT agrees that such products or materials shall be the property of SACOG and

may be used as SACOG sees fit, including the right to reuse and publish the same without limitation, however any such reuse shall be at the sole risk of SACOG.

20. **FORCE MAJEURE:** Neither SACOG nor CONSULTANT shall be liable or deemed to be in default for any delay or failure in performance under this Agreement or interruption of services resulting, directly or indirectly, from acts of God or of the public enemy, acts of government, in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, and unusually severe weather, or any similar cause beyond the reasonable control of SACOG or CONSULTANT.
21. **DISPUTE:** Any dispute not resolved by informal negotiation between the parties to this contract may be adjudicated in a Court of Law under the laws of the State of California.
22. **INTEGRATION:** This Agreement represents the entire understanding of SACOG and CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by SACOG and CONSULTANT.

SACOG Legislative Procedures

Purpose of Legislative Procedures

SACOG's Legislative Procedures ensure that the SACOG Board of Directors provides prior approval of any position on legislation taken by Board members or staff. The Legislative Procedures also detail the steps Board members and staff must follow before communicating a SACOG position on legislation when there is insufficient time for full Board approval.

The Role of State Legislative Program

The State Legislative Program outlines the legislative priorities that the SACOG Board has approved for staff to either actively pursue, bring to the Board for consideration, or simply track and monitor. In essence, the Legislative Program serves as the strategic plan of SACOG's legislative involvement while the Legislative Procedures serve as the basic rules.

SACOG Board members and staff will make every reasonable effort to seek Board approval before any legislative position is communicated as a SACOG position. In addition, staff will utilize email to keep Legislative and Public Affairs Committee members updated on pending issues of interest to SACOG. However, because time constraints may arise which may make Board approval impossible, the following "normal" and "urgency" Legislative Procedures shall be followed by Board members and staff:

- **Legislation in the State Legislative Program "Advocacy" List (Normal)**
SACOG Board members and staff may communicate a position consistent with the Board approved State Legislative Program after seeking approval from the Legislative and Public Affairs Committee at a regularly scheduled meeting.
- **Legislation in the State Legislative Program "Advocacy" List (Urgency)**
SACOG Board members and staff may communicate a position consistent with the Board approved State Legislative Program without prior approval from the Legislative and Public Affairs Committee if staff reasonably believes that time does not permit committee approval AND the legislative issue is critical to the well-being of SACOG or its member jurisdictions. As soon as reasonably possible, the Executive Director shall email members of the Legislative and Public Affairs Committee to inform them of the staff action.
- **Legislation not included in the State Legislative Program (Normal)**
SACOG Board members and staff may not communicate any position on legislation outside the State Legislative Program without prior Board approval.
- **Legislation not included in the State Legislative Program (Urgency)**
SACOG Board members and staff may communicate a position on legislation outside the State Legislative Program if staff reasonably believes that time does not permit

committee approval AND the legislative issue is critical to the well-being of SACOG or its member jurisdictions. However, the Executive Director must first secure approval from the Board Chair and the Chair of the Legislative and Public Affairs Committee. If the Chair of the Legislative and Public Affairs Committee can not be reached, the Executive Director shall secure approval from the Vice Chair. As soon as reasonably possible, the Executive Director shall email the full Board of Directors to inform them of staff action.

Sacramento Area Council of Governments 2005 State Legislative Program

The 2005 State Legislative Program outlines the policy issues of interest to SACOG and organizes them based on the Board's desired level of staff involvement. The Program provides SACOG staff a framework for their involvement in state legislative matters while providing the Board certainty and knowledge about SACOG's legislative involvement.

ADVOCACY -- SACOG STAFF WILL ACTIVELY SUPPORT OR OPPOSE THE FOLLOWING LEGISLATION:

1. Seek legislation to fully fund the Sacramento Emergency Clean Air and Transportation program for the retrofit or replacement of high-pollution heavy-duty diesel engines within the SACOG region.
2. Seek legislation to provide rewards to SACOG jurisdictions that have met the production goals of the Sacramento Regional Compact for Production of Affordable Housing.
3. Protect current transportation funding levels and formulas to assure the Sacramento region continues to receive a fair and equitable share of all transportation revenue.
4. Protect Prop 42, which provides permanent dedication of the State sales tax on fuel with 40% allocation to local agencies for road maintenance, 40% for the STIP, and 20% for State Transit Assistance.
5. Support legislative or regulatory measures that provide local jurisdictions greater flexibility to promote mixed-use and multi-modal developments, greater transportation-land use connectivity, or improved jobs-housing balance.

FOR BOARD CONSIDERATION -- SACOG STAFF WILL BRING THE FOLLOWING ISSUES TO THE BOARD FOR CONSIDERATION AND A POSSIBLE POSITION:

1. Seek Board consideration to oppose any efforts to reduce the percentage of STIP funds programmed by Regional Transportation Planning Agencies below 75%.
2. Seek Board consideration to oppose legislative efforts to shift or loan transportation funds to non-transportation purposes.

3. Seek Board consideration to support increases in state transportation revenues to further the region's implementation of its Metropolitan Transportation Plan, including revenue for the provision and maintenance of transit operations and local road rehabilitation and maintenance.
4. Seek Board consideration of legislative efforts to increase funding for transportation purposes, including bikeways, safe routes to schools, and pedestrian facilities.
5. Seek Board consideration of legislation to overhaul state transportation funding and administrative structure as outlined in the California Performance Review. Consider support for efforts that improve transportation project delivery through organizational reform, process streamlining, greater flexibility in contracting methods and public/private partnerships.
6. Seek Board consideration to support legislation to provide commuter choice tax incentives for transit use, carpool, and vanpool.
7. Seek Board consideration to support legislation to improve conditions for cycling and walking as an alternative to driving.
8. Seek Board consideration to support legislation to resolve the cost reimbursement issue concerning the Regional Housing Needs Assessment (RHNA) mandate.
9. Seek Board consideration of legislative and regulatory measures that reduce the cost of housing production, including construction defect litigation and CEQA reforms.
10. Seek Board consideration to support legislation to provide for self-certification of the housing element law, or reform the housing element law to provide incentives and increased flexibility, rather than sanctions, for local governments to achieve and maintain compliance with housing element law.
11. Seek Board consideration of legislation that preserves local government land-use control or provides local governments increased flexibility in meeting state mandates through cooperative regional approaches.
12. Seek Board consideration of legislative efforts to streamline the environmental review process for individual transportation projects that are part of a CEQA approved region-wide growth plan.
13. Seek Board consideration of legislation to authorize tax-increment financing in transit-oriented development areas.

14. Seek Board consideration of legislation funding air quality programs that use incentives to accelerate private and public fleet turn-over to help reduce total regional emissions from on-road and off-road mobile sources.
15. Seek Board consideration of legislative efforts encouraging the state and federal government to take action to reduce mobile source emissions under their jurisdictions or to delegate authority over these mobile sources to local governments.

TRACK AND MONITOR -- SACOG STAFF WILL CONTINUOUSLY MONITOR ALL INTRODUCED LEGISLATION AND TRACK THOSE BILLS DETERMINED TO BE OF INTEREST TO SACOG. SPECIFICALLY, STAFF WILL TRACK ALL LEGISLATION FOUND IN THE FOLLOWING ISSUE AREAS:

Transportation

Housing

Smart Growth

Land Use

Local Government

Environmental Policies

Water, Energy, Open Space, or any other issues that may impact the region's growth