

**FINANCIAL MANAGEMENT AND ACCOUNTING PROCEDURES**

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## INTRODUCTION

The management of the San Joaquin Council of Governments (Council) is responsible for establishing and maintaining a system of internal accounting control. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of control procedures. The objectives of a system are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with generally accepted accounting principles.

The *Accounting Procedures Manual* is intended to be a guide to the fiscal procedures of the Council. The manual will serve both the management and the accounting staff to maintain good internal accounting and administrative controls, assist in the expected flow of accounting documentation, and to establish a uniform and systematic accumulation of information and statistical data necessary to fulfill the financial and accounting requirements of the Council.

Annual audits of the Council by an Independent Certified Public Accountant will be performed in accordance with the State of California audit requirements. The California Legislation has mandated the performance of financial audits for all local governmental entities in the State of California. The specific requirements for such audits are legally established in the following:

- California PUC Section 180105
- California PUC Sections 99200, et. seq.
- California PUC Section 99245 - 99249, et. seq.
- California Code of Regulations Article 5.5, Sec. 6661 - 6664, et. Seq.
- California Code of Regulations Article 5, Sec. 6751,
- California Code of Regulations Sections 6600, et. seq.
- California PUC Division 19

A single audit report is also prepared in conformance with the Office of Management and Budget Circular A-133. The cognizant agency for the single audit is the U.S. Department of Commerce.

The Council's annual audit is routinely posted on the SJCOG website and filed with the U.S. Department of Transportation, the California State Controller's Office, Cal-OES and California Department of Transportation (Caltrans).

The Council incurs costs which must be borne by specific projects. These costs can be identified as either direct or indirect costs. Direct costs (i.e., payroll, contractual and items specifically purchased for a specific project) can be identified specifically without using any allocation process with a particular project. Indirect Costs, as defined by 2 CFR 225 (i.e., telecommunications, postage, office supplies, depreciation, and risk insurance) cannot be easily identified specifically with a particular project. These costs are identified and captured in an indirect cost allocation plan, approved by Caltrans Division of Audits and Investigations.

The Council's accounting system provides for identification of all direct costs for a particular project. This system accumulates direct costs to each project and also accumulates all indirect costs through the cost allocation plan to be allocated to the projects.

### The Organization

The San Joaquin Council of Governments is a Joint Powers Agency created in 1968 by the County of San Joaquin and the Cities of Stockton, Lodi, Manteca, Tracy, Ripon and Escalon. In 1991, the City of Lathrop signed onto the Joint Powers Agreement. The role of the Council of Governments is to serve the functions designated by the signatories to the agreement. Generically, the Council's role is to foster intergovernmental coordination both within San Joaquin County as well as with neighboring jurisdictions, the other regional agencies within and outside the San Joaquin Valley, the state of California and various Federal agencies.

The Council of Governments is directed by a twelve member board composed of locally-elected officials and three ex-officio members. The Board has three members of the San Joaquin County Board of Supervisors, three members of the Stockton City Council, and one member from each of the six remaining cities. The ex-officio members are a Port of Stockton Commissioner, a San Joaquin Regional Transit District Director, and the Caltrans District 10 Director. The activities of the Council of Governments are carried out by a professional staff.

## **EXCERPTS FROM FINANCIAL STATEMENT NOTES**

The Council prepares its financial statements in conformity with generally accepted accounting principles as applied to government units, and is audited in accordance generally accepted auditing standards (GASB) by a firm of licensed certified public accountants. The Governmental Accounting Standards Board (GASB) is the accepted standard setting body for establishing governmental accounting and financial reporting principles. The more significant of the Council's accounting policies are described below:

### Reporting Entity

The San Joaquin Council of Governments, the regional transportation planning agency for the County of San Joaquin, was created pursuant to Title 3 of Government Code Section 29532. The Council is responsible for transportation planning activities as well as administration of the Local Transportation Fund and the State Transit Assistance Fund in accordance with the applicable sections of the Government Code, Public Utilities Code and Administrative Code included within the Transportation Development Act. The Council also is the Local Transportation Authority (LTA) pursuant to Section 1, Division 19 (commencing with Section 180000) of the Public Utilities Code as designated by the San Joaquin County board of Supervisors. In 1990, the San Joaquin County voters passed an ordinance (Measure K) resulting in a sales tax increase of one-half of one percent for transportation improvements. The Council oversees the collection and distribution of the sales tax in accordance with the twenty year transportation expenditure plan that expired on March 31, 2011. In November 2006, San Joaquin County voters renewed the half cent sales tax for an additional 30 years beginning April 1, 2011. The Council also administers the Freeway Service Patrol Program and Congestion Management

Program in San Joaquin County, operates a regional rideshare program, serves as the Census Data Center, operates a Research and Forecasting Center, prepares a regional housing needs plan, serves as the Airport Land Use Commission, provides technical assistance to local agencies and member jurisdictions as needed, and oversees the administration of the habitat and open space master plan for San Joaquin County.

#### Basis of Presentation - Fund Accounting

The Council uses funds and account groups to report on its financial position and the results of its operations. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

The Council maintains five individual governmental funds, as well as the blended component units. Information is presented separately in the governmental funds balance sheet and in the governmental funds statement of revenues, expenditures, and changes in fund balances for the funds which are considered major funds.

Funds and account groups are organized and accounted for as separate fiscal and accounting entities with self-balancing sets of accounts. The Council uses the following fund types and account groups:

#### Governmental Fund Types

The General Fund is the main operating fund of the Council. The Fund is used to account for all financial resources except those required to be accounted for in another fund.

The Special Revenue Fund is used to account for the proceeds of specific revenue sources that are legally restricted to expenditures for specific purposes.

#### Fiduciary Fund Types

Expendable Trust Funds - The Trust Funds are used to account for assets held by the Council in a trustee capacity for individuals, private organizations, other governments, and/or other funds. These funds are considered expendable trust funds and are accounted for in essentially the same manner as governmental funds using a modified accrual basis of accounting. The Council's Expendable Trust Funds include: the Local Transportation Fund, State Transit Assistance Fund, and Measure K Fund. The Local Transportation Fund and State Transit Assistance Fund represent allocations under the Transportation Development Act whereby agencies wishing to receive funds file a claim with the Council. The Measure K Fund represents the additional sales tax approved for use on transportation improvements.

#### Account Groups

The General Fixed Assets Account Group is used to maintain control and cost information on capital assets owned by the Council. Capital outlays in the General, Special Revenue and

Expendable Trust Funds are recorded as expenditures of those funds at the time of purchase and are subsequently recorded for control purposes in the General Fixed Assets Account Group.

The General Long Term Obligations Account Group is used to account for the Line of Credit issued by Bank of America, N.A. (BANA), 2011 Series A Sales Tax Revenue Bonds, 2014 Series Sales Tax Revenue Bonds, capital lease obligations and long-term portions of accrued compensated absences that will be financed from governmental and expendable trust fund resources.

### Measurement Focus and Basis of Accounting

The accounting and financial reporting treatment applied to a fund is determined by its measurement focus. All Governmental Funds and Expendable Trust Funds are accounted for using a current financial resources measurement focus. With this measurement focus, only current assets and current liabilities generally are included on the balance sheet and sources and uses of financial resources, including capital outlays, are reflected in operations. Operating statements of these funds present increases (i.e., revenues and other financing sources) and decreases (i.e., expenditures and other financing uses) in net current assets. The modified accrual basis of accounting is used by all Governmental Funds, Expendable Trust Funds and Agency Funds. Under the modified accrual basis of accounting, revenues are recognized when susceptible to accrual (i.e., when they become both measurable and available). “Measurable” means that the amount of the transaction can be determined and “available” means collectible within the current period or soon enough thereafter to be used to pay liabilities of the current period. Revenues which are accrued include sales tax and interest income. Expenditures are recognized in the accounting period in which the liability is incurred, if measurable, except for liabilities not expected to be paid in the current period, which are recorded in the General Long-term Obligations Account Group.

### Budgetary Principles

The annual budget serves as the foundation for the Council’s financial planning and control. As required by the Joint Powers Agreement of the Council, the Council prepares and legally adopts a final operating budget on or before April 1 of each year. The adopted San Joaquin Council of Governments budget for the ensuing fiscal year commencing on July 1 shall be submitted for ratification, defined as a majority of the legislative bodies of the member governments, and representing at least 55% of the population within the County., Such budget shall serve as the approved budget for the fiscal year in carrying out the tasks within the approved overall work program for the year. Any use of amendments of the budget shall be at the sole discretion of the San Joaquin Council of Governments. Operating budgets are prepared on the modified accrual basis of accounting. Budgetary control and the legal level of control are at the work element level as well as the object level. Significant amendments, appropriation transfers between work elements and objects and transfers from contingencies must be approved by the Council’s Board of Directors. Supplemental appropriations financed by unanticipated revenues also must be approved by the Board.

## Investments

Investments are stated at fair value as determined by quoted market prices. Changes in the fair value of investments are included with all other investment income in the operating statement. The Council's treasury functions are with Farmer's and Mercantile Bank (FMB), headquartered in Lodi, CA. Pursuant to statute, Transportation Development Act (TDA) funds remain with the San Joaquin County Treasurer. Cash on deposit with the County Treasurer is invested as authorized by statutes.

Investments are subject to the restrictions of the SJCOG Investment Policy as adopted and amended periodically by the SJCOG Board. The Council invest funds with the Local Agency Investment Fund (LAIF), Public Financial Management (PFM), and California Asset Management Program (CAMP). LAIF is a special fund of the California State Treasury through which local governments may pool investments. Investments in LAIF are highly liquid and are secured by the full faith and credit of the State of California. PFM is a private investment firm specializing in providing financial advice and investment management services to state and local governments. PFM allows participants to combine the use of a money market portfolio in addition to an individually managed portfolio. The investment portfolio held by PFM consists of federal agency bonds/notes and discounted notes, corporate notes, and municipal bonds/notes. CAMP is a Joint Powers Authority formed to provide professional investment management services and allows the participants to combine the use of a money market portfolio with an individually managed portfolio. The money market portfolio offers daily liquidity and is rated AAAM by Standard and Poor's. To maintain the AAAM rating, the portfolio's weighted average maturity may not exceed seventy (70) days.

## Compensated Absences and Sick Leave Retirements Payable

Council employees are granted vacation and sick leave in varying amounts. In the event of termination, an employee is reimbursed for accumulated vacation at various rates. Employees that have reached the normal retirement age or have completed twenty years of continuous service and have accrued a minimum of 160 hours of sick leave may elect to convert unused sick leave to cover the continuation of health care insurance at retirement. Other than this conversion at retirement, there is no cash payment of sick leave. The noncurrent portion of accrued vacation pay and sick leave applicable to governmental funds is reflected in the General Long-term Obligations Account Group.

## Retirement Plans

The Council participates in a defined contribution pension plan through the Council Retirement Plan which is available to all employees who have attained 19 years of age. In a defined contribution plan, benefits depend solely on amounts contributed to the plan plus investment earnings. Employees are eligible to participate from the date of employment. Contributions to the plan are entrusted to the ICMA Retirement Corporation, which provides investment consultation and administration.

Contributions to the plan by the Council are limited to 15% of compensation and are subject to discrimination requirements. The Council does not contribute into Social Security for employees. Certain legacy employees also do not have a Medicare contribution of the Council. Newer employees have a Medicare contribution. The Council's contributions are fully vested after six years of continuous service or when they reach the age of 50. The Plan does not provide for employee contributions. Plan provisions and contribution requirements are established and may be amended by the Council's Board of Directors.

The Council will not be required to pay prior year employer contributions for anyone having worked for the Council prior to the initiation of the retirement plan.

The Council offers a voluntary Deferred Compensation Plan to all employees. The Plan complies with the requirements of Internal Revenue Code 457 for State and Local Government Employees and is administered by the ICMA Retirement Corporation. Employees may contribute up to the maximum allowable under the Code Section 457 guidelines for the Plan.

More specific personnel policies are found in the Council's Employees Handbook.

## **FINANCIAL MANAGEMENT AND ACCOUNTING**

### ARTICLE

- I. ORGANIZATION OF ACCOUNTING
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- IV. FIXED ASSETS.....
- V. COST ALLOCATION.....
- VI. TRUST FUNDS.....
- VII. ELECTRONIC DATA PROCESSING CONTROLS.....
- VIII. GRANT TRACKING.....

### ARTICLE I. ORGANIZATION OF ACCOUNTING SYSTEM

#### Section 1. GENERAL

Financial records shall be maintained in accordance with generally accepted accounting principles, applicable grant agreements, 2CFR Part 225 and applicable state regulations governing special districts.

#### Section 2. MEASUREMENT FOCUS

The Council of Governments shall utilize the "spending" measurement focus. This focus requires that only current assets and current liabilities are generally reported on the balance sheet and the operating statement present financial flow information (i.e., revenues and expenditures).

### Section 3. BASIS OF ACCOUNTING

Financial transactions shall be accounted for by the use of the modified accrual basis of accounting, whereby revenues are recognized when they become both measurable and available to finance expenditures of the current period, and expenditures are generally recognized when the related fund liabilities are incurred.

### Section 4. FUNDS AND ACCOUNT GROUPS

The Council of Governments shall maintain separate and distinct funds, as follows:

General Fund No. 1110-A : This fund shall be managed as a general fund used to account for all financial resources and activity not accounted for in another SJCOG fund.

Local Transportation Fund No. 56171: This fund shall be managed as an agency trust fund to account for financial activity under Articles 3, 4, 4.5 and 8 of the Transportation Development Act.

Measure K Fund No. 1550-A: This fund will be managed as a special revenue fund to account for financial activity using Measure K Sales Tax revenues.

Measure K Renewal Fund No. 1551R-A: This fund will be managed as a special revenue fund to account for financial activity using Measure K Sales Tax revenues.

Measure K Renewal Reserve Fund No. 1553R-A: This fund will be managed as a special reserve fund to hold Measure K Bond proceeds until needed in the Measure K Renewal Fund.

SJCOG INC Fund No. 1146H-A: This fund will be managed as a special revenue fund and receive revenues specifically for the regional habitat program.

State Transportation Assistance Fund No. 56401: This fund shall be managed as an agency trust fund to account for financial activity under Article 6.5 of the Transportation Development Act.

SJCOG General Fixed Asset Account Group: This account group shall be used to account for all general fixed assets acquired and retained by the SJCOG.

### Section 5. INTERNAL CONTROLS

SJCOG shall organize and assign work duties and responsibilities so that no single employee performs a complete accounting cycle. In addition, established procedures shall require proper authorizations by designated officials for all actions taken.

## Section 6. RECORDS AND REPORTS

SJCOG shall keep and maintain complete and accurate financial records and prepare required reports in accordance with the uniform system of accounts and records, adopted by the Controller of the State of California, California Office of Emergency Services, and the Internal Revenue Service. In maintaining records and preparing reports, the SJCOG shall reconcile financial information with that developed by the County of San Joaquin in its capacity as treasurer and auditor/controller, for those funds still held at the County per Transportation Development Act statutes. The remaining funds held by the San Joaquin County Auditor/Controller are the LTF (Local Transportation Funds) and STA (State Transit Assistance) funds.

## Section 7. TREASURER AND CONTROLLER

In accordance with the amended Joint Powers Agreement, the SJCOG Deputy Executive Director/Chief Financial Officer serves in the capacity of the Treasurer and Auditor-Controller of SJCOG, SJCOG, Inc., the San Joaquin County Transportation Authority and other entities created by the SJCOG Board of Directors

## ARTICLE II. REVENUES

### Section 1. GRANTS

In accordance with the Joint Powers Agreement, it shall be the responsibility of the Executive Director to prepare applications for intergovernmental financial assistance and to make new and additional applications from time to time, as appropriate.

### Section 2. FEES AND CHARGES

SJCOG shall reserve the right to assess fees and charges for services rendered or products delivered in connection with its operation. Said fees and charges may be set at a level sufficient to recover the fully allocated cost, including direct and indirect costs related to the service of product. The Board shall retain approval authority with respect to the establishment and amount of fees and charges.

### Section 3. LOANS

SJCOG may acquire the funds necessary to meet short term financial obligations by means of loans from either public or private entities. Total short term indebtedness shall not exceed eighty-five percent (85%) of anticipated annual revenues. All loans shall be approved by resolution of the Board.

### Section 4. INVOICING AND ACCOUNTS RECEIVABLE

Unless otherwise stipulated by contract or necessity, SJCOG shall maintain its accounts receivable and invoice the accounts maintained therein on a monthly or quarterly basis. The Executive

Director or designee shall approve all amounts determined to be uncollectible and written off.

## Section 5. RECEIPTS

All cash receipts shall be processed in accordance with the following procedures:

### Mail Receipts

- A. Checks or warrants received by mail shall be immediately routed to the SJCOG Administrative Clerk responsible for mail handling. The Administrative Clerk shall immediately affix on the check or warrant an endorsement stamp which states "for deposit only."
- B. Supporting documentation accompanying a check or warrant shall be stamped with the date of receipt.
- C. The check or warrant shall be logged into the Receptionist's cash receipts log,
- D. The check or warrant will be routed to the Deputy Executive Director/Chief Financial Officer for review and will then forward it to the Accounting Assistant.
- E. The Accounting Assistant shall identify the remittance and shall affix the proper fund number and revenue code number to the supporting documentation.
- F. The Accounting Assistant prepares the Revenue for Deposit letter and will deposit check using the F&M Bank Remote Deposit procedures and website. The original check, letter and copy of information entered into F&M Bank will be forwarded to the Chief Accountant for review and final processing of the deposit through F&M Bank Remote Deposit website
- G. The Deputy Executive Director/Chief Financial Officer, Chief Accountant, or designee, other than the Accounting Assistant, shall sign the letter and attach the letter with the check or warrant.
- H. In the interim, checks shall be kept in a locked place (Finance Department safe) for safekeeping. At no time shall cash or checks be left unattended in an unsecured location.

### Over The Counter Receipts

- A. Payments received in the front office shall be supported by a written receipt issued by an SJCOG employee at the time of transaction.
- B. The Accounting Assistant shall affix the appropriate fund number and revenue code to the receipt and initial it.
- C. The Accounting Assistant will follow the same procedures as above with Mail Receipts.

- D. The Deputy Executive Director/Chief Financial Officer, Chief Accountant or designee, other than the Accounting Assistant, shall sign the letter.
- E. The documentation supporting this transaction shall be forwarded to the Chief Accountant for review.
- F. In general, receipts that constitute reimbursement of costs incurred, as well as receipts representing an advance of grant funds shall be deposited in SJCOG Fund No. 1110-A.

#### Direct Deposit Receipts

A. Deposits arriving directly into F&M Bank are from the State of California. These deposits are General Fund deposits that relate to various grants. The deposit is verified when notice is received from the State of California and reconciled at the end of the month when the bank statements are reconciled.

At month end, the Chief Accountant reconciles F&M Bank Statements to the cash receipts journal and Receptionist's cash receipts log. Accounts Receivable and the General Ledger are reconciled and updated and reports are delivered to the CFO.

Support Staff (Administrative Clerks) is responsible for billing and printing data sales. An invoice is prepared for each sale with a copy going to the customer; a copy is retained by Support Staff, and a copy is delivered to the Accounting Department. The Accounting Department is responsible for collections on outstanding data sales invoices and reporting to the Board of Equalization on an annual basis via the Sales and Use Tax annual sales tax return.

### ARTICLE III. EXPENSES

#### Section 1. PAYROLL

The Accounting Assistant shall be responsible for administering the payroll system in accordance with these directives and applicable procedures. In addition to established procedures, the SJCOG payroll system shall require the following:

Time Sheets: All hours reported shall be supported by an employee time sheet. Employees shall record work hours by OWP work elements and tasks. Time sheets shall be signed by the appropriate supervisor.

#### Section 2. TRAVEL REIMBURSEMENT

The Executive Director is charged with the responsibility of approving or disapproving requests for authorized travel on official SJCOG business. Requests requiring approval of the SJCOG Board shall be submitted to the Board with the recommendation of the Executive Director. The Executive Director, or designee, shall review, verify and approve all expense claims.

Approval: All overnight travel shall receive the prior approval of the Executive Director. A travel request and/or cash advance form shall be completed by or on behalf of the employee. The Executive Director, Deputy Executive Director/CFO and appropriate supervisor shall review and authorize the travel/advance request. All travel out of state is deemed to be approved by the Board with the adoption of the Annual Financial Plan if approved by the Executive Director.

Lodging: Lodging costs shall be reimbursed at actual cost, single rate, plus tax, for each day of travel during overnight lodging. Supporting documentation must be provided.

Meals: Reimbursement for meals will be at the actual cost up to a maximum of \$10.00 for breakfast, \$15.00 for lunch and \$30.00 for dinner. In the alternative, the traveling party may elect a \$55 per diem, prorated for partial travel days. Receipts will not be required for the per diem election. Where the expense exceeds maximum allowable, approval by the Executive Director will be required with adequate justification and documentation. Gratuities for meals will be reimbursed at a rate not to exceed 15% of meal cost.

Transportation: Prudent judgment shall be exercised in the selection of mode of transportation. Actual costs shall be reimbursed, based upon supporting documentation. Use of personal vehicles shall be reimbursed at the approved IRS rate per mile.

Other: Other incidental expenses including, but not necessarily limited to, business related long distance telephone calls, baggage handling charges, bridge tolls, parking fees, gratuities, and taxis shall be reimbursed at cost, based upon supporting documentation or reasonable costs where documentation is unavailable. One personal telephone call per day may be charged to the employee's hotel room.

Business Meetings: Regardless of location, meals and other costs incidental to the conducting of SJCOG business shall be reimbursed, at cost, based on supporting documentation and approval of the Executive Director.

Reimbursement: Upon return, an employee shall complete and submit a "Claim for Payment," accompanied by all required supporting documentation. Costs not adequately supported shall not be reimbursed. Payment shall be processed pursuant to the procedures defined herein.

Advances: Advances in travel reimbursement may be authorized by the Executive Director, subject to a full accounting of the travel costs after travel has been completed. In the event that a full accounting of, or repayment of, unexpended advance is not made within thirty (30 days), the advance will be deducted from the next salary warrant, or other payment from the SJCOG.

### Section 3. PAYMENT PROCESSING

- A. Upon receipt of an invoice, or similar claim for payment, the Administrative Clerk shall route the request to the Deputy Executive Director/Chief Financial Officer. The invoice is then routed to the appropriate employee for approval.
- B. The responsible employee shall assign an OWP work element number, task number, and

contract number, verify the amount to be paid, approve the terms and further processing by attaching his/her initials. The invoice shall then be routed back to the Deputy Executive Director/Chief Financial Officer for final approval. The invoice will then be forwarded to the Accounting Assistant.

- C. The Accounting Assistant shall assign a proper expenditure code number to the invoice, verify the work element number, determine the availability of funds, prepare a Claim for Payment form and enter the claim in the computer accounting system.
- D. The Chief Accountant shall review the prepared documents and approve payment by attaching his/her signature.

#### Section 4. PAYMENT VERIFICATION AND RECONCILIATION

The Accounting Assistant shall process the approved invoices and have checks signed by (2) authorized SJCOG check signers. Copies of the original checks will be made and filed with the original invoices. At the end of each month Accounting Assistant will reconcile the F&M Bank statements to the Cash Balance Spreadsheets and the RCMS Check Register to verify accuracy.

### ARTICLE IV. FIXED ASSETS

#### Section 1. GENERAL

Fixed Assets shall be defined as those items of tangible property which are of significant value, and which have a useful life of at least one fiscal year. The primary purpose of accounting for fixed assets shall be as follows:

- (a) To safeguard and track investments;
- (b) To assign custodial responsibility;
- (c) To aid in scheduling future asset retirement and acquisition;
- (d) To supply financial reporting data;
- (e) To assure compliance with applicable local, state and federal requirements.

#### Section 2. CAPITALIZATION

Individual inventory records shall be established and maintained in accordance with the following capitalization policy:

Equipment: Items of equipment shall include tangible property which are movable or detachable without causing impairment to the unit to which they are attached and have a unit value of \$5,000 or more.

All Items valued in excess of \$100, and with a usable life in excess of one year, are identified and tagged with an inventory serial number.

Unit value shall be set at an amount equal to the original cost of acquisition, plus any costs associated with bringing the asset to an operating or useful condition. Such costs include, but are not necessarily limited to, taxes, freight, installation, testing and related costs. In cases where an asset has been acquired by gift or other means by which costs are not readily available, cost shall be established using an estimate of fair market value.

### Section 3. NON-CAPITALIZED ITEMS

For purposes of administrative control, items which meet either the value or useful life criteria, set forth in Section 2, shall be maintained on an inventory list as non-capitalized memorandum entries.

### Section 4. INVENTORY NUMBERING

All SJCOG-owned equipment shall be tagged or marked with an inventory serial number for proper identification and control. If it is deemed inappropriate or impractical to affix such a tag to an inventory item(s), each such inventory item shall be marked by stenciling "SJCOG" in a prominent location.

### Section 5. ANNUAL PHYSICAL INVENTORY

The Accounting Assistant shall be responsible for conducting an annual physical inventory of all items in the possession of the SJCOG at the close of each fiscal year. Said inventory shall be conducted as follows:

Equipment List: A list of all equipment in the fixed asset account group shall be prepared. The list shall be used to verify the existence and location of each item contained therein.

Verification Witness: A second employee, the attester, shall be selected to accompany the Accounting Assistant in locating and verifying the presence of each item on the inventory list.

Documentation: Both the Accounting Assistant and attester shall approve the annual physical inventory by attaching their signatures to the inventory list.

### Section 6. ASSET CLASSIFICATION

Assets shall be classified as follows:

Office Furniture & Fixtures: Desks, chairs, filing cabinets, tables, partitions, lamps, bookcases, sofas and similar items.

Office & Computer Equipment: Personal computers, calculators, copiers, tape recorders, cameras, video machines, typewriters, word processors, printers, lettering machines, televisions, video

cameras, laptops, and similar items.

Automobile: Autos used for conducting Council business.

Building Improvements: Improvements made to the building that extend the life of the asset.

Office Building: Building

## ARTICLE V. COST ALLOCATION

### Section 1. COST ALLOCATION PLAN

In order to provide for the reasonable and consistent allocation or distribution of costs to its myriad funding programs, the SJCOG shall develop and maintain an Indirect Cost Plan. This plan shall be designed in accordance with 2 CFR 225 and set forth in writing.

## ARTICLE VI. AGENCY TRUST FUNDS - TRANSPORTATION DEVELOPMENT ACT

### Section 1. DESIGNATION

Pursuant to the Transportation Development Act (Act) and this manual, SJCOG shall create and maintain the following agency trust funds:

Local Transportation Fund No. 56171: This fund shall account for all financial activity generated pursuant to the Transportation Development Act, Articles 3, 4, 4.5 and 8.

State Transit Assistance Fund No. 56401: This fund shall account for all financial activity generated pursuant to the Transportation Development Act, Article 6.5.

Public Transportation Modernization, Improvement and Service Enhancement (PTMISEA) Funds: These funds were established for Escalon, Tracy and Manteca. These funds account for activity generated pursuant to the General obligation bond law, California Government Code Section 16724.4

Transit System Safety, Security and Disaster Response Account (TSSSDRA) Funds: These funds were established for Ripon and the San Joaquin Regional Rail Commission. These funds account for activity generated pursuant to

### Section 2. BASIS OF TAX REVENUE APPORTIONMENTS

SJCOG shall apportion all fund revenues as prescribed by the Act. Population based apportionments shall be based on the annual certified population estimates developed by the California State Department of Finance. The State Transit Assistance revenues which are based on apportionments shall be based on the apportionment schedule prepared by the California State Controller. The Local Transportation Fund revenues which are based on estimated apportionments

shall be reconciled to actual revenues received at the end of the Fiscal Year.

### Section 3. APPORTIONMENT OF FUND TAX REVENUES

SJCOG shall, by Council resolution, annually determine the apportionment of fund revenues pursuant to the provisions of the Transportation Development Act. All prospective claimants shall be advised in writing of the amounts of all area apportionments for the following fiscal year.

### Section 4. APPORTIONMENT OF FUND INTEREST REVENUES

SJCOG shall apportion fund interest revenues to each subsidiary cash account on the basis of its average monthly balance.

### Section 5. DISBURSEMENT OF FUND ASSETS

Fund assets shall be disbursed in accordance with the following procedures:

Claims: All disbursements to eligible claimants shall be supported by and in accordance with an annual written claim filed as prescribed by SJCOG TDA Rules and Regulations.

Approval: All claims shall be duly approved by Board resolution in accordance with the Act and SJCOG Rules and Regulations. A copy of the approval resolution shall be forwarded to the County Auditor-Controller in support of each disbursement of fund assets.

Instruction: Disbursements of fund assets to eligible claimants shall only be made in response to a written disbursement instruction issued by SJCOG to the Auditor-Controller. Disbursement instructions shall only be issued according to written claims approved by Council resolution.

## ARTICLE VII. ELECTRONIC DATA PROCESSING CONTROLS

Controls are in place to ensure that all users are identified uniquely and that no shared users exist. All passwords are required to be changed every three months and must include a number and seven characters. Users only have access to the applications that are needed for them to complete their job. Access to finance modules are limited to finance staff only. There is a separation of duties among those that perform accounting transactions and IT functions. Controls over perimeter and network security are in place and include firewalls, wireless access encryption and intrusion detection. Back-ups of data are performed nightly and saved on the server networks. Hard copies of the back-ups are periodically transferred using Iron Mountain records management services.

## ARTICLE VIII. GRANT TRACKING

Grant funding source activity is managed by the Chief Accountant and is tracked in the following manner: A copy of the signed grant is filed with the Chief Accountant/Accounting Department. The Chief Accountant records all pertinent information on the grant tracking spreadsheet. This spreadsheet is updated continually and reports information on all funding sources including: original dollar amount of grant, beginning and ending dates, extensions of terms and amounts if any, draw downs and available balances. Each grant is assigned a unique accounting number in

order to accurately report all activity for invoicing purposes.

## **PURCHASING**

- I. Purchasing Policies and Principles.....
- II. Responsibility and Control.....
- III. Requisition, Purchasing Procedures and Contracting.....
- IV. Conflict of Interest.....
- V. Disadvantaged Business Enterprise Program.....

### **ARTICLE I. PURCHASING POLICIES AND PRINCIPLES**

#### **Section 1. PURPOSE**

The purpose of this procurement policy is to provide the San Joaquin Council of Governments with the requisite parameters for procuring goods and services under applicable state and federal guidelines.

#### **Section 2. POLICY**

It is the policy of SJCOG to have a centralized purchasing function within the agency in order to provide better control over how and where agency funds are being spent, and to provide the most economical way of doing so. Benefits of a centralized purchasing function include:

- Reduction in overhead cost of purchasing;
- Reduction in volume of paperwork;
- Simplification, consistency and standardization of specifications;
- Consistent supervision over inspection of deliveries and tests; storage and distribution of goods; and inter-departmental transfers, trade-ins, and sales of surplus and obsolete commodities;
- General oversight to prevent the purchase of unnecessary, unwarranted and duplicative procurements;
- Closer accounting control over expenditures

The Executive Director will establish the rules and regulations for the purchase and procurement of all commodities, services and equipment. The Finance Department has the task of administering, enforcing and carrying out these rules and regulations as established. To do this, the Finance Department:

- ensures funding is available for procurement;
- provides open and fair competition to vendors;
- maintains current lists of qualified vendors and identifies new vendors;
- establishes priorities for processing requisitions;

- prepares, distributes, receives, and evaluates bid requests for purchases;
- develops standard contracts and specifications to expedite purchases for repetitive orders;
- prepares and approves purchase orders, price agreements, and contracts;
- serves as liaison between the end user and the vendor in obtaining pricing, ordering, expediting purchases, and returning merchandise;

### Section 3. COMPLIANCE

In order to have an efficient purchasing function, all departments must work in close cooperation with the Finance Department. Departments can ensure compliance with SJCOG's policies and procedures by:

- informing departmental personnel of the purchasing requirements and ensuring adherence;
- planning purchases in advance in order to allow the Finance Department sufficient time to oversee the obtaining of proposals, quotations, or bids, determine best source and issue purchase orders with reasonable lead time for delivery and thus prevent emergencies;
- providing accurate and concise specifications for items requested and timely preparation of requisitions;
- assisting the Finance Department when requesting commodities, services, or equipment of a technical or unusual nature and suggesting possible sources of supply;
- designating employees with authority to prepare requisitions and sign delivery tickets upon receipt of goods (*authorized employee signatures are maintained on file in the Finance Department*);
- inspecting or supervising the inspection of commodities, services and equipment delivered; and determining acceptability of their quality, quantity, and conformity with specifications (*user department shall jointly share this responsibility with the Finance Department*); and
- providing complete written documentation of a vendor's performance to be used in future bid award evaluations.

## ARTICLE II. RESPONSIBILITY AND CONTROL

### Section 1. GENERAL RESPONSIBILITY

Except as otherwise specified, the Executive Director shall be deemed responsible for all purchases of and contract execution for materials, supplies, furnishings, equipment and services required by SJCOG in the performance of daily operations. Each such purchase shall be made on behalf of the San Joaquin Council of Governments.

### Section 2. EXPENDITURE CONTROL

Once the annual operating budget has been adopted by the Board, it shall be considered the controlling documentary plan of expenditure. As such, purchases and acquisitions shall be

processed within the limitations established by the amount of budgeted resources allocated to each object classification by the Council.

## ARTICLE II. REQUISITION, PURCHASING AND CONTRACTING PROCEDURES

### Section 1. PURCHASE ORDERS AND REQUISITION OF SUPPLIES

The following procedures will be used: First, check with the responsible Administrative Clerk to determine if the item needed is in stock. If the item is in stock, the responsible Administrative Clerk will obtain it and deliver it. If the item is not in stock, and is needed immediately, the responsible Administrative Clerk will request approval of the Deputy Executive Director/Chief Financial Officer to purchase the item(s).

If the item can be purchased through an existing "open" account, the responsible Administrative Clerk will place the order. If the item(s) must be ordered from another vendor, the responsible Administrative Clerk will request a purchase order number from the Manager of Administrative Services. It will be the responsibility of the Manager of Administrative Services to maintain the purchase order number log which will include the following information: purchase order number, staff person requesting the item, description of the item(s), vendor, date purchased and received and purchase price. The Deputy Executive Director/Chief Financial Officer will prepare a printed purchase order with the original sent to the vendor, one copy to the Manager of Administrative Services and one copy to the Accounting Assistant.

After the purchase is made, receipts and packing slips will be returned to the responsible Administrative Clerk. All merchandise will be inspected by the responsible Administrative Clerk and a Accounting Assistant for accuracy. If the order is incomplete or unacceptable the responsible Administrative Clerk will take steps to clear up any discrepancies. The receipt will then be routed to the Accounting Assistant.

For minor purchases of supplies, less than \$20.00 and with the prior approval of the Executive Director or designee, an employee may purchase the item and be reimbursed for the cost by including the item on the expense sheet.

All invoices will be submitted to the Accounting Assistant who will process for payment. The Accounting Assistant will match the purchase order, receipt or packing slip and invoice to keep on file.

### Section 2. BIDDING PROCEDURES

The bidding procedures for purchasing computers, equipment, or any other purchase of fixed assets are as follows: If the item(s) to be purchased are estimated to cost \$50,000 or less, then the Executive Director or designee has the authority to send the award out to bid. In addition, the Executive Director or designee has the authority to award the contract. While a formal competitive bidding process is not required, a minimum of three bids shall be solicited from known vendors.

If the item(s) to be purchased are estimated to cost more than \$50,000 then the item(s) must be sent out for competitive bidding. Only the SJCOG Board has the authority to award contracts over \$60,000.

Individual vendors may accumulate no more than \$25,000 in administrative contract awards in a rolling three year period. Awards exceeding \$25,000 in that three year period must be made by the SJCOG Board.

For competitive bids, a Notice Inviting Bids will be prepared. The Notice and the Instructions to Bidders will be sent to vendors who have expressed an interest in being considered for competitive bids. (The Manager of Administrative Services will be responsible for maintaining and updating the list of vendors who express an interest in being considered for retention by SJCOG.)

For purchases that are estimated to be \$50,000 or less, the Executive Director may make the award determination based on a combination of the lowest price and the quality of the product.

For purchases that are estimated to be over \$50,000 SJCOG staff will review the proposals, rank all the bids based on the price and quality of the product and make a recommendation to the SJCOG Board. The Board will review the staff recommendations and make a determination to award the contract. The Board may authorize the Executive Director to execute contracts that fall within an approved maximum bid.

In those instances where only one bidder responds to an RFP, an award can be made to that bidder if it meets the requirements of the RFP or the process may be re-advertised.

In those instances where a bidder has a particular product currently used by the SJCOG, or where it is important to maintain consistency or a particular level of service an award of a contract can be made to a single bidder.

### Section 3. INSTRUCTIONS TO BIDDERS

1. All contracts must be awarded by competitive sealed bidding pursuant to federal and state laws, rules and regulations. Invitations for sealed bids or proposals must include specific instructions to the vendors concerning submission requirements including the time, date and place for receipt of bids or proposals by SJCOG.
2. No bid proposal will be considered for award unless submitted in full satisfaction of Bid Specifications, completely filled out, properly signed by the bidder and delivered on or before the date specified in the Notice Inviting Bids, at which time all bids will be publicly opened and recorded.
3. Attention of the bidders is directed to all provisions of the Specifications, which in addition to the Bid Proposal and these instructions will be made a part of any contract with the successful bidder. See Specifications for definitions of "contract."
4. Awards may be made by the San Joaquin Council of Governments' Board within the time

stated in the form of Bid Proposal, and no Bid Proposal may be withdrawn prior to award within that time.

5. Specifications are carefully prepared describing the items or equipment desired. An appropriate addendum will be issued to all bidders, if necessary, stating revisions, deletions, or additions to be made to the Specifications as a result of any inquiries.
6. The San Joaquin Council of Governments reserves the right to reject any and all bids.
7. The San Joaquin Council of Governments reserves the right to waive any informality or irregularity that does not have a monetary consideration when it is in the best interest and advantage of the San Joaquin Council of Governments to do so. A discrepancy which offers a bidder an unfair advantage will cause the bid to be non-responsive.
8. In all instances where an exception is taken to the Specifications that does not meet the minimum requirement, the bid will be considered non-responsive.
9. In the event equal bids are received from two or more bidders, SJCOG shall adhere to the 48 CFR subpart 14.408-6
  - (a) Contracts shall be awarded in the following order of priority when two or more low bids are equal in all respects:
    - (1) Small business concerns that are also labor surplus area concerns.
    - (2) Other small business concerns.
    - (3) Other business concerns.
  - (b) If two or more bidders still remain equally eligible after application of paragraph (a) of this section, award shall be made by a drawing by lot limited to those bidders. If time permits, the bidders involved shall be given an opportunity to attend the drawing. The drawing shall be witnessed by at least three persons, and the contract file shall contain the names and addresses of the witnesses and the person supervising the drawing.
  - (c) When an award is to be made by using the priorities under this [14.408-6](#), the contracting officer shall include a written agreement in the contract that the contractor will perform, or cause to be performed, the contract in accordance with the circumstances justifying the priority used to break the tie or select bids for a drawing by lot.
10. The San Joaquin Council of Governments reserves the right to decrease quantities to stay within budget limitations.
11. The San Joaquin Council of Governments reserves the right to evaluate any product or type of equipment offered in the Bid Proposal and will determine acceptability as an approved equal or equivalent.
  - a. All bid proposals must be accompanied with pertinent information that will provide sufficient technical data on the time or goods offered. The information may consist of specifications or brochures that will provide sufficient detail to evaluate the

items.

- b. The decision of acceptability as an approved equal or equivalent shall be at the San Joaquin Council of Governments' discretion.
12. Solicitation of bids in no way obligates the San Joaquin Council of Governments to purchase any or all of the described equipment prior to bid award by the San Joaquin Council of Governments' Executive Board.
  13. All bid proposals will be valid for thirty (30) days from the submittal deadline.

#### Section 4. PROFESSIONAL CONSULTANT SELECTION PROCEDURE

The purpose of this policy is to establish an open, fair and competitive process for selection of qualified professional consultants to perform work for SJCOG. A Request for Proposals an (RFP) will be issued whenever there is a need for work to be performed by other than SJCOG staff. In general, for any project expected to exceed \$50,000 the SJCOG Board will award the contract to the successful bidder. For projects of \$50,000 or less, the SJCOG Board has given the Executive Director the authority to award the contract.

All Request for Proposals and Request for Qualifications will be submitted to the Deputy Executive Director/CFO for review and approval prior to distribution outside of SJCOG.

##### A. Form and Content of RFP

1. Introduction. This section should set forth and describe the agency requesting the services, the amount and source of funds that are available for the project (note, however, that in some instances it may be desirable not to state the amount of funds available), the general parameters of the work product, the deliverable products or services, and the time for completion of the project. In addition, the deadline for submission of the RFP, address and SJCOG staff contact person should be included.
2. Background. In this portion of the RFP, discuss the events which have taken place that have made the project desirable.
3. Problem Statement. The problem that must be solved or issue to be addressed specifically defined for the proposed contractors.
4. Objectives of the Project. The objectives should be clearly set forth, and where appropriate, the objectives should be stated in quantifiable terms to facilitate evaluation of the contractual effort.
5. Scope of Work. This section should describe the tasks, schedules, and intermediate products which are expected. The description of work should be as unambiguous as possible so that comparison of proposals based upon it is possible. The focus will usually be on types of activities and results expected so as to allow some

creativity in design of an approach.

6. Deliverable Products. This will be the expected end result of the work effort. Examples are: a manual, a seminar, management analysis, etc.
7. Proposal Evaluation Criteria. Evaluation criteria will be developed, included in the RFP and, contractors should be informed of them. This information could be shared with consultants during a pre-proposal conference.
8. Proposer's Conference. Time and place of pre-proposal conference.
9. Form of Proposal.
  - a. Introduction. Determined by bidder
  - b. Technical Approach.
    1. Problem. Statement of the problem as bidder understands it.
    2. Project Objectives. Outline the objectives the bidder feels will, when fully achieved, constitute an effective and reliable solution to the problem.
    3. Key Factors. Describe any factors or issues whose resolution the bidder feels will be essential to solving the problems or would otherwise influence the course of the project.
    4. Approach. The managerial and technical approach the bidder will follow if selected. Describe the various phases or steps the bidder would take during the project, the point where key decisions will be required must be identified, the timing of interactions between consultant and SJCOG personnel, the techniques the bidder would employ in deriving solutions to the problems presented.
  - c. Work Plan. Outline and describe in detail all project tasks the bidder expects to undertake; include the estimated person-days, or other type of resource required to complete each task and identify each key point where a management decision is required. The end result must be identified.
  - d. Project Schedule and Costs.
    1. Schedules. For each task, outline the time frame by month or other appropriate interval in which the task will be completed.
    2. Costs. In a separate sealed envelope or container, identify the costs for each phase, task or other appropriate breakdown for the entire project. Costs should be broken down by time and materials.

3. Method of Payment. Specify the methods of payment to which the bidder would agree in a resultant contract. ("Cost-plus" contracts are specifically not acceptable.)

e. Personnel

1. Staff Assignments. Specify by name and position the individuals the bidder will assign to the project, the manner in which each will participate in this effort, and the contribution each would make to the results of the bidder's effort.
2. Staff Organization. Specify the relationship of the consultant staff to one another.
3. Staff Resumes. Include for each individual a resume containing at least the following information:  
General Background. Include the length, breadth and depth of experience; include education and other related achievements.  
Related Experience. Include dates and descriptions of all experiences specifically related to the type of effort described in this RFP.
4. If a subcontractor is included in the proposal, personnel must be identified as in 1, 2 and 3 above.

f. Corporate Information.

1. Capabilities. Describe the company's general background in research projects and systems evaluation and design, the primary areas of expertise in which it markets its services, the staff and advisory facilities it can utilize if needed, and other information to consider in establishing its specific capabilities for this undertaking.
2. Qualifications. Include information that clearly demonstrates the company's actual experience in conducting projects comparable to the one described in this RFP. Place particular emphasis on similar projects performed for other local governments.

- g. Other Information. If the bidder wishes to provide other information that does not appropriately fall into one of the above sections, include this information in this section.

B. RFP Distribution

The RFP will be issued to all consultants, from the SJCOG file, who appear to be qualified for a specific project. The RFP will also be placed on the SJCOG web site.

SJCOG will take all reasonable steps to assure that disadvantaged, disabled veterans, and women's business enterprises will have maximum opportunity to compete for and perform contracts. All DVE/DBE/WBE's on the SJCOG list whose type of work match that of the project being contracted will receive notification of projects scheduled to be advertised.

C. Consultant Mailing List

The SJCOG Manager of Administrative Services will establish and maintain an up to date file of consultants or consulting firms who express an interest in being considered for retention by SJCOG. This file will contain the following:

Name of firm or individual  
Address  
Telephone number  
Areas of expertise  
Contact person

D. Evaluation of Proposals

A panel of persons technically competent to evaluate consultant proposals will be formed. Proposal evaluation criteria will be established prior to the review of proposals. Members of the panel will evaluate each proposal independently for its responsiveness to the RFP and the evaluation criteria established for consultant selection. After independent review, the panel will meet to form a recommendation of firms to be interviewed, or if the interview is deemed unnecessary, a recommendation for selection. The evaluation panel's analysis of proposals will be documented.

E. Interviews and Reference Checks

Based upon the recommendation of the proposal evaluation panel, firms will be notified of an interview time selected by a random process. Prior to interview, the prospective consultants' references will be checked. An interview panel of three or more persons will be formed. The interview panel will be given the proposal evaluation report and the criteria to be used in the selection process. Whenever possible, the interview panel will state their priority of choice.

F. Contract Negotiations

Based upon advice from the evaluation panel, the interview panel, and the reference checks, the Executive Director may select one consultant for contract negotiations. If negotiations are successful, the Executive Director may approve a specific contract if the project is estimated at \$50,000 or less. If the project is more than \$50,000, the Executive Director will recommend a specific contract to the SJCOG Board for approval. If

negotiations are unsuccessful, the consultant initially selected for contract negotiations shall be so advised and a second consultant selected for contract negotiations.

G. Documentation and Files

Upon approval of a specific contract, files will be maintained to document the selection. Proposals will be kept on file as required by funding agencies or until the contract has been successfully completed, whichever is longer.

H. Sole Source Consultant Agreements

In those instances where only one consultant responds to an RFP an award can be made to that consultant if it meets the requirements of the RFP or the process may be re-advertised.

In the instances where a particular consultant has a particular expertise, is performing related work for SJCOG, or has other advantages that would result in a more timely or cost effective completion of the necessary work, an award of a contract can be made to that consultant. The reasons for such an award shall be documented. Any sole source contract award over \$60,000 must be approved by the SJCOG Board.

I. Suspension and Debarment

As required by U.S. DOT regulations on Governmentwide Debarment and Suspension (Nonprocurement) at 49 CFR 29.510:

(1) The contractor certifies, to the best of its knowledge and belief, that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not, within a three-year period preceding this certification, 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;
- (c) Are 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 listed in subparagraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this certification had one or more public transactions (Federal, state, or local) terminated for cause or default.

(2) The contractor also certifies that, if it later becomes aware of any information contradicting the statements of paragraph (1) above, it will promptly provide that information to SJCOG.

(3) If the contractor is unable to certify to the statements in paragraphs (1) and (2) above, it shall indicate so in its proposal and provide a written explanation to SJCOG.

## Section 5. CONTRACT PREPARATION AND ADMINISTRATION

The purpose of this procedure is to establish an effective and efficient way to prepare and administer contracts and/or agreements between the SJCOG and a third party.

It will be the responsibility of the Project Manager assigned to the project to prepare a draft contract using the standard SJCOG contract which details the Caltrans required language, including date and signature lines and all necessary exhibits. The draft contract/agreement shall be reviewed by the Deputy Executive Director/CFO. If the draft differs from previously approved contracts, the draft may be submitted to SJCOG Counsel for review and approval as to form.

Each contract shall be prepared utilizing the following basic elements:

A clear and accurate identification of the parties. The date on which the agreement was entered into. A statement or series of statements explaining why consultants are being used rather than staff. A clear and complete statement as to the purpose of the agreement. A clear and complete statement of the work, service or product to be performed, rendered or provided (i.e., work activities and end products). A time schedule for performance and completion of the contract;

A clear and complete statement as to the procedures that will govern progress reports; an explicit statement of the exact amount of payment and basis upon which payment is to be made; A project budget which itemizes expenditures and revenues of the agreement (including in-kind); and a contract termination date.

Each contract shall contain language required by Caltrans with regard to the following:

### **Performance Period (Verbatim)**

- A. This contract shall go into effect on (DATE), contingent upon approval by SJCOG, and consultant shall commence work after notification to proceed by SJCOG's Contract Administrator. The contract shall end on (DATE), unless extended by contract amendment.
- B. Consultant is advised that any recommendation for contract award is not binding on SJCOG until the contract is fully executed and approved by SJCOG.

### **Allowable Costs and Payments (Verbatim)**

- A. CONSULTANT will be reimbursed for hours worked at the hourly rates specified in CONSULTANTs Cost Proposal (Attachment Number). The specified hourly rates shall include direct salary costs, employee benefits, overhead, and fee. These rates are not adjustable for the performance period set forth in this Contract.
- B. In addition, CONSULTANT will be reimbursed for incurred (actual) direct costs other

than salary costs that are in the cost proposal and identified in the cost proposal and in the executed Task Order.

- C. Specific projects will be assigned to CONSULTANT through issuance of Task Orders Or
- D. After a project to be performed under this contract is identified by SJCOG, SJCOG will prepare a draft Task Order; less the cost estimate. A draft Task Order will identify the scope of services, expected results, project deliverables, period of performance, project schedule and will designate a SJCOG Project Coordinator. The draft Task Order will be delivered to CONSULTANT for review. CONSULTANT shall return the draft Task Order within ten (10) calendar days along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expenses, overhead, fee if any, and total dollar amount. After agreement has been reached on the items and total cost; the finalized Task Order shall be signed by both SJCOG and CONSULTANT.
- E. Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both of which must be based on the labor and other rates set forth in CONSULTANT's Cost Proposal.
- F. Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal.
- G. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such estimate.
- H. Progress payments for each Task Order will be made monthly in arrears based on services provided and actual costs incurred.
- I. CONSULTANT shall not commence performance of work or services until this contract has been approved by SJCOG, and notification to proceed has been issued by SJCOG's Contract Administrator. No payment will be made prior to approval or for any work performed prior to approval of this contract.
- J. A Task Order is of no force or effect until returned to SJCOG and signed by an authorized representative of SJCOG. No expenditures are authorized on a project and work shall not commence until a Task Order for that project has been executed by SJCOG.
- K. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit upon receipt by SJCOG'S Contract Administrator of itemized invoices in triplicate. Separate invoices itemizing all costs are required for all work performed under each Task Order. Invoices shall be submitted no later than 45 calendar days after the performance of work for which CONSULTANT is billing, or upon completion of the Task Order. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this contract number, project title and Task Order number. Credits due SJCOG that include any equipment purchased under the provisions of Article XI Equipment Purchase of this contract, must be reimbursed by CONSULTANT prior to the expiration or termination of this contract. Invoices shall be mailed to SJCOG's Contract Administrator at the following address:

*San Joaquin Council of Governments*

*555 E. Weber Ave.*

*Stockton, CA 95202*

**Termination (Verbatim)**

- A. SJCOG reserves the right to terminate this contract upon thirty (30) calendar days written notice to CONSULTANT with the reasons for termination stated in the notice.
- B. SJCOG may terminate this contract with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, SJCOG may proceed with the work in any manner deemed proper by SJCOG. If SJCOG terminates this contract with CONSULTANT, SJCOG shall pay CONSULTANT the sum due to CONSULTANT under this contract prior to termination, unless the cost of completion to SJCOG exceeds the funds remaining in the contract. In which case the overage shall be deducted from any sum due CONSULTANT under this contract and the balance, if any, shall be paid to CONSULTANT upon demand.
- C. The maximum amount for which the Government shall be liable if this contract is terminated is \_\_\_\_\_ dollars.

**Cost Principles and Administrative Requirements (Verbatim)**

- A. CONSULTANT agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.
- B. CONSULTANT also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- C. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 49 CFR, Part 18 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to SJCOG.
- D. All subcontracts in excess of \$25,000 shall contain the above provisions.

**Retention of Records/Audits (Verbatim)**

For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code 8546.7; CONSULTANT, subconsultants, and SJCOG shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of administering the contract.

All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. The state, State Auditor, SJCOG, FHWA, or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of CONSULTANT and its certified public accountants (CPA) work papers that are pertinent to the contract and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of \$25,000 shall contain this provision.

**Audit Review Procedures (Verbatim)**

- A. Any dispute concerning a question of fact arising under an interim or post audit of this contract that is not disposed of by agreement, shall be reviewed by SJCOG'S Chief Financial Officer.
- B. Not later than 30 days after issuance of the final audit report, CONSULTANT may request a review by SJCOG'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by SJCOG will excuse CONSULTANT from full and timely performance, in accordance with the terms of this contract.

*(The following AUDIT CLAUSE must be inserted into all contracts of \$150,000 or greater)*

- D. CONSULTANT and subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the contract, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The contract, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by SJCOG contract manager to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the contract by this reference if directed by LOCAL AGENCY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.

*The following AUDIT CLAUSE must be inserted into all contracts of \$3,500,000 or greater).*

- E. CONSULTANT Cost Proposal is subject to a CPA ICR Audit Work Paper Review by Caltrans' Audit and Investigation (Caltrans). Caltrans, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the SJCOG Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit

recommendations included in the audit report will be considered a breach of the contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.

1. During a Caltrans' review of the ICR audit work papers created by the CONSULTANT's independent CPA, Caltrans will work with the CPA and/or CONSULTANT toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If Caltrans identifies significant issues during the review and is unable to issue a cognizant approval letter, SJCOG will reimburse the CONSULTANT at a provisional ICR until a FAR compliant ICR {e.g. 48 CFR, part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials Audit Guide; and other applicable procedures and guidelines} is received and approved by A&I. Provisional rates will be as follows:
  - a. If the proposed rate is less than 150% - the provisional rate reimbursed will be 90% of the proposed rate.
  - b. If the proposed rate is between 150% and 200% - the provisional rate will be 85% of the proposed rate.
  - c. If the proposed rate is greater than 200% - the provisional rate will be 75% of the proposed rate.
2. If Caltrans is unable to issue a cognizant letter per paragraph E.1. above, Caltrans may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. Caltrans will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.
3. If the CONSULTANT fails to comply with the provisions of this Section E, or if Caltrans is still unable to issue a cognizant approval letter after the revised independent CPA-audited ICR is submitted, overhead cost reimbursement will be limited to the provisional ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this provisional ICR will become the actual and final ICR for reimbursement purposes under this contract.
4. CONSULTANT may submit to SJCOG final invoice only when all of the following items have occurred: (1) Caltrans approves or rejects the original or revised independent CPA-audited ICR; (2) all work under this contract has been completed to the satisfaction of SJCOG; and, (3) Caltrans has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO local agency no later than 60 days after occurrence of the last of these items.

The provisional ICR will apply to this contract and all other contracts executed between SJCOG and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

#### **Subcontracting (Verbatim)**

- A. Nothing contained in this contract or otherwise, shall create any contractual relation between SJCOG and any subconsultant(s), and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to SJCOG for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its subconsultant(s) is

an independent obligation from SJCOG's obligation to make payments to the CONSULTANT.

- B. CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this contract shall be subcontracted without written authorization by SJCOG's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.
- C. CONSULTANT shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to CONSULTANT by LOCAL AGENCY.
- D. Any subcontract in excess of \$25,000 entered into as a result of this contract shall contain all the provisions stipulated in this contract to be applicable to subconsultants.
- E. Any substitution of subconsultant(s) must be approved in writing by SJCOG's Contract Administrator prior to the start of work by the subconsultant(s).

#### **Equipment Purchase (Verbatim)**

- A. Prior authorization in writing, by SJCOG's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service or consulting work not covered in CONSULTANT's Cost Proposal and exceeding \$5,000 prior authorization by SJCOG's Contract Administrator; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- C. Any equipment purchased as a result of this contract is subject to the following:  
"CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, S shall receive a proper refund or credit at the conclusion of the contract, or if the contract is terminated, CONSULTANT may either keep the equipment and credit SJCOG in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established SJCOG procedures; and credit SJCOG in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by SJCOG and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by SJCOG." 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.
- D. All subcontracts in excess \$25,000 shall contain the above provisions.

**State Prevailing Wage Rates (Verbatim)**

- A. CONSULTANT shall comply with the State of California’s General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.
- B. Any subcontract entered into as a result of this contract, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article.
- C. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

**Rebates, Kickbacks, or other Unlawful Consideration (Verbatim)**

CONSULTANT warrants that this contract was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any SJCOG employee. For breach or violation of this warranty, SJCOG shall have the right in its discretion; to terminate the contract without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

**Prohibition of Expending Local Agency State or Federal Funds for Lobbying (Verbatim)**

*(Include this article in all contracts where federal funding will exceed \$150,000. If less than \$150,000 in federal funds will be expended on the contract; delete this article and re-number the notification article which follows.)*

- A. CONSULTANT certifies to the best of his or her knowledge and belief that:
  - 1. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.
  - 2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an

employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- C. CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000 and that all such sub recipients shall certify and disclose accordingly.

### **Statement of Compliance**

- A. CONSULTANT's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.
- B. During the performance of this Contract, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. \_

*(For contracts with Federal funding, add paragraphs C & D)*

- C. The Consultant shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- D. The Consultant, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.

## Conflict of Interest

Detailed below in Conflict of Interest section

### Disadvantaged Business Enterprises (DBE) Participation

- A. This contract is subject to 49 CFR, Part 26 entitled “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”. Consultants who obtain DBE participation on this contract will assist Caltrans in meeting its federally mandated statewide overall DBE goal.
- B. The goal for DBE participation for this contract is \_\_\_\_%. Participation by DBE consultant or subconsultants shall be in accordance with information contained in the Consultant Proposal DBE Commitment (Exhibit 10-O1), or in the Consultant Contract DBE Information (Exhibit 10-O2) attached hereto and incorporated as part of the Contract. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.
- C. DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of contracts financed in whole or in part with federal funds. CONSULTANT or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. CONSULTANT shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT-assisted agreements. Failure by CONSULTANT to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as SJCOG deems appropriate.
- D. Any subcontract entered into as a result of this contract shall contain all of the provisions of this section.
- E. A DBE firm may be terminated only with prior written approval from SJCOG and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting SJCOG consent for the termination, CONSULTANT must meet the procedural requirements specified in 49 CFR 26.53(f).
- F. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the, contract is commensurate with the work it is actually performing, and other relevant factors.
- G. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the

appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.

- H. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of the contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.
- I. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- J. Upon completion of the Contract, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subconsultants" CEM-2402F [Exhibit 17-F, of the LAPM], certified correct by CONSULTANT or CONSULTANT's authorized representative and shall be furnished to the Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to CONSULTANT when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" is submitted to the Contract Administrator.

If a DBE subconsultant is decertified during the life of the contract, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the Contract, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to SJCOG's Contract Administrator within 30 days.

Contracts which were subject to the approval of the SJCOG Board must also have such approval for a modification or amendment or termination, unless expressly stated as terms of the agreement and with the following exception:

An amendment to a contract or agreement which only extends the original time for completion of performance to a date within the same fiscal year, and does not increase the monetary amount is exempt.

Contracts which were subject to the approval of the Executive Director must have such approval for modifications, amendments of \$60,000 or less and terminations.

It shall be the responsibility of the Project Manager to monitor the progress of the work as performed by the consultant. The Project Manager shall be responsible for reporting to the Executive Director any discrepancies which occur between the performance of the task and the requirements of the approved contract.

It shall be the responsibility of the Deputy Executive Director/CFO to monitor the fiscal arrangements of the contract. The Deputy Executive Director/CFO shall ensure that all appropriate

fiscal reports are completed and maintained in accordance with the terms of the contract and acceptable accounting procedures. In addition, the Deputy Executive Director/CFO shall maintain the official signed contract and any support material. Such files shall be kept until the project has been audited.

## ARTICLE III. CONFLICT OF INTEREST

### Section 1. GENERAL

The Political Reform Act, Government Code Section 81000, et seq., requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Code of Regs. Section 18730, which contains the terms of a standard conflict of interest code. It can be incorporated by reference and may be amended by the Fair Political Practices Commission after public notice and hearings to conform to amendments in the Political Reform Act. Therefore, the terms of 2 Cal. Code of Regs. Section 18730 and any amendments to it, duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and, along with the attached Appendix in which members and employees are designated and disclosure categories are set forth, constitute the Conflict of Interest Code of the San Joaquin Council of Governments.

Designated employees shall file statements of economic interests with the agency who will make the statements available for public inspection and reproduction (Gov. Code Section 81008). Upon receipt of the statements of the San Joaquin Council of Governments' Board of Directors and the Executive Director, the agency shall make and retain a copy and forward the original of these statements to the San Joaquin County Registrar of Voters. Statements for all other designated employees will be retained by the agency.

Since SJCOG is a public, tax supported organization, its employees must adhere to high standards of public service that emphasize professionalism, courtesy, and avoidance of even the appearance of illegal or unethical conduct at all times. Employees are required to give a full day's work, to carry out efficiently and effectively the work items assigned as their responsibility, and to do their part in maintaining good relationships with the public, their supervisors, and other member government employees and officials. Toward that end, an employee may not:

- Solicit, accept or agree to accept a financial benefit, other than from SJCOG, that might reasonably tend to influence his or her performance of duties for SJCOG or that he or she knows or should know is offered with intent to influence the employee's performance;
- Accept employment or compensation that might reasonably induce him or her to disclose confidential information acquired in the performance of official duties;
- Accept outside employment or compensation that might reasonably tend to impair independence of judgment in performance of duties for SJCOG;
- Make any personal investment that might reasonably be expected to create a substantial conflict between the employee's private interest and duties for

SJCOG; or

- Solicit, accept or agree to accept a financial benefit from another person in exchange for having performed duties as a SJCOG employee in favor of that person
- No person shall make a gift of fifty dollars (\$50) or more in a calendar month on behalf of another, or while acting as the intermediary or agent of another person whom he knows or has reason to know may be required to disclose the gift pursuant to a conflict of interest code, without disclosing to the recipient of the gift both his own full name, street address, and business activity, if any, and the full name, street address, and business activity, if any, of the actual donor. The recipient of the gift shall include in his Statement of Economic Interests the full name, street address, and business activity, if any, of the intermediary or agent and the actual donor.(Article 3, section 87313).

## Section 2. CONTRACTS

Specifically, with reference to contracts, no officer or employee of SJCOG who exercises any functions or responsibilities in the review or approval of an undertaking or the carrying out of one of SJCOG's contracts shall participate in any decision relating to that contract if the decision affects his or her personal pecuniary interest.

If a former staff member has worked less than one year for a business seeking to contract with SJCOG, the business entity must make this known and must describe the relationship between the former employee and the firm. In no instance may this former employee have hours billed on any project or program. To do so is reason for not awarding a contract or canceling an existing contract.

When entering into contracts with consultants, the consultant shall disclose any financial, Business, or other relationship with SJCOG that may have an impact upon the outcome of the contract, or any ensuing SJCOG construction project. The consultant shall also list current clients who may have a financial interest in the outcome of the contract, or any ensuing SJCOG construction project, which will follow. The consultant will certify that it does not have, nor shall it acquire any financial or business interest that would conflict with the performance of services under the contract. In addition any subcontract in excess of \$25,000 entered into as a result of a contract, shall contain all of the provisions of the above.

## Section 3. DECLARATION OF CONFLICT OF INTEREST

In the event of a real or apparent conflict of interest, the affected employee or board member must sign a declaration of conflict of interest affidavit form. The declaration must be made on record where the employee is a board member of a bidder, offeror or proposer; the employee is voting on an indirect affirmation of a contractual relationship, such as on-the-job-training plan; or the employee is voting on a rival proposal, though there is no direct competition. If applicable, abstain from voting on any procurement action where the officer or employee directly represents an organization or may receive a direct financial benefit; or where the officer or employee is in direct competition with a proposal or bid which would

provide a direct financial benefit. Abstain from participating in the procurement process, which includes but is not limited to discussions, rating, scoring, recommending, explaining or assisting in the design or approval of the procurement process on contract with the organization he or she represents or from which he or she receives a direct financial benefit; or on contracts with organizations in which a family member might realize a direct benefit.

#### Section 4. DISCLOSURE REQUIREMENTS

A SJCOG official or employee must file a conflict disclosure statement *if*:

- 1) A person or firm who enters into a contract with SJCOG or SJCOG is considering entering into a contract with the vendor, and
- 2) The vendor has an employment or other business relationship with a SJCOG official, employee or family member that results in the official or family member receiving taxable income,
- 3) Has given to the SJCOG official or family member of the official one or more gifts, other than gifts of food, lodging, transportation or entertainment. The conflicts disclosure statement must include:
  - 1) a requirement that each officer disclose an employment or other business relationship described above including the nature and extent of the relationship; and
  - 2) gifts accepted by the official and any family member of the official from the vendor during the 12-month period.
  - 3) an acknowledgement from SJCOG official that the disclosure applies to each family member of the official that the statement covers the 12-month period. The statement must be signed under oath under penalty of perjury. The disclosure statement shall be filed with the SJCOG Records Administrator (*Manager of Administrative Services*).
- 4) All investments and business positions in business entities, and all sources of income and interests in real property. This category is known as full disclosure.
- 5) Investments in or income from persons or businesses engaged in the business of providing services or supplies, including, but not limited to, equipment, machinery, or office supplies, to the San Joaquin Council of Governments, or could foreseeably provide services or supplies to the San Joaquin Council of Governments.
- 6) Interests in real property located in whole or in part within the boundaries of the San Joaquin Council of Governments, or within a two-mile radius of the San Joaquin Council of Governments, including any leasehold, beneficial or ownership interests or option to acquire such interest in real property if the fair market value of the interest is greater than \$2,000.00.
- 7) Business positions, including, but not limited to, status as a director, officer, sole owner, partner, trustee, employee, or holder of a position of management in any business entity which,

in the prior two years has contracted with, or in the future may contract with, the San Joaquin Council of Governments to provide services or supplies to the San Joaquin Council of Governments.

#### Section 5. VIOLATIONS AND REMEDIES

Violations of the provisions of this Article constitute misconduct, subjecting the violator to any and all penalties prescribed by law. Penalties, sanctions or other disciplinary actions, to the extent permitted by state or local law, rules or regulations, shall be imposed for violations of the code of conduct/conflict of interest standards, by SJCOG officers, employees or agents or by persons, contractors or their agents, when the procurement involves state or federal programs and/or funds. Any employee or board member knowingly violating the SJCOG's Code of Conduct and/or Conflict of Interest policies will be subject to disciplinary action which may include termination of employment or removal from the Board.

#### ARTICLE IV. DISADVANTAGED BUSINESS ENTERPRISE PROGRAM (DBE)

##### Section 1. POLICY STATEMENT

It is the policy of the SJCOG to utilize Disadvantaged Business Enterprise (DBE) firms as defined in 49 CFR Part 26 in all aspects of contracting to the maximum extent feasible. This policy which is fully described herein constitutes policy and commitment to substantially involve DBE firms in all program activities funded wholly or in part by any U.S. Department of Transportation modal element.

This Agency, its contractors and subcontractors, who are the recipients of Federal aid funds, agree to ensure:

1. Nondiscrimination in the award and administration of DOT assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

To be eligible as a DBE firm, that firm must meet current California Department of Transportation (Caltrans) standards, as well as those in 49 CFR Part 26. It is the policy of this office to utilize the Caltrans DBE directories for selecting contractors and subcontractors. These directories are updated annually by Caltrans.

## Section 2. DISADVANTAGED BUSINESS ENTERPRISE (DBE) LIAISON OFFICER

The Deputy Executive Director of the San Joaquin Council of Governments is designated DBE Liaison Officer for this agency. He/she will assign such staff as is necessary to fully implement the provisions of CFR 49 Part 26 and such other DBE programs as may be required.

## Section 3. DUTIES OF THE DBE LIAISON OFFICER

The DBE Liaison Officer is responsible for developing, implementing, and monitoring the Sub-Recipient's requirements of the DBE Program Plan in coordination with other appropriate officials. Duties and responsibilities include the following:

- A. Gathers and reports statistical data and other information as required.
- B. Reviews third party contracts and purchase requisitions for compliance with this program.
- C. Works with all departments to determine DBE contract goals.
- D. Ensures that bid notices and requests for proposals are made available to DBEs in a timely manner.
- E. Analyzes DBE participation and identifies ways to encourage participation in accordance DBE requirements.
- F. Participates in pre-bid meetings.
- G. Advises the Executive Director on DBE matters and DBE issues.
- H. Provides DBEs with information and recommends sources to assist in preparing bids, obtaining bonding and insurance.
- I. Plans and participates in DBE training seminars.
- J. Provides outreach to DBEs and community organizations to fully advise them of contracting opportunities.

## Section 4. PUBLIC NOTIFICATION

- A. The DBE goals and methodology for programs funded by Federal Highway Administration (FHWA) and Federal Transit Administration (FTA), but are administered by the California Department of Transportation (Caltrans) do not require the issuance of an annual goal from SJCOG. In accordance with the provisions of 49 CFR Part 26 Caltrans submits a goal and methodology directly to FHWA and FTA for approval.
- B. For FTA funds administered directly to SJCOG, a public notification is required. At the

time of submittal of this program to the appropriate agency, a notice must be posted on SJCOG's official Internet Web site and may also be published in other sources such as minority and majority local media in the area. Said publication shall include:

The annual overall DBE goal.

Notification that a description of how the goal was set is available for public inspection for a period of thirty (30) days.

Notification that both U.S. DOT and the SJCOG will accept comments on the goal for forty-five (45) days from the date of the notice. The notice shall advise interested parties that comments are for information purposes only.

- C. This program will be reaffirmed by public notice annually at the time of publication of the overall goals. If substantial changes are made to this document, the entire document shall be subject to notification noted in (A) above.
- D. In addition to the foregoing, interested disadvantaged and majority contractor organizations will receive direct mailings of this complete program.

#### Section 5. ESTABLISHMENT OF GOAL

- A. The DBE goal will be established on a per contract basis, and if an annual goal will be established as needed. The overall goal will be based on planned contract activity for the coming year. The overall goal established will be subject to methodology and procedures established in 49 CFR Part 23, Sub-parts (C) and (D) and take effect on October 1 of each year.
- B. Individual project goals will be established based on the following criteria:
  - Attainment of established overall goals.
  - Size of project.
  - Opportunities for DBE's subcontractors, vendors and suppliers.
  - Minority population of geographic area in which work is to be performed.
  - Availability of certified DBE's.
  - Such other factors as may affect the utilization of DBE's.
  - Complete required DBE contract goal methodology in accordance with Local Assistance Procedures.
  - Complete evaluation documentation will be retained for each project.
- C. Projects which do not contain a specific goal will contain the following provisions:
  - 1. Policy. It is the policy of the Department of Transportation that disadvantaged business enterprises as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this agreement. Consequently, the DBE requirements of 49 CFR part 26 apply to this agreement.

2. DBE Obligation. The recipient or its contractor agrees to ensure that disadvantaged business enterprises as defined in CFR 49 Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts in whole or in part with federal funds provided under this agreement. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR part 26 to ensure that Disadvantaged Business Enterprises have the maximum consideration.

#### Section 6. CONTRACT PROCEDURE

This program shall be implemented through utilization of consultants, equipment, or supply purchases which will be provided/updated as necessary by Caltrans' Division of Transportation Planning. These procedures require bidders to submit the names of DBE subcontractors and suppliers, a description of the work each is to perform or material to be furnished, and the dollar value of each DBE sub-activity.

#### Section 7. DBE NOTIFICATION

Projects will be advertised in local newspapers and area minority newspapers when possible. These ads will include reference to DBE requirements and will indicate the DBE project goal.

DBE supportive service assistance centers will receive notification of projects scheduled to be advertised. Such centers will be afforded the opportunity to receive complementary plans and specifications for projects within their geographical area of responsibility.

#### Section 8. SELECTION CRITERIA FOR PROJECTS WITH DBE GOAL

Every project containing a DBE goal shall be evaluated by the DBE Liaison Officer or designee to ascertain bidding contractors' efforts to attain the DBE goal. The award of any project must be concurred with by the DBE Liaison Officer or his designee before said contract may be awarded. Should there be disagreement between functional units concerning contractors' efforts to attain contract goals for DBE participation, the matter shall be referred to the SJCOG Executive Director or designee for final determination.

Competitors that fail to meet the DBE goal and fail to demonstrate sufficient reasonable good faith efforts shall be declared non-responsive and ineligible for award of the contract.

All contracts that contain DBE goals, pursuant to this policy, will be monitored on an ongoing basis by project personnel during the course of the project. The DBE Liaison Officer is to be immediately advised of any circumstances wherein contractor compliance with the DBE provision is questionable. The contractor shall submit a final report for each project which includes total payments to the prime contractor as well as any payments the prime contractor has made to the DBE subcontractors, vendors and suppliers. If the report indicates the prime contractor has not

achieved the project goal, project personnel shall attach an evaluation, in narrative form, of the reasons for failure to attain the goal and any corrective action that was taken.

Prime contractors will be required to notify the Agency of any situation in which regularly scheduled progress payment are not made to DBE subcontractors, vendors or suppliers.

#### Section 9. SET-ASIDES

If deemed necessary by the DBE Liaison Officer, DBE Set-Asides will be considered by the Council of Governments (COG) as a tool to achieve annual overall SJCOG goals.

#### Section 10. COUNTING DBE PARTICIPANTS

The Council of Governments, its contractors, and subcontractors shall count DBE participation in accordance with provisions of Section 26, Title 49, of the Code of Federal Regulations.

#### Section 11. RECORDS AND REPORTS

A. The DBE Liaison Officer shall maintain such records, and provide such reports, as are necessary to ensure full compliance with this policy. Such records and reports shall include, as a minimum, the following information:

1. Procedures which have been adopted to comply with this DBE policy.
2. Awards to DBE's.
3. Awards to majority contractors.
4. Final project reports concerning DBE utilization.
5. Such other data as is needed to fully evaluate the Council of Governments' compliance with this program.
6. A binder for each project containing the following information:

A demographic map of the project's impacted area.

A copy of the mailing lists used for mass mailings.

Copies of any public notices and the publications in which they were published.

Copies of any text used in public announcements and the names of the media on which the announcements were broadcast.

Copies of any printed material including, but not limited to brochures, mailers, etc.

A description of the minority populations in the project's impacted area.

A description of outreach efforts to the minority populations.

A description of each public meeting including:

Outreach efforts to get minority populations to attend meetings.

Copies of alternative language printed material (guideline: English and predominate alternative based upon demographic analysis).

Availability of interpreters.

Accessibility of meeting location.

Comments received from the public including minority comments.

Disposition of comments and location of responses.

Complaints and disposition of complaints.

A list of all DBE firms under contract either as prime or sub-contractors and total amount of contract and amount of DBE portion.

The DBE Liaison Officer shall submit required reports to Caltrans and the Federal funding agency. These reports will include:

1. Number and dollar value of contracts awarded to DBE's.
2. Description of general categories of contracts awarded to DBE's.
3. The percentage of the dollar value of all contracts awarded during the fiscal year which were awarded to DBE's.
4. Indication as to the extent of which the percentage met or exceeded the overall departmental goal.
5. Reports shall be broken down separately by ethnic grouping and sex.
6. Any contractors qualifying as Small Businesses will be reported separately.

#### Section 12. DBE LISTING MAINTAINED BY SJCOG

The Council of Governments (COG) will maintain a listing of firms certified to be disadvantaged in accordance with the DOT Order. The listing will be developed and maintained in accordance with Part 26 of Title 49 CFR. This listing shall be made available to prospective contractors and

to all sub-recipients at no charge.

The SJCOG Contractor will be permitted to rely upon the authenticity of firms listed in this directory. A contractor desiring to use a DBE not included in the SJCOG's listing will be allowed to do so, but will be required to provide the appropriate certification from the DBE before such participation is counted towards award of this project.

### Section 13. COMPLAINTS

Any complaints received by the Council of Governments (COG) concerning this program will be investigated by SJCOG. San Joaquin County SJCOG will endeavor to resolve said complaints within 90 days of receipt of the DBE Liaison Officer. Caltrans, Division 10, or the appropriate Federal funding agency will be furnished a copy of the complaint and invited to participate in the investigation/resolution. The funding agency will receive a complete investigative report on the complaint and will be requested to concur in the proposed disposition of said complaint.

Contractors and sub-recipients will be directed to notify the SJCOG of any complaints they may receive concerning this program.

### Section 14. CHALLENGES

1. Any third party may challenge the socially and economically disadvantaged status of any individual (except an individual who has a current 8(a) certification from the Small Business Administration) presumed to be socially and economically disadvantaged if that individual is an owner of a firm certified by or seeking certification from the SJCOG as a disadvantaged business. The challenge shall be made in writing to the SJCOG.
2. The challenging party shall include in the letter, all information available to it relevant to a determination of whether the challenged party is in fact socially and economically disadvantaged.
3. The SJCOG shall determine on the basis of the information provided by the challenging party, whether there is reason to believe that the challenged party is in fact not socially or economically disadvantaged. If the SJCOG determines that there is not reason to believe that the challenged party is not socially or economically disadvantaged, the SJCOG shall so inform the challenging party in writing. This terminates the proceeding.

If the SJCOG determines that there is reason to believe that the challenged party is not socially and economically disadvantaged, the

COG shall begin a proceeding as provided in paragraph (4), (5), and (6) of this section.

4. The SJCOG shall notify the challenged party in writing that his or her status as a socially and economically disadvantaged individual has been challenged. The notice shall identify the challenging party and summarize the grounds for the challenge. The notice shall also require the challenged party to provide the SJCOG, within a reasonable time, the information sufficient to permit the SJCOG to evaluate his or her status as a socially or economically disadvantaged individual.
5. The SJCOG shall evaluate the information available to it and make a proposed determination of the social and economic disadvantage of the challenged party. The SJCOG shall notify both parties of this proposed determination in writing, setting forth the reasons for its proposal. The SJCOG shall provide an opportunity to the parties for an informal hearing at which they can respond to this proposed determination in writing and in person.
6. Following the informal hearing, the SJCOG shall make a final determination. The SJCOG shall inform the parties in writing of the final determination, setting forth the reasons for its decision.
7. During the time frame of a challenge, the presumption that the challenged party is a socially and economically disadvantaged individual shall remain in effect.
8. The final decision of the SJCOG may be appealed to the Department of Transportation by the adversely affected party to the proceedings.

Section 15. COSTS OF ADMINISTRATION OF POLICY

The administrative costs of this policy shall be reimbursed to the Council of Governments on a pro-rated basis from the various federally funded projects.

**BUDGET ADMINISTRATION**

ARTICLE

- I. PURPOSE.....
- II. FORMAT.....
- III. CALENDAR.....
- IV. PREPARATION, REVIEW AND ADOPTION.....
- V. EXPENDITURE CONTROL TRANSFERS AND SUPPLEMENTAL REQUESTS.....

ARTICLE I. PURPOSE

Section 1. MANDATE

In accordance with Section 6(c) of the Joint Powers Agreement, the Executive Director shall be responsible for supervising and directing the preparation of the annual budget.

## Section 2. PURPOSE

The purpose of the annual budget shall be to serve as a comprehensive, detailed financial plan, which estimates annual revenues and allocates resources according to functional priorities and related expenditures. As such, the budget serves as a financial statement of annual operations.

## ARTICLE II. FORMAT

### Section 1. ORGANIZATION

SJCOG shall use the program budget format. Such a format shall first involve the development of proposed work or project activities. These proposed activities shall be put forth in the annual Overall Work Program. Each work element shall state the objectives, work tasks, product(s)/schedule(s), funding source, staff time required and total cost. The Annual Financial Plan document shall then restate this program budget in terms of classes of revenues and expenditures. As a result, the annual Overall Work Program and Annual Financial Plan shall reconcile to one another.

### Section 2. CONTENTS

In addition to current budgetary requests by object class, the budget shall include comparative revenue and expense data for at least two (2) prior years. Also, a detailed organizational chart, and staffing authorization shall be included.

## ARTICLE III. CALENDAR

### Section 1. FISCAL YEAR

The annual budget shall be prepared on the basis of the July 1 to June 30 fiscal year.

### Section 2. CYCLE

In general, the budget preparation cycle shall be executed between November 1 and March 31 of each year.

## ARTICLE IV. PREPARATION, REVIEW AND ADOPTION

### Section 1. GENERAL PARTICIPATION

The Board and staff management team shall jointly participate in the formulation of the annual budget. The Board shall establish overall budgetary policy, set long-term goals, assess long-term program and service needs, analyze current and anticipated financial conditions and approve the

final budget. Based on Board direction, the management team shall develop programs designed to meet established goals, estimate and recommend allocation of resources, recommend program priorities and provide detailed justification and support for all requests.

## Section 2. PREPARATION

Following adoption of the budget calendar by the Board, the management team shall meet to discuss budget preparation within established guidelines. The management team shall then solicit budget requests from staff. These requests shall be consolidated into an object-classification format for purposes of review and approval. However, a detailed line item format shall be used with respect to the presentation of data regarding salaries and benefits, consultant contracts, service and supplies and fixed assets.

## Section 3. BOARD OF DIRECTORS' REVIEW

The Executive Director shall present a balanced preliminary budget to Board for review. review shall be initiated within the Board's established committee system. The primary emphasis of this review shall be to determine how well projected operations mesh with available resources and prescribed goals, policies and priorities. The management team shall be available to respond to all questions originating from the Board or its committees. Any disagreements arising from this review may be referred back to the appropriate Board committee for additional analysis and recommendation. A draft OWP is submitted to Caltrans for review. Caltrans will then submit the draft for review to various other Divisions for review. Caltrans' comments and questions are addressed and a final OWP is prepared for final approval from Caltrans.

## Section 4. ADOPTION

The Board shall review the proposed budget before April 1 and submit it for ratification to each member agency. Upon ratification of member governments representing at least 55% of population of county, such budget shall serve as the approved budget for the fiscal year. Amendments to the budget may be made as specified in Article V.

## ARTICLE V. EXPENDITURE CONTROL, TRANSFERS AND SUPPLEMENTAL REQUESTS

### Section 1. EXPENDITURE CONTROL

The annual budget, once approved, shall be considered the controlling financial plan for expenditure. Expenditures in excess of the Board approved budgetary control amount for each object class shall not be permitted.

### Section 2. BUDGETARY TRANSFERS

In the event that total expenditures within one or more object class (es) are projected to be greater than the budgetary appropriation in an object class and lesser in others, a transfer of budgeted funds may be processed. Any such budgetary transfer between object classes must receive prior approval

of the Board of Directors. The Executive Director shall be authorized to approve budget transfers between accounts within a single object class.

### Section 3. SUPPLEMENTAL REQUESTS

As soon as a required addition to the budget becomes known, the Executive Director shall submit a detailed request and justification to the Board. This request shall include supporting documentation and recommendations regarding the means for financing.