

STAFF REPORT



MEETING DATE:	April 25, 2017
SUBJECT:	Approve Updated SRTA Financial and Accounting Policies
AGENDA ITEM:	5-5
STAFF CONTACT:	Dave Wallace, Chief Fiscal Officer

STAFF RECOMMENDATION:

It is recommended that the board of directors approve various technical changes and the addition of Section 1101 to SRTA's Financial and Accounting Policies and Procedures.

DISCUSSION:

SRTA must adhere to the procurement policies of state and federal funding agencies. Section 1101 of SRTA's Financial and Accounting Policies and Procedures provides standards for travel and expense reimbursement. SRTA drafted Section 1101 in 2012 and staff has followed the guidelines since SRTA was established; however, the board of directors has never formally adopted the policy. In addition, minor housekeeping edits and clarifications have been made to various other sections of SRTA's Financial and Accounting Policies.

ALTERNATIVES:

The board of directors may decline to update the policies, suggest additional modifications, or defer to a future meeting to request additional information.

FINANCING:

There is no fiscal impact associated with the updated policies.

Daniel S. Little, AICP, Executive Director

Attachments:

Updated sections of SRTA's Financial and Accounting Policies and Procedures (with track changes)



Shasta Regional Transportation Agency

Financial and Accounting Policies and Procedures

March 2014

Updated December 2014

Updated September 13, 2016

Updated April 25, 2017

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100. Introduction

101. Purpose of Manual

101.1.—~~The.~~ The purpose of this manual is to enable the Shasta Regional Transportation Agency board and agency personnel to carry out the purpose and mission of the agency within the guidelines set by the California Government Code, the State Controller’s Office, and the United States Government.

102. Amending the Financial and Accounting Policies & Procedures

102.1. This manual will be reviewed by the auditfiscal committee on an annual basis.

102.2. Amendments to this manual ~~can~~ may be made at any time and any amendments require both auditfiscal committee and board approval.

200. Internal Control Policies

201. The Board

201.1. The board is responsible for the oversight of management and to provide continuity to the agency. Responsibilities of the board as they relate to financial operations are to:

- 1) Hire/support/evaluate/discharge the executive director;
- 2) Safeguard the assets of the agency by developing and implementing policies and procedures;
- 3) Monitor the financial performance of the agency;
- 4) Create an environment for ethical behavior;
- 5) Commit the financial and administrative resources for the prevention and detection of fraud and embezzlement;
- 6) Review and approve the annual budgets and all budget revisions;
- 7) Review and approve major organizational decisions, commitments, and plans including expenditures, contracts, loans, and leases;
- 8) Evaluate progress toward program and financial goals;
- 9) Ensure the continuity of the agency through the development and recruitment of the executive director;
- 10) Conduct affairs of the board including board development, transition and effectiveness; and

- 11) In conjunction with the executive director, provide leadership on organizational transition, structure and planning.

201.2. The board, as the governing body of the agency, formulates financial policies. The board may choose to delegate some of the responsibility for administration of financial policies to staff or to the audit fiscal committee.

201.3. The board is required to complete ethics training biennially.

201.4. The board will meet their specific responsibilities through:

- 1) Board orientation;
- 2) Information flow: financial statements, reporting regarding programs and operations, planning;
- 3) Each board member exercise of informed, independent judgment;
- 4) Appropriate board organization and continuity;
- 5) Board meetings, agendas, minutes and documentation;
- 6) Appropriate committee structure; and
- 7) Determination of board-executive staff relationships and the extent of delegation of management authority.

202. Fiscal Committee

202.1. The agency will establish a fiscal sub-committee comprised of the following:

- 1) All sub-committee members should possess or obtain a basic understanding of governmental financial reporting and auditing.
- 2) The sub-committee should have access to the services of at least one financial expert, either a committee member or an outside party engaged by the committee for this purpose.
- 3) The actual fiscal sub-committee membership should be comprised of the agency's board members.
- 4) The minimum membership of the committee should be no fewer than two (2) members.

202.2. The fiscal sub-committee provides the highest level of management oversight related to financial operations. Responsibilities of the fiscal sub-committee are:

- 1) Recommend the choice of an auditor after completion of request for proposal (RFP) process; perform regular, in-depth reviews of the agency's financial activity; oversee the development of the annual budget and budget revisions; determine the allocation of assets and investments.

- 2) Submit any financial policies it deems to be in the best interest of the agency within the parameters of the bylaws or federal, state and local laws to the board for approval.
- 3) Meet as needed or at least twice a year.
- 4) Determine that all investigations of ethics violations, fraud or embezzlements have been adequately performed.
- 5) Evaluate, on an annual basis, the performance of the agency executive director related to the finances.
- 6) Obtain informal training related to the understanding of financial statements and generally accepted accounting principles.
- 7) Review financial policies and procedures on an annual basis.
- 8) Meet with the independent auditor for a pre-audit meeting and post-audit meeting.
- 9) Present a financial operations report to the board at each board meeting.

203. General Business Conduct and Values

203.1. The members and employees of the agency are required to observe the highest standards of business and personal ethics in the conduct of their duties and responsibilities. As representatives of the agency, they will practice honesty and integrity in fulfilling their responsibilities and comply with all applicable laws and regulations. Management and employees are expected to communicate the agency's ethical values by example.

- 1) A code of ethics outlining broad ethical principles and values. The values of the agency are:
 - a) A commitment to the public good;
 - b) Accountability to the public;
 - c) Commitment beyond the law;
 - d) Respect for the worth and dignity of individuals;
 - e) Transparency, integrity and honesty;
 - f) Responsible stewardship of resources; and
 - g) Commitment to excellence and to maintaining the public trust.
- 2) All staff and board members of the agency will act with honesty, integrity and openness in all dealings as representatives of the agency. The agency promotes a working environment that values respect, fairness and integrity.

- 3) The agency has a clearly stated mission and purpose, approved by the board, in pursuit of the public good. All of its programs support that mission and all who work for or on behalf of the agency understand and are loyal to that mission and purpose. The mission is responsive to the constituency and communities served by the agency and of value to society at large.
- 4) The agency is a responsible steward of the funds received and ensures all spending practices and policies are fair, reasonable, and appropriate to fulfill the mission of the agency and all financial reports are factually accurate and complete in all material respects.

204. Compliance with all Laws, Rules and Regulations

204.1. All board members, employees and consultants involved with daily operations of the agency will comply with all laws, rules and regulations (including the provisions of California Code Section 87300 et seq., and California Code of Regulations, title 2, section 18730, which are incorporated herein by reference, as they exist or may be amended) prescribed by law, code, policy, procedures, contract and grant regulations.

The Statement of Economic Interest forms (Form 700) will be maintained by the Shasta County Clerk of the Board.

204.2. The agency will not enter into any agreement that creates a risk that all laws, rules and regulations cannot be followed.

204.3. The agency will terminate any grant agreements or vendor contracts in which the grantor or vendor requests or instructs the agency to perform an illegal or unethical act.

205. Conflict of Interest

Introduction: Conflicts of interest occur when a conflict exists between the public interest and the private monetary interest of the public official or employee.

205.1. The following policy ensures that any conflicts of interest or the appearance thereof are avoided or appropriately managed through disclosure, recuse or other means. No board member, employee or consultant involved with daily operations of the agency may:

- 1) Engage or participate in a business or transaction, including outside employment, or have a direct or indirect interest that is incompatible with, or that would tend to impair their independent judgment in the proper discharge of their agency responsibilities;
- 2) Solicit or accept a gift from anyone who has an interest in any project within the board member's or employee's responsibility;
- 3) Use information about the agency's affairs for his/her own or others' financial interests.
- 4) Ask or permit agency-owned vehicles, equipment, facilities, materials, or property to be used for his/her own personal convenience or profit, except when this property is permitted for the employee's or board member's use when conducting agency business;

- 6) Use his/her position for personal financial benefit or that of an immediate family member (spouse, child or dependent relative living in his/her household) or associated business (business owned by a board member, employee or member of one's immediate family or where any one of them works or serves as a board member, director or compensated agent);
- 7) Accept a fee or honorarium for an article written, appearance or speech made, or participation at an event, in one's official agency capacity;
- 8) Engage in any political activity while on duty or during any time one is paid to be on duty for the agency that violates the conditions of any grant contract in effect with the agency;
- 9) Use agency funds, supplies, vehicles, or facilities for political activity;
- 10) Solicit or accept anything of value, including a gift, loan, political contribution, reward or promise of future employment based on any understanding that the board member's or employee's official action or judgment would be or had been influenced by it. A "gift" is generally anything of value given for less than its value.
- 11) Vote on, or otherwise participate in, any matter on behalf of the agency if he/she has an associated business, or an immediate family member has a financial or personal interest in the matter greater than that of any other segment of the population, including the sale of real estate, material, supplies, or services to the agency. If the participation is within the scope of the board member's or employee's official responsibility, he/she must give the board a written explanation of the nature and extent of one's interest. This policy prohibits immediate families and associated businesses from entering into private contractual agreements with the agency.
- 12) Employees and former employees shall not use confidential information for actual or anticipated personal gain or for the gain of any other person

205.2. Former board members or employees are prohibited from:

- 1) Accepting compensation from the agency to appear before the agency or board for the first year after terminating employment or office;
- 2) Representing anyone, other than the agency, in any matter in which they participated personally and substantially while in agency service;
- 3) Disclosing or using confidential information gained in their position at the agency for their own financial gain or that of others; or
- 4) Working for a party under contract, other than the agency, for one year after the contract is signed, if they participated substantially in the contract negotiations or award.
- 5) Employees who participate in selection, review or approval or who have influence over selection or approval in the purchasing process should not become employees of a firm contracting with the agency. An employee should not act as a principal or as an agent for a firm that does business with the agency for six months after the termination with the agency.

205.3. A Conflict of Interest Form must be completed as required by government code by all designated positions. Designated positions are defined below as well as the disclosure category. Members have a responsibility to disclose actual or potential conflicts before their appointment.

<u>Designated Position</u>	<u>Disclosure Category</u>	
Board Member	1	
Executive Director	1	
Planner	1	
Senior Accountant <u>Chief Fiscal Officer</u>	<u>1</u>	<u>1</u> —
Consultants*	1	

Disclosure Category

- 1) All investments and business positions in business entities, sources of income, and interests in real property.

*Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure in the Conflict of Interest Code, subject to the following:

Outside counsel for the agency or his designee may determine in writing that a particular consultant, although a “designated position,” is hired to perform a range of duties that are limited in scope, and thus is not required to fully comply with the disclosure requirements of this section. Such written determination shall include a description of the consultant’s duties and, based upon that description, a statement to the extent of disclosure requirements. The determination of outside counsel or his designee is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

206. Ethical Standards in Bidding, Negotiation and Performance of Awards

206.1. It is the intention of the agency to maintain the highest level in ethics in the bidding, negotiation and performance of awards. At no time shall the agency:

- 1) Award or commit to any contracts with vendors or sub- consultants prior to an award without all competitive bidding procedures and guidelines being followed;
- 2) Accept a grant where the act of a grantor specifying a particular vendor or sub- consultant in the award would violate the contract awarding policies of the agency;
- 3) Consider bids from vendors or consultants who were material participants in the proposal preparation; or
- 4) Consider bids from vendors and consultants who participated in strategic planning sessions (other than providing information).

207. Fraud

207.1. It is the intent of the board to provide the administrative and financial support for the detection and prevention of fraud and other financial abuse. The board and management recognize the need to maintain an atmosphere conducive to the highest ethical behavior. At no time will the board or management create an environment encouraging unethical behavior. The agency is committed to protecting tax payer dollars and assets from fraud and recovering losses as a result of fraudulent activities. These policies establish steps to combat fraud and to provide procedures to follow when fraudulent acts are suspected.

207.2 The agency will provide ethics training to all employees on an annual basis.

208. Reporting of Ethics Violations, Fraud or Embezzlement

208.1. It is the responsibility of all members and employees to report all violations or suspected violations in accordance with this policy.

208.2. No member or employee who, in good faith, reports a violation of the policy shall suffer harassment, retaliation or adverse employment consequence. An employee who retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination of employment. This policy is intended to encourage and enable employees and others to raise serious concerns within the agency prior to seeking resolution outside the organization.

208.3. The policy addresses the agency's open door policy and suggests that employees share their questions, concerns, suggestions or complaints with someone who can address them properly. If an employee is not comfortable speaking to their direct supervisor or is not satisfied with the proposal, they are encouraged to speak with the executive director, who has the specific responsibility to investigate all reported violations.

208.4. Any allegations concerning a specific employee should be brought to the attention of someone one level higher than the level of the employee being reported.

208.5. ~~The executive~~The executive director is responsible for investigating and resolving all reported complaints and allegations concerning violations of the policy and, at his/her discretion, shall advise the auditfiscal committee. The executive director has direct access to the auditfiscal committee and is required to report to them on any compliance or suspicious activity. ~~The executive~~The executive director is an advisor (not a member) of the auditfiscal committee.

208.6. The auditfiscal committee shall address all reported concerns or complaints regarding the agency's accounting practices, internal controls or auditing. ~~The executive~~The executive director shall immediately notify the auditfiscal committee of any such complaint and work with the audit committee until the matter is resolved.

208.7. Anyone filing a complaint concerning a violation or suspected violation of the policy must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation of the policy. Any allegations that prove not to be substantiated and which prove to be made maliciously or knowingly to be false will be viewed as a serious disciplinary matter.

208.8. Violations or suspected violations may be submitted on a confidential basis by the complainant or may be submitted anonymously. Reports will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.

208.9. The executive director will notify the sender and acknowledge receipt of the reported or suspected violation within five business days. All reports will be promptly investigated and appropriate action will be taken if warranted.

209. Whistleblower Program

209.1. The Whistleblower Program is established to provide a method for reporting fraud, waste and abuse within the agency. Policy and procedures are established to facilitate the development of internal controls that will provide for the detection, prevention, and reporting of fraud, waste and abuse directed against the agency. It is the intent of this policy to promote awareness of the potential for fraud, waste and abuse throughout the agency, and to provide guidelines and assign responsibility for the development of adequate internal controls and systems of the whistleblower program.

209.2. The law in California protects employees from retaliatory or adverse personnel action for disclosing certain information including, but not limited to, violations of laws and suspected acts of gross mismanagement or gross waste of public funds.

209.3. The term fraud refers to, but is not limited to, any dishonest or fraudulent act to include forgery or alteration of any document; misappropriation of funds, supplies, etc.; improper handling or reporting of money or financial transactions; profiting by self or others as a result of inside knowledge; destruction or intentional disappearance of records, furniture, fixtures or equipment; accepting or seeking anything of material value from vendors or persons providing services or materials to the agency for personal benefit; and/or any similar or related irregularity.

209.4. Waste refers to the unnecessary incurring of costs as a result of inefficient practices, systems or controls.

209.5. Abuse refers to violations and circumventions of departmental or agency regulations which impair the effective and efficient execution of operations.

209.6. The agency treats all information received confidentially, to the extent allowed by law. Any employee, citizen, consultant, vendor, or other interested party who has observed or suspects dishonest or fraudulent activity should notify the audit committee or agency counsel immediately. Persons observing or suspecting dishonest or fraudulent activity should not attempt to personally conduct an investigation related to such activity.

209.7. All documents and/or information obtained in the investigation of complaints received shall be considered in draft form until the official completion of the investigation. At that time the supporting information will be used to prepare the final report on the "Whistleblower Complaint Resolution Form." Upon completion of the form, the draft documents will be returned to the department from which they came, or distributed to the appropriate law enforcement officials for use in further investigation or legal matters. All documents with the exception of the "Whistleblower Complaint Resolution Form" are considered confidential and shall not be disclosed, except as required by law. All public record requests for information should be coordinated with the assistance of agency counsel.

209.8. Procedures for Receiving Complaints:

- 1) A current or former agency employee or other party who suspects fraud, waste, or abuse, and does not desire anonymity, should:
 - a) Contact the ~~audit~~fiscal committee or agency counsel and provide as much detailed information as possible regarding the suspected conduct.
 - b) If requested by the ~~audit~~fiscal committee or agency counsel, furnish a detailed written statement, outlining the suspected conduct.
 - c) Cooperate with the investigative audit process by providing written statements, interviews, etc.
- 2) A current or former agency employee who suspects fraud, waste, or abuse, and wishes to remain anonymous, should:
 - a) Contact the ~~audit~~fiscal committee or agency counsel and provide as much detailed information as possible regarding the suspected conduct.
 - b) The caller, though anonymous, must be willing to share specific information regarding the suspected conduct.
- 3) A member of the public suspecting fraud, waste, or abuse, is encouraged to contact ~~the~~ ~~audit~~the fiscal committee or counsel with specific and detailed information regarding the suspected conduct.
- 4) Individuals are not required to leave personal information, but they are encouraged to leave a means of contact in order for the whistleblower program to gather additional information about the matter, if necessary.
- 5) The agency will:
 - a) Maintain a whistleblower notification process, and attempt to secure as much information as possible from the reporting individual.
 - b) Complete an independent review of all claims received.
 - c) Contact law enforcement, as appropriate under the circumstances, for consideration as to their involvement in the case. Determination of the appropriate agency will be considered with the assistance of counsel.
 - d) Evaluate reported conduct pertaining to any and all departments of the agency, and such other activities/entities engaged in the expenditure of agency funds.
 - e) Report findings in accordance with the whistleblower policy herein.

f) Work with law enforcement authorities as necessary during the course of the investigative review, and refer applicable findings to appropriate authorities upon completion.

209.9. An individual who reports suspected fraud, waste or abuse who becomes material to a criminal investigation may not be able to remain anonymous. In the event anonymity cannot be maintained an individual reporting fraud, waste, or abuse in good faith will be protected from retaliation.

| 209.10. In the event of a complaint regarding the executive director or counsel, the auditfiscal committee will engage outside counsel.

| 209.11. In the event of a complaint regarding the auditfiscal committee or board, the agency counsel will be contacted.

| 209.12. All complaint resolutions will be documented in the “Whistleblower Complaint Resolution Forms.” The forms will be maintained by the auditfiscal committee.

| 209.13. At the discretion of the auditfiscal committee, complaint resolutions may be presented to the general board.

209.14. The record retention period for all final “Whistleblower Complaint Resolution Forms” will be in accordance with agency policies and procedures regarding audit work paper retention periods.

210. Continuing Education

210.1. The education goals of the agency are:

- 1) Employees are encouraged to attend training as approved by management and in alignment with the budget at the expense of the agency. The training will consist of technical information related to that employee’s assignment as well as training in supervision, management, budgeting and accounting.
- 2) Continuing education specifically related to an employee’s interest and with prior approval from management is acceptable and may be subject to partial or complete reimbursement by the agency.
- 3) Continuing education not related to an employee’s performance must be approved by the board before any reimbursement can be made.

211. Risk

Introduction: The agency is subject to reporting for financial statements purposes, liability and claims from a variety of risks arising from torts, property damage, errors and omissions, injury to employees arising from unsafe conditions or hazards in the workplace, and natural disasters. Risk can also be associated with grantees and vendors.

Risk management for financial statement purposes encompasses identifying risks, evaluating potential losses, and ultimately planning and developing a program to mitigate these risks to an acceptable level

or record the liability associated with a program.

The agency's risk management program will identify risks to understand the sources, types, and likelihood of risk. At a minimum, exposure to risks should be identified in the following areas:

- Economic environment- the ability to be paid by governmental agencies on a timely basis and the ability to pay vendors on a timely basis.
- Internal environment- the amount of financial risk that is taken by staff and management. Often associated with an attitude towards rules and regulations.
- Legal environment- any liabilities associated with non-compliance of rules and regulations.
- Operational environmental- the ability to provide sufficient internal controls and appropriate staffing. The ability of the organization to provide adequate staff and resources.
- Political environment- influence or pressure from other governing bodies.
- Social environment (socio-economic composition of the community).

211.1. It is the intent of the agency to maintain accounting and financial reporting risks at an acceptable level. The agency shall minimize liability and control risk by the following:

- 1) Adhere to all laws, rules and regulations.
- 2) Prepare proposals that follow the agency's policies.
- 3) Avoid changes to grants or contracts that do not follow agency policy.
- 4) Prepare budgets that are reasonable.
- 5) Enter into agreements with those agencies that have the ability to amend the agreement, those willing to pay a fair price for the agency's services and those that will pay for the agreed upon share of the agency's costs.
- 6) Setting challenging but reasonable goals for employees, to emphasize ethical behavior instead of creating situations that result in fraudulent financial reporting or other unethical actions.

211.2. The agency shall minimize business and inherent risk by the following:

- 1) Ensure that all contracts recover all agreed upon costs and that the risk of partial or complete project failure can be covered.
- 2) Accept grants with insufficient or incomplete funding if the agency reasonably believes it can receive matching grants or otherwise complete the proposed work using other funding sources.
- 3) Ensure that the agency can achieve the results projected.

- 4) Accept projects with appropriate cost analysis or feasibility studies completed.

212. Financial Personnel

212.1. Employees and consultants involved with financial records shall be bondable.

212.2 All employees involved with financial records shall possess sufficient training and have knowledge of generally accepted accounting principles.

300. Financial Management

301. Basis of Accounting

301.1. The agency will maintain the accounting records and prepare financial statements using the accrual method following Generally Accepted Accounting Principles (GAAP).

301.2. The agency will maintain the records under the provisions of Governmental Accounting Standards Board (GASB) 34 related to reporting under full accrual.

301.3. The agency will follow the guidelines as found in the State of California Accounting Standards and Procedures.

301.4. The agency will follow the guidelines as found under Office of Management and Budget (OMB) Circulars A-87, A-133 and No. 74-4.

301.5. Governmental resources are allocated to and accounted for in separate entities, called funds, based upon purposes for which they are to be spent and controlled. A fund is defined as a fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and equities, and changes therein, which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions, or limitations.

Governmental Funds focus primarily on the sources, uses and balance of current financial resources and often have a budgetary orientation. They employ the flow of current financial resources measurement focus and the modified accrual basis of accounting:

- Revenues are recognized in the accounting period in which they become measurable and available. Sixty (60) days shall be considered a reasonable period.
- Expenditures are recognized when incurred, if measurable, except for un-matured interest on general long-term obligations, which is recognized when due.
- Prepayments and capital expenditures are not recorded as deferred costs to be allocated over future period, but rather as current expenditures
- Assets and liabilities reported on the financial statements are limited to those representing current available resources or requiring expenditure of said resources.

The general fund is used to account for all financial resources except those required to be accounted for in another fund.

The capital projects fund is used to account for financial resources to be used for the acquisition and construction of major capital expenditures.

Special revenue funds are used to account for revenue to be used for a specific purpose,

Fiduciary Funds focus on net assets and changes in net assets. Trust funds use the flow of economic resources measurement focus and the accrual basis of accounting, except for the recognition of certain liabilities of defined benefit pension plans. Agency funds also use the accrual basis of accounting, but since they are custodial in nature and do not involve the measurement of results of operations, they do not use a measurement focus.

Proprietary funds are accounted for on a flow of economic resources measurement basis and account for operations that are financed and operated in a manner similar to private business enterprises.

302. Records Retention

302.1. Definitions for records retention are:

- 1) Active Records – Those records that are referred to at least once a month; a record that remains active until some event occurs to change its status, at which time it has fulfilled its function.
- 2) Administrative Records – Records commonly found in all offices and typically retained only for a short time period of less than five (5) years. Examples include subject, chronological, budget and policy files.
- 3) Archival Records – Records with enduring value because they reflect significant historical events, document the history and development of an agency, or provide valuable research data.
- 4) Audit – An audit of federal awards/grants conducted under the Inspector General Act of 1978, as amended, when the inspector general of a federal agency audits or investigates any program, function, or activity administered by that agency. (A-87, ASMB C-10, Section 6.8)
- 5) Grant or Services Contract or Agreement – A grant or services contract or agreement with any agency or organization that contains audit or record retention requirements that exceed the timeframe beyond those described in this policy.
- 6) Non-records – Material not usually included within the definition of records, such as unofficial copies of documents kept only for convenience or reference, working papers, appointment logs, stocks of publications and processed documents, and library or museum material intended solely for reference or exhibition. Also, documents such as rough notes, calculations or drafts assembled or created and used in the preparation or analysis of other documents.
- 7) Permanent Records – Records that are required in perpetuity, usually identified by statute or other written guidance.

- 8) Perpetual Records – Records retained for an indefinite period of time and then stored or destroyed after some event takes place. Includes personnel files which are kept until a person leaves the office, policy files kept until the policy is changed, contract files kept until the contract terminates.
- 9) Program Records – Records that relate to the primary function of the agency in proposal to its daily mission. Includes recorders files and probate records.
- 10) Public Records – Information relating to the conduct of the public’s business prepared, owned, used or retained by any local agency regardless of physical form or characteristics.
- 11) Records – All papers, maps, exhibits, magnetic or paper tapes, photographic films and prints, and other documents produced, received, owned, or used by an agency, regardless of physical form or characteristics.
- 12) Records Retention Schedule – A list of all records produced or maintained by an agency and the actions taken with regards to those records. A retention schedule is an agency’s legal authority to receive, create, retain, and dispose of official public records.
- 13) Retention Period – The length of time a record must be retained to fulfill its administrative, fiscal, and/or legal function. Then a record should be disposed of as soon as possible in accordance with an approved schedule.

302.2. The purpose of record retention is to:

- 1) Provide guidelines to staff regarding the retention or disposal of agency’s records; provide for the identification, maintenance, safeguarding and disposal of records in the normal course of business; ensure prompt and accurate retrieval of records; and ensure compliance with legal and regulatory requirements; and
- 2) Retain vital and important records, regardless of recording media, and those having legal, financial, operational, or historical value to the agency.

302.3. Responsibility of record retention is:

- 1) Per Section 60201 (d) of the California Government Code, an agency may not destroy or dispose of any record that:
 - a) Relates to formation, change of organization or reorganization of the agency;
 - b) An ordinance adopted by the agency;
 - c) Minutes of any meeting of the legislative body of the agency;
 - d) Relates to any pending claim or litigation or any settlement or other disposition of litigation within the past two years;
 - e) Is the subject of any pending request made pursuant to the California Public Records Act, whether or not the agency maintains that the record is exempt from disclosure, until the

request has been granted or two years have elapsed since the agency provided written notice to the requester that the request has been denied;

- f) Relates to any pending construction that the agency has not accepted or as to which a stop notice claim legally may be presented;
 - g) Relates to any non-discharged debt of the agency;
 - h) Relates to the title to real property in which the agency has an interest;
 - i) Relates to any non-discharged contract to which the agency is a party;
 - j) Has not fulfilled the administrative, fiscal, or legal purpose for which it was created or received;
 - k) Is an unaccepted bid or proposal, which is less than two years old, for the construction or installation of any building, structure, or other public work;
 - l) Specifies the amount of compensation paid to agency employees or officers or to the independent consultants providing personal or professional services to the agency, or relates to expense reimbursement to agency officers or employees or to the use of agency paid credit cards or any travel compensation mechanism. However, a record described in this paragraph may be destroyed or disposed of pursuant to this section seven (7) years after the date of payment. Payroll and personnel records include accident reports, injury claims and settlements, medical histories, injury frequency charts, applications, changes and terminations of employees, insurance records of employees, time cards, classification specifications (job descriptions), performance evaluation forms, earning records and summaries, retirements.
- 2) Per Section 60203 of the Government Code reads Notwithstanding Section 60201, the legislative body of an agency may authorize the destruction of any record, paper, or document that is not expressly required by law to be filed and preserved if all of the following conditions are complied with:
- a) The record, paper, or document is reproduced by any medium that is a trusted system and that does not permit additions, deletions, or changes to the original document in compliance with Section 12168.7 for recording of permanent records or nonpermanent records;
 - b) The device used to reproduce the record, paper or document on any medium is one that accurately reproduces the original thereof in all details and that does not permit additions, deletions, or changes to the original document images;
 - c) The medium is placed in conveniently accessible files and provision is made for preserving, examining, and using the files.

3) Other

- a) Duplicate records, papers and documents may be destroyed at any time without the necessity of board authorization or copying to photographic or electronic media.
 - b) Originals of records, papers and documents more than two years old that were prepared or received in any manner other than pursuant to state or federal statute may be destroyed without the necessity of copying to photographic or electronic media.
- 4) This policy does not supersede any timeframe for audits or record retention specified in any grant or services contract or agreement that exceeds the timeframes shown in this policy.
 - 5) The executive director is authorized by the board to interpret and implement this policy, and to cause to be destroyed any or all such records, papers and documents that meet the qualifications governing the retention and disposal of records.

302.4. Retention Period

- Accounts payable ledgers and schedules: 10 years
- Accounts receivable ledgers and schedules: 10 years
- Audit reports of accountants: Permanently
- Bank statements: 10 years
- Bond records: ledgers, transfer payments, stubs showing issues, record of interest coupon, options, etc.: Permanently
- Cash books: 10 years
- Checks (canceled, with exception below): 10 years
- Checks (canceled, for important payments; i.e., taxes, purchase of property, special contracts, etc. [checks should be filed with the papers pertaining to the underlying transaction]): Permanently
- Contracts and leases (expired): 10 years
- Contracts and leases still in effect: Permanently
- Correspondence, general: 4 years
- Correspondence (legal and important matters): Permanently
- Depreciation schedules: 10 years
- Donation records of endowment funds and of significant restricted funds: Permanently
- Donation records, other: 10 years
- Duplicate deposit slips: 10 years
- Employee personnel records (after termination): 5 years
- Employment applications: 1 year
- Expense analyses and expense distribution schedules (includes allowance and reimbursement of employees, officers, etc., for travel and other expenses: 5 years
- Financial statements (end-of-year): Permanently
- General ledgers and end-of-year statements: Permanently
- Insurance policies (expired): 10 years
- Insurance records, current accident reports, claims, policies, etc.: Permanently
- Internal reports, miscellaneous: 3 years
- Inventories of products, materials, supplies: 10 years

- Invoices to customers: 10 years
- Invoices from vendors: 10 years
- Journals: 10 years
- Minute books of board, including Bylaws and Articles of Incorporation: Permanently
- Overall Work Program budget documents: 3 years
- Payroll records and summaries: 10 years
- Purchase orders: 3 years
- Sales records: 10 years
- Subsidiary ledgers: 10 years
- Time sheets and cards: 5 years
- Voucher register and schedules: 10 years
- Volunteer records: 3 years
- E-mails: active projects-current, completed projects- 5 years

302.5. Other governing documents that outline records retention are:

- 1) Circular No. A-87 – Cost Principles for State, Local and Indian Tribal Governments. ASMB C-10 - Section 6.7 Implementation Guide for OMB Circular A-87. The Common Rule issued pursuant to OMB Circular A-102 covers most policies associated with records to be retained and/or disclosed by a governmental unit receiving federal assistance funds. Section .42 of that rule requires that all financial and programmatic records, supporting documents, statistical records, and other records of recipients and sub recipients be retained. Section .36 (i) (10) of the rule covers the record retention requirement for consultants under grants and their sub-consultants. Generally, records must be retained for three (3) years from the submission date of the final financial report for that funding period. However, if any litigation, claim, negotiation, audit, or other action involving the records has been initiated before the three-year retention period has expired, the records must be retained until the action is completed and all issues which arise from it have been resolved, or until the end of the regular three-year period, whichever is later.
- 2) Circular No. A-133 – Audits of States, Local Governments, and Non-Profit Organizations. Subpart C- Auditees, Section 320. (g) Report retention requirements. Auditees shall keep one copy of the data collection form described in paragraph (b) of this section and one copy of the reporting package described in paragraph (e) of this section on file for three (3) years from the date of submission to the Federal clearinghouse designated by OMB. Pass-through entities shall keep sub recipients’ submissions on file for three (3) years from date of receipt.
- 3) Circular No. 74-4 – Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government. Section I – General Information, Retention of Records and Documentation for Audit – The Federal retention and custodial requirements for records are contained in Attachment C, “Uniform Administrative Requirements for Grant-in-aid to State and Local Governments” (FMC 74-7). In general, it requires that financial records, supporting documents, statistical data, and all other records pertinent to Federal programs be retained for a period of three (3) years. The retention period for cost allocation plans submitted for approval to ~~the~~ cognizant Federal agency starts from the date of submission. The retention period for cost allocation plans which are prepared and retained by the local government, starts of the last day of the fiscal year (or other accounting period) covered by the plan.

- 4) Grant or Services Agreement or Contract. Individual grant or service agreements or contracts may extend the timeframe for audits or record retention. If the timeframe specified in a grant or service agreement or contract exceeds the timeframe in this policy, the controlling timeframe is the one specified in the grant or services agreement or contract.

303. Information Recovery

303.1. The loss of information in a disaster is covered under separate policies for information technology.

304. Financial Statements

304.1. Interim Financial Statements information will consist of ~~a balance sheet, statement of revenues, expenditures and changes in fund balance actual vs. budget vs. actual, accounts receivable aging summary, accounts payable aging summary, and the~~ applicable period check register. The executive director and project managers will also receive the financials for each work element ~~monthly~~ quarterly.

304.2. The ~~financial statements~~ budget vs. actual ~~are~~ is to be submitted to the board, executive director, agency project managers and ~~audit~~ fiscal committee by the ~~accountant~~ CFO no later than 72 hours prior to board ~~/meetings~~ committee meetings.

305. INSURANCE AND BONDING

305.1. When possible, the term of a policy shall be identical to the agency's fiscal year.

305.2. The agency shall maintain fidelity coverage or bonding on all employees involved with financial assets (such as cash and checks) any on consultants or independent consultants who have contact with the financial resources or information of the agency and are not a licensed consultant.

306. Audits

306.1. The agency is required to have an independent audit of their financial statements performed in accordance with appropriate professional auditing standards. The audit shall be completed within one hundred eighty days (180) days after the end of its fiscal year. The annual audited financial report could also be required to include a "single audit" in accordance with OMB Circular A-133.

306.2. The audit shall be performed by an independent certified public accountant.

306.3. The agency shall follow the recommendations of the Government Finance Officers Association of the United States and Canada (GFOA) in recommending that a consolidated annual financial report (CAFR) be issued as a best practice for financial reporting. The CAFR expands upon the basic financial statements that are required by generally accepted accounting principles by including additional financial information broken down into three sections: introductory, financial, and statistical.

The introductory section provides general information on the government's structure, services and environment.

The financial section includes the basic financial statements and notes as well as additional information

on all individual funds not reported in the basic financial statements.

The statistical section provides trend data and non-financial information that assists in the assessment of the government's financial condition.

306.4. The agency shall strive to participate in the GFOA Certificate of Achievement in Financial Reporting Program designed to encourage and assist local governments to go beyond the minimum requirements of GAAP to prepare comprehensive annual financial reports that evidence the spirit of transparency and full disclosure.

306.5. At the conclusion of the audit, the auditor shall discuss all comments that will be included in the audit report with management, each member of the governing body, and each member of ana auditfiscal committee charged with governance. In addition, the auditor shall notify each member of the local government's governing body if there is deteriorating financial conditions that may cause a financial emergency condition.

306.6. The agency's proposal to the audit findings, including corrective action to be taken, must be filed with the agency's governing body within thirty (30) days after delivery of the audit findings. In addition, the audit findings and proposals must be incorporated in the audit report package.

306.7. The auditor selection process shall follow the regular procurement process and bid requirements including:

- Establish factors to be used in the evaluation of audit services.
- Publicly announce requests for proposals.
- Provide interested firms with requests for proposals.
- Evaluate proposals provided by qualified firms.

306.8. Annual Transportation Development Act (TDA) Compliance and Fiscal Auditing Agency Annual Audits

Introduction: Pursuant to Public Utilities Code Section 99245 the transportation planning agency shall be responsible to ensure that all claimants to whom it directs the allocation of funds shall submit to the planning agency an annual certified fiscal audit conducted by an entity other than the claimant.

The agency has previously incorporated the claimant's annual TDA fiscal and compliance audits into the agency audit. This policy will allow for the claimants to include the TDA audits within the scope of their own annual fiscal audits.

- 1) If a claimant determines that they will include the TDA fiscal audit within the scope of their annual fiscal audit, the claimant must notify the agency no later than June 1 of each calendar year of their determination. The agency will provide a document to the claimant prior to June 1 requesting that the claimant verify if the claimant will include the annual TDA audit, or if the audit will be included in the agency annual audit.

- 2) If the claimant requests that the agency include the TDA fiscal audit within the agency annual audit, the agency requests that one point of contact for all proposals, documents and/or data be appointed to the audit.
- 3) A report on the audit shall be submitted to the agency within 180 days after the end of the fiscal year. The agency may grant an extension of up to 90 additional days as it deems necessary.
- 4) The claimant's annual TDA audit must comply with Article 5.5 of the TDA Statutes and California Code of Regulations. The claimant must provide a separate report and the audit report shall include a certification of compliance with the TDA.
- 5) Allocations may be delayed to any claimant that is delinquent in its submission of a fiscal and compliance audit report.

~~6) A claimant determines that the agency is to include their audit within the agency annual audit, the following documentation must be provided to the agency no later than 30 days from the end of the claimant's fiscal year end.~~

- ~~a) General ledger detail for the audit period.~~
- ~~b) Reconciliation of cash balances. This reconciliation should agree to the agency's general ledger with adjustments to agree to the amount per the trial balance.~~
- ~~c) General ledger detail for the period July 1 to September 30 subsequent to the audit period.~~
- ~~d) Budgets for revenues and expenditures of TDA funds for the fiscal year~~
- ~~e) Audited financial statements for the current year~~
- ~~f) Documentation to support expenses funded by TDA disbursements.~~
- ~~g) Additional requests as needed by external auditors~~

~~306.09 The procedures shall be as follows:~~

- ~~1) Prior to fiscal year end the agency will provide documentation for claimant to confirm if the claimant or the agency will include the TDA audit within the scope of their annual fiscal and compliance audit.~~
- ~~2) If claimant provides TDA audit, claimant is to provide a certification of compliance with the TDA no later than 180 days after the close of the fiscal year. A period of no longer than 90 days may be granted to the claimant by the transportation agency if deemed necessary.~~
- ~~3) If the agency is to include the TDA audit within their annual audit, requested documentation must be provided to the agency no later than 30 days after the claimant's fiscal year end.~~
- ~~4) Claimant certified audited financial statements shall be provided to the agency no later than 180 days after end of fiscal year, or no later than 270 days from end of fiscal year if an extension has~~

been allowed.

~~5) Allocation for claimant may be delayed if delinquent in submission of their annual fiscal and compliance audit, or if claimant fails to provide requested documentation within the allotted time period.~~

307. Final Audit Adjustments

307.1. The agency will record agreed-upon audit adjustments and reconcile net assets on the accounting records to the audited financial statements.

308. Chart of Accounts

308.1. The agency's chart of accounts will comply with the guidelines in the State of California Accounting Standards and Procedures. An account number shall be assigned to each account category to provide a specific identification of all financial transactions.

308.2. Separate ledger accounts for specific projects will be maintained as required by the funding source regulations.

308.3 Accounts will be numbered as follows:

10000 – 10999	Cash
11000 – 11999	Receivables
12000 – 12999	Inter fund Receivables (Due From)
13000 – 13999	Prepaid Assets
15000 – 15999	Capital Assets not Depreciated (Land / CIP)
16000 – 16999	Capital Assets – Depreciated (Buildings / Utility Systems / Infrastructure)
17000 – 17999	Machinery & Equipment
1800 – 1899	Accumulated Depreciation
19000 – 19999	Other Assets
20000 – 20999	Accounts Payable
<u>21000 – 21999</u>	
22 2000 – 22999	Inter fund Payables (Due To)
23000 – 239 <u>5</u> 99	Payroll Liabilities
24000 – 24999	Benefits & Retirement Liabilities
29000 – 29999	Other Liabilities – (Governmental Funds - Compensated Absences Payable
30000 – 30999	Change in Fund Balance / Net Assets
31000 – 31999	Reserved Fund Balance / Net Assets
33000 – 33999	Invested in Capital Assets
40000 – 40999	Revenue – Intergovernmental

410100 – 41999	Revenue – Grants <u>General</u>
42000 – 42999	Revenue – Interest
43000 – 44999	Revenue – General & Misc
49000 – 49999	Inter fund Transfers In / Indirect Expense Allocations
50000 – 51999	Expenses – Salaries / Taxes and Benefits
52000 – 59999	Expenses – General Operations/Maintenance (Supplies/ Materials / Equipment Purchases, Repairs & Maintenance / Utilities)
60000 – 69999	Expenses – Governmental Capital Outlays
70000 - 79999	Expenses – Other (Inter fund Transfers Out / Admin O/M Indirect Expense / Depreciation

309. Journal Entries

309.1. The ~~accountant~~ CFO will prepare monthly journal entries, when necessary, for the agency.

~~309.2. Non-reoccurring journal entries must be approved by the executive director.~~

310. Fiscal Year

310.1. The agency's fiscal year is July 1 to June 30.

311. Account Maintenance

311.1. The accountant shall maintain the detail and documentation on all general ledger accounts on a monthly basis.

400. Assets, Liabilities and Fund Balance (Net Assets)

401. Bank Accounts

401.1. The agency shall maintain all bank accounts in accordance with Section 404: Investment Policies.

401.2. Cash shall be presented on the statement of net assets as unrestricted or restricted.

402. Bank Reconciliations

402.1. The ~~accountant~~ CFO shall reconcile the bank statement and verify all deposits/checks posted on the agency's account against the computer generated check register. When reconciliation is complete, the statement shall be reviewed by the executive director.

403. Cash Management and Forecasting

403.1. The ~~accountant~~CFO is responsible for maintaining a cash flow forecast and monitoring the flow of cash into and out of the agency's bank accounts on a daily basis in order to assure all checks clear the account and the account is not overdrawn.

403.2. The ~~accountant~~CFO shall maintain a minimum daily balance in the agency's ~~checking~~operating account of five thousand dollars (\$5,000) and make the determination to transfer funds into this account no later than 2:00 p.m. daily, Monday through Friday.

403.3. If for any reason it appears that the checking account may be overdrawn or the daily balance has gone below \$5,000 the executive director ~~and the audit committee~~ will be notified immediately.

404. Investments

Background: Investing public funds is usually a core responsibility of local government finance professionals and can be one of the most complicated responsibilities.

The main objectives of effective cash management and investing public funds is, in this specific order, to ensure the safety of principal, provide for sufficient liquidity to pay obligations when due and earn a reasonable rate of return on invested funds.

Risk

There are different types of risks associated with cash management and investing that must be understood and managed to ensure the safety of principal.

- Credit risk – The risk that an issuer or other counterparty to an investment will not fulfill its obligations. This risk can be managed by purchasing only high-rated securities and monitoring the credit worthiness of issuers.
- Concentration of credit risk – The risk of loss attributed to the extent of investments held from a single issuer. This risk can be managed by limiting the amount of investments held from any single issuer (diversification).
- Custodial credit risk – The risk that, in the event of the failure of a depository financial institution, a government will not be able to recover deposits or will not be able to recover collateral securities that are in the possession of an outside party. This risk can be managed by federal insurance and California government code requirements.
- Interest rate risk – The risk that changes in interest rates will adversely affect the fair value of an investment. When rates rise, security values fall and vice versa. This risk can be managed by matching investment maturities with accepted disbursements, purchasing shorter-term securities, and staggering maturity dates throughout the year (laddering the portfolio).
- Liquidity risk – The risk that securities must be sold before anticipated ~~to provide~~providing liquidity, which may result in a loss of principal. See interest rate risk discussion above.

404.1. Investment Reports- The agency shall prepare quarterlyannual reporting of investment results and portfolio composition to the fiscal committee or board of directors containing the following:

- Types of investments held
- Average rate of return for period reporting and year to date
- Average maturity of portfolio
- Compliance with investment policy provisions
- Changes in investment strategy
- Comparison of portfolio return with benchmarks
- Interest rate environment changes

404.2. Brokers and dealers will be selected by an informal selection process. Criteria used may include; office proximity, services ~~provided~~,provided, references from other governments, and competitiveness of bids. If brokers or dealers become noncompetitive, other providers can be substituted relatively easily. Retaining three to five broker/dealers is usually sufficient to ensure adequate competition, depending on the portfolio size, frequency of purchases and services required.

404.3. Purchasing Investments- all securities should be purchased using the “payment vs. delivery” method, using an independent third party. This method ensures that securities purchased are delivered before payment is made.

404.4. Security Purchases- Where possible, obtain more than one quote on securities purchased to ensure the highest rate of return has been obtained. Competition will usually enhance the rate of return achieved. Similar securities can be substituted if maturity dates and credit risk is comparable. For example, federal instrumentalities (Freddie Mac, Fannie Mae, etc.) are usually comparable in credit risk. Requesting quotations on specific security types and specific maturity dates (or narrow date ranges) is a common practice to facilitate comparison of competitive offers.

404.5. The agency has a fiduciary responsibility to protect the assets of the agency and invest funds with reasonable care. The agency may invest in a broad array of investments and allowed under the California Government Code (CGC). The agency will invest as much as possible, all idle funds.

404.6. The accountant is responsible for cash management.

404.7 The fiscal committee and board shall approve all investments.

404.8. The fiscal committee shall review each investment to ensure that the investment follows the policies of the agency.

404.9. The fiscal committee of the agency shall meet quarterlyperiodically to review investments and ~~annually~~ to review the agency’s investment policies.

404.10. The agency will invest in only investments permitted under CGC Sections 53600 et seq.

404.11. The criteria for selecting investments will be:

- 1) Safety- The risk associated with the loss of principal or interest. This loss may be a result of the institution or market fluctuations. The agency will not invest in any securities which present a risk to principal.
- 2) Liquidity- The more liquid a security, the lower the yield. Care and consideration will be given when investing in securities that can be converted to cash prior to maturity.
- 3) Yield- Based on an annual rate of return, yield is the lowest criteria.

404.12. The investment restrictions are:

- 1) No securities below an A-1 Standard & Poor's credit rating may be purchased;
- 2) No leveraged, hedging or reverse repurchase investments are permitted.

404.13. Collateral requirements shall meet the requirements of CGC Section 53651, which describes eligible securities

404.14. The agency will diversify the investment portfolio as appropriate.

404.15. All securities will be held in the name of the agency.

404.16. Transfers of funds means:

- 1) Only authorized signers may move funds between the agency's checking, investments or line of credit accounts. Such transfers will be subject to the dollar limitations as found in section 805; and
- 2) Advanced funds on government grants in the care, custody or control of the agency may be transferred into and out of the agency's investments. The investments shall have no minimum or maximum time limit in which funds must remain in the investment.
 - a) The intent of the board of directors is to earn interest on advanced government funds, if appropriate, and use the interest generated to increase the work implemented within each respective government grant.
 - b) Funds the agency receives from non-government sources may also be transferred to investments, if appropriate, to be used as specified by the board.

405. Petty Cash

405.1. A petty cash fund not to exceed \$1500 shall be maintained in the agency office by the accountant executive assistant.

405.2. Petty cash shall be used for authorized agency purchases under \$~~25~~100 only. It shall not be used for personal loans of any nature. No other use of the fund is authorized without approval of the board of directors.

405.3. The fund shall be kept in a locked file, desk or other facility at all times.

405.4. A log of all expenditures and associated receipts shall be maintained by the ~~accountant~~executive assistant. The executive director shall approve the petty cash expenditures.

405.5. The ~~accountant~~executive assistant shall prepare a request for reimbursement check when the fund requires replenishment.

405.6. The board ~~will~~may perform random unannounced audits of the petty cash funds.

406. Accounts Receivable

406.1. It is the intent of the agency to bill receivables by the 25th of the month after a quarter, or as defined by the grant.

406.2. The ~~accountant~~CFO will prepare invoices for all contracts, grants, service and mitigation agreements when expenses exceed one-thousand dollars (\$1,000) unless it is a final billing at the end of the grant or agreement.

407. Allowances for Doubtful Accounts

407.1. The agency shall consider an allowance for doubtful accounts each ~~month~~quarter.

407.2. No receivable account can be written off without board approval.

408. Employee Advances

408.1. Employee advances are not permitted.

409. Employee Loans

409.1. Loans to employees are not permitted.

410. Inter-fund Transactions and Balances

410.1. Inter-fund transactions and balances must reconcile at all times.

410.2. Loans to other funds are permitted with board approval.

411. Prepaid Expenses

~~411.1. Amounts paid for supplies or services over \$500 not yet consumed will be recorded as a prepaid expense.~~

411.21. A detail of prepaid expenses will be maintained on a monthly basis.

412. Prepaid Insurance

412.1. The agency ~~will~~ may, when material, maintain a prepaid insurance account with premiums paid in advance recorded amortized over the applicable periods.

412.2. The agency ~~will~~ may maintain an annual schedule of prepaid insurance on a monthly basis. ~~Annual premiums under \$500 do not need to be amortized.~~

413. Deferred Grant Costs

413.1. Grants costs paid in advance (pre-award costs) that will be eligible for invoicing at a later date will be recorded as deferred grant costs. Grant preparation costs and bid costs, when allowable, will accumulate in a deferred grant costs account.

413.2. The agency discourages any expenditure prior to the effective date of a grant.

414. Inventory

414.1. Inventory items for the field shall be maintained on supplies in excess of \$~~25,500~~00.

415. Equipment

415.1. Capitalization of equipment by the agency will:

- 1) Be defined as all items with a unit cost of \$5,000 or more and a useful life of more than one year.
- 2) If leased, and the total cost over a 3-year period or less exceeds the purchase price, the equipment should generally be purchased, if allowable, by the funding source. Leased equipment will be capitalized under generally accepted accounting principles.

~~3) Be issued an inventory number, along with a label for the item, and add it to the capital equipment inventory list by the accountant. This list will include the item description, vendor, equipment inventory number, date of acquisition, and location. The accountant shall be responsible for placing inventory numbers on newly acquired capital equipment.~~

~~43)~~ Be pre-approved by the board unless it is necessary for the project/grant for which it is purchased and allowable by the funding source.

~~54)~~ Be notified to the board by the executive director of all cases of loss, damage, or destruction of equipment or other property in a timely manner.

~~65)~~ Upon completion of a project, the project manager shall inventory any remaining supplies. The board shall decide how to dispose of any remaining inventory or property.

416. Depreciation

416.1. The agency shall record depreciation monthly.

416.2. The ~~accountant~~CFO shall maintain property and equipment schedules for depreciation on a monthly basis.

416.3. Depreciation shall approximate the useful life of the asset and be recorded on a straight line basis.

417. Donated Property and Equipment

417.1. Donated property and equipment shall be recorded at the fair market value at the date of the donation.

417.2. The agency will follow the restrictions of the donor, if any, as to the use of the asset.

417.3. For income tax purposes, the agency will acknowledge the donation when requested, and will not notify the donor of the fair market value of the donation.

418. Self-Constructed Assets

418.1. The agency shall follow generally accepted accounting principles regarding the self-construction of assets.

418.2. A capital projects fund will be used to account for self-constructed assets.

419. Other Assets

419.1. Loan fees, restricted assets and other assets will be recorded and amortized, if necessary.

420. Accounts Payable

420.1. The accountant will maintain a detail of accounts payable on a monthly basis.

420.2. Payables will be recorded for the prior month up to the close date for each month.

421. Accrued Expenses

421.1. The accountant will accrue material payables at the end of each month that can be reasonably estimated for which actual invoices have not yet been received from vendors.

422. Compensated Absences

422.1. Vacation ~~and personal leave~~ will be accrued ~~on a monthly basis~~each payroll period and charged to grants accordingly.

423. Accrued Salaries and Wages

423.1. Salaries and wages will be accrued and adjusted on ~~an quarterly~~annual basis only if the liability is ~~over \$2,000-~~ material to the financial statements.

424. Assets/Funds Held for Others

424.1. Any assets or funds held for other agencies or organizations will be recorded in this liability account.

424.2. The ~~accountant~~CFO will maintain a detail of this liability account on a monthly basis.

425. Deferred Revenue

425.1. Any grant funds paid to the agency in excess of revenue earned will be recorded in the liability account.

425.2. The ~~accountant~~CFO will maintain a detail of this account on a monthly basis.

426. Notes Payable and Line of Credit

426.1. Third party loans or Line of Credit (LOC) loans from outside sources (other agencies, banks, etc.) or the use of a LOC shall be approved by the board.

426.2. The ~~accountant~~CFO ~~will~~may establish and maintain a LOC with an accredited financial institution with a limit approved by the board. The ~~accountant~~CFO will negotiate the lowest APR and terms available in the local market. The LOC will be used for cash flow shortfalls only.

426.3. The ~~accountant~~CFO will review the funds held in the agency checking account(s) on no less than a weekly basis to determine if funds may be transferred to the agency savings account to earn interest or to pay down the line of credit.

427. Unrestricted, Restricted and Designated Net Assets

427.1. The agency will follow GASB 34 and GASB 54 as follows:

- 1) All net assets are unrestricted except those legally restricted by outside third parties.
- 3) Net asset designations, done at the discretion of the board, will appear as a footnote only in any financial statements.

428 Loans to Other Governments

428.01 The agency is permitted to loan funds to claimants for operating and capital from a one-million dollar (\$1,000,000) established designation of funds.

428.02 The designated funds are to be held as local transportation funds in a bank in the agency's name.

428.02 Loans shall require a board approved formal agreement between the agency and the claimant.

428.03 Lending activity shall be reported to the board on a periodic basis.

428.04 The maximum loan balance to any claimant shall not exceed one million dollars (\$1,000,000).

500. Revenue

501. Revenue Recognition

501.1. Revenue will be recognized under GAAP using exchange transaction and non-exchange transaction criteria.

502. Fees for Service

502.1. The agency is permitted, under California Government Code, to perform fees for service as long as all of the agency's ~~cost are~~costs are recovered.

503. Endowments

503.1. Endowments are permanent funds bestowed upon the agency.

503.2 Endowments or monetary funds may only be accepted by the board.

504. Rental Income

504.1. The agency is permitted to rent out equipment based on fair market rental rates.

504.2. The agency can rent real property under the guidelines of the California Government Code.

505. Barter Transactions

505.1. The agency will record all barter transactions as revenue and corresponding expense at the fair market value of the trade.

505.2. The agency will prepare a contract for barter in excess of \$1,000 in one fiscal year.

506. Surplus Personal Property Disposal

506.1 Surplus personal property with commercial value will be disposed of in a cost effective and efficient manner that achieves the highest net resale proceeds for the agency. This policy does not address the surplus of real property. Surplus property with little or no commercial value or for the disposal and sales efforts are judged more costly than estimated net proceeds, may be transferred, donated, or eventually disposed of through salvage contracts or other cost effective and efficient means.

Items that are broken, unusable or have no commercial, salvage or donation value may be declared as “trash” and efficiently and safely disposed of as such.

506.2 Agency employees and their immediate family are restricted from purchasing the surplus items due to conflict of interest concerns.

506.3 Definitions

Surplus – Any agency personal property and/or asset that is no longer needed now or in the foreseeable future or that is no longer of value or use to the agency. This includes items purchased by the agency and found items.

Estimated Surplus Value – The estimated amount of money an interested party will be willing to pay the agency for the property. This can be determined through an estimate, an official appraisal, an offer from another agency, Kelly Blue Book value or other sources available to the responsible department.

Eligible Purchaser – Any public entity, non-profit organization, private organization or the general public is eligible to purchase surplus products unless otherwise noted in this policy.

506.4 Procedure

- 1) The agency will complete the surplus request form including a complete description of the item, location, condition and estimated fair market value. The employee requesting that the item be declared surplus and executive director must sign the completed form.
- 2) Once the form is approved, the requesting department will coordinate the notification to interested parties and dispose as follows:
 - a) Auction the item on eBay (or equivalent), list on web sites such as Craig’s List (or equivalent) will be responsible for all costs associated with this option, and must provide budget numbers for this purpose.
 - b) Sell the item through a sealed-bid process.
 - c) Trade the item in for new replacement equipment.
 - d) Send the item to the State surplus program.
 - e) Donate the item to a non-profit that serves or benefits the low income persons or persons with disabilities. The organization must complete a donation form and must provide their mission statement, and proof of their non-profit status and confirmation that they do not discriminate in provision of services.
 - f) Properly discard the item if the item is broken, unusable, and/or hazardous.

506.5 Documentation and pictures must be provided for an item to be disposed of. Discarding the item(s) is the last option to be used unless the item is broken, unusable or has no commercial, salvage or donation value and/or the agency and the agency has exhausted all other options for disposal.

506.6 If the item is sold or transferred, the receiving individual or party must sign an "As-Is/Where-Is" Statement and/or Liability Waiver. If the agency is responsible for the pick up or transfer of the item, it must obtain the signature of the individual or party receiving the item on the form and forward the form to accounting for its files.

506.7 If the item is sold the proceeds will be deposited into the fund that accounts for the asset within 24 hours of the transaction. Checks for surplus items are to be made payable to the agency.

506.8 Vehicles- For vehicles being surplus, the requesting department shall attach to the surplus request form a printout from Kelly Blue Book with the estimated value of the vehicle. The agency will set the starting bid price at the private party value as shown in Kelly Blue Book. The agency logos and other markings identifying vehicles as agency property shall be removed prior to sale.

601. Consistencies in Cost Accounting

601.1. The agency will use the cost guidelines as found in OMB Circular A-87.

601.2. The cost guidelines will be consistently applied to all grants and activities.

602. Allowable/Unallowable Costs

602.1. In the performance of its mission, agency utilizes a number of funding sources including grants provided by the federal government. In order to utilize these funds for the reimbursement of costs, the agency is required to follow 2 CFR Part 22500, "~~Cost Principles for State, Local, and Indian Tribal Governments~~Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" when accounting for expenditures.

602.2. The agency charges costs that are reasonable, allowable, and allocable to an award directly or indirectly. All unallowable costs shall be appropriately segregated from allowable costs in the general ledger in order to assure that unallowable costs are not charged to any awards.

602.3. Segregating Unallowable from Allowable Costs- The following steps shall be taken to identify and segregate costs that are allowable and unallowable with respect to each award:

1) The budget and grant or contract for each award shall be reviewed for costs specifically allowable or unallowable.

2) Accounting personnel shall be familiar with the allow ability of costs provisions of 2 CFR Part 22500, "~~Cost Principles for State, Local, and Indian Tribal Governments~~Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" " particularly:

a) The list of specifically unallowable costs found in 2 CFR Part 22500, ~~Attachment B~~ (Selected Items of Cost), such as alcoholic beverages, bad debts, contributions, fines and penalties, lobbying, etc.

b) Those costs requiring advance approval from federal agencies in order to be allowable in accordance with 2 CFR Part 22500, ~~Attachment B~~, such as foreign travel, equipment purchases, etc.

3) No costs shall be charged directly to any award until the cost has been determined to be allowable under the terms of the award and/or 2 CFR Part [22500](#).

4) For each award, an appropriate set of general ledger accounts (or account segments) shall be established in the chart of accounts to reflect the categories of allowable costs identified in the award or the award budget.

5) All items of miscellaneous income or credits, including the subsequent write-offs of un-cashed checks, rebates, refunds, and similar items, shall be reflected for grant accounting purposes as reductions in allowable expenditures if the credit relates to charges that were originally charged to an award or to activity associated with an award. The reduction in expenditures shall be reflected in the year in which the credit is received (i.e., if the purchase that results in the credit took place in a prior period, the prior period shall not be amended for the credit but rather it will be posted in the current period).

602.4. Criteria for Allowability- All costs must meet the following criteria from 2 CFR Part [22500](#), ~~Attachment A~~, in order to be treated as allowable direct or indirect costs under an award:

1) The cost must be “reasonable” for the performance of the award, considering the following factors:

a) Whether the cost is of a type that is generally considered as being necessary for the operation of the agency or the performance of the award;

b) Restraints imposed by such factors as generally accepted sound business practices, arm’s length bargaining, federal and state laws and regulations, and the terms and conditions of the award;

c) Whether the individuals concerned acted with prudence in the circumstances;

d) Consistency with established policies and procedures of agency, deviations from which could unjustifiably increase the costs of the award.

2) The cost must be “allocable” to an award by meeting one of the following criteria:

a) The cost is incurred specifically for an award;

c) The cost benefits both the award and other work, and can be distributed in reasonable proportion to the benefits received; or

d) The cost is necessary to the overall operation of agency, except where a direct relationship to any particular program or group of programs cannot be demonstrated.

3) The cost must conform to any limitations or exclusions of 2 CFR Part [22500](#) or the award itself. The ~~“Cost Principles for State, Local, and Indian Tribal Governments, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”~~ 2 CFR Part [22500](#) ~~and Attachments A and B~~ are included as references.

- 4) Treatment of costs must be consistent with policies and procedures that apply to both financed activities and other activities of the agency.
- 5) Costs must be consistently treated over time.
- 6) The cost must be determined in accordance with generally accepted accounting principles.
- 7) Costs may not be included as a cost of any other financed program in the current or prior periods.
- 8) The cost must be adequately documented.

602.5. Direct Costs- Direct costs are costs that are incurred/performed primarily as a service to clients or the general public, when significant and necessary to the organization's mission. These costs are generally incurred for a specific objective and can be easily identified with a particular project (fund/contract) or activity. The agency identifies and charges these costs exclusively to each award or program receiving the benefit.

602.6. Each invoice shall be coded with the appropriate account reflecting which program received direct benefit from the expenditure. Invoices are approved by the appropriate project manager and reviewed by the accountant and the executive director.

602.7. Time sheets or personnel activity reports are also submitted on a regular basis, reflecting employees' work and which programs directly benefited from their effort. Time sheets or personnel activity reports shall serve as the basis for charging salaries directly to federal awards and non-federal functions.

602.8. Equipment purchased for exclusive use on an award and reimbursed by the agency shall be accounted for as a direct cost of that award (i.e., such equipment shall not be capitalized and depreciated).

602.9. Indirect Costs- Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular grant or program but are necessary to the operation of the organization and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. Indirect costs may be allocated to benefiting grants through the use of an indirect cost rate.

602.10. Indirect Cost Rate- The agency maintains an annual indirect cost proposal. Each year a new indirect cost proposal is prepared and submitted with documentation to Caltrans, Division of External Audits, for approval. The indirect cost rate approved is used when determining the overhead indirect applied to each federal and state award.

602.11. Types of expenditures normally included in the indirect cost pool are:

- 1) General administration
- 2) Salaries and benefits of the executive officers, fiscal officer, human resources and administrative personnel
- 3) Depreciation of equipment and buildings

4) Office rent and maintenance

5) General office repairs and maintenance

602.12. These rates are submitted to agency's cognizant agency and will be binding on all other federal agencies and their contracting officers unless specifically prohibited by statute.

602.13. The following costs are unallowable as part of the indirect cost base (administrative cost center):

1) Interest

2) Equipment of \$5,000 and greater except with prior approval

3) Building improvements

4) Building renovations

5) Compensation for the use of buildings and other equipment may be made through use allowances or depreciation.

602.14. Accounting for Specific Elements of Cost- the agency shall utilize the following methods of charging specific elements of cost to federal awards as direct or indirect costs:

1) Salaries and Wages – Salaries and wages shall be charged directly and indirectly based on the functions performed by each employee, as documented on each employee's timesheet (or personnel activity sheet), as follows:

a) Direct costs – The majority of the employees of agency charge their time directly since their work is specifically identifiable to specific grants or other (non-federal) programs or functions of the agency.

b) Mixed charges – The following employees may charge their salary costs to both direct and indirect activities:

e1) Executive director

d2) Executive assistant

e3) ~~Senior accountant~~CFO

4) Planners

2) Compensated absences (vacation leave earned, ~~sick leave used, and holiday pay~~) are considered part of salary costs. The costs associated with compensated absences will be recorded as direct and indirect cost based on the employee's time spent in a particular work element.

3) Paid-Time Off – PTO (sick leave, holidays, jury duty) are to be allocated to both indirect and direct on a quarterly basis based on the employee's time spent in a particular work element.

34) Employee Benefits – The agency incurs costs for the following statutory and non-statutory employee benefits:

- a) Federal Insurance Contributions Act (FICA)
- b) Unemployment insurance
- c) Worker's compensation
- d) Health insurance- current and post-employment
- e) Contributions to pension plan
- ~~f) Accrued vacation fringe~~

The agency will charge each such benefit cost directly and indirectly in the same proportion as each individual's salaries and wages.

4) Occupancy Expenses – Monthly rent expense and related pass-through expenses shall be allocated indirectly.

5) Utilities – Utilities costs include electricity and water. Such utilities costs shall be charged indirectly.

6) Supplies and Materials – To the maximum extent possible, office supplies and materials are charged directly to the grant or program/function that uses the supplies or materials. All supplies and materials used by staff who are engaged in indirect activities shall be charged indirectly.

7) Postage and Shipping – To the maximum extent possible, postage and shipping costs shall be charged directly to the grant or program/function that benefits from the postage or shipping costs.

8) Photocopying and Printing – Photocopying costs include all paper and copy supplies, copier maintenance charges and the actual lease cost or depreciation expense of the copier. Photocopying costs shall be charged directly and indirectly based on the activity. All printing costs are charged directly to the benefiting grant or program/function when possible.

9) Communications – Communication costs include the costs of local telephone service and long distance telephone charges, including charges associated with telephone calls, facsimile transmissions, and Internet connections. These costs are charged indirectly.

10) Outside Services – The agency incurs outside service costs for its annual audit, legal fees, etc. Outside service costs shall be charged as follows:

11) Audit fees – Cost of the financial statement audit and any preparation applicable reports shall be charged as a direct cost or an indirect cost.

12) Legal fees – Legal fees shall be charged directly to the program/work element that benefits from the services. Legal fees that are not identifiable with specific direct grants or work elements shall be charged indirectly

13) Consultants – Costs associated with consultants shall be charged directly to the program/work element that benefits from the services. Fees that are not identifiable with specific direct grants or work elements shall be charged indirectly.

14) Insurance – To the extent that insurance premiums are associated with insurance coverage for specific grants or programs, those premium costs shall be charged directly. All insurance costs that are not identifiable with specific direct grants or work elements (such as the agency’s general liability coverage) shall be charged indirectly.

15) Credits – The applicable portion of any credits resulting from cash discounts, volume discounts, refunds, write-off of stale outstanding checks, trade-ins, scrap sales or similar credits shall be credited directly or indirectly in the same manner as the purchase that resulted in the credit.

The above costs are typical examples of other expenses which may be used as a guide.

603. Open.

604. In-Kind Matching/Contributed Services and Materials

604.1 In the performance of its mission, the agency utilizes a number of funding sources including grants provided both by the state of California and by the federal government. Many of these fund sources require the agency to provide a “match” in funding from local sources either as a cash match or from in-kind services.

604.2 The agency is required to establish local match documentation procedures. This policy applies to all:

- 1) Programs that establish matching by agency or by partner entities (sub-recipients) receiving funds by contract with the agency.
- 2) New contracts and amendments initiated after the effective date above.

604.3 Local Match Authorization and Approval Process

1) The agency is required to submit an annual plan and budget that includes a description and the source of the match (i.e., third party in-kind contributions, board member volunteer hours, and local cash) for its own as well as its sub-recipient grants that require local match.

2) Program managers must:

- a) Create a plan and budget including input from local entities that includes a description of and the source of funds for local match.

b) Review and, as appropriate, approve the agency's annual overall work program and transportation improvement programs. Program managers are responsible for knowing the specific federal matching regulations related to the federal funding source.

c) Determine how the local match will be accounted for by agency. For example, a local entity may make cash payment for their share of a federal program or the local entity may certify they expended funds towards the nonfederal share of allowable expenditures.

d) Verify that the agency's financial reporting system tracks matching funds at a level to support the use of funds that meets the level of documentation required by federal or state statutes.

e) Verify the local match was not used to meet match requirements of more than one federal award.

f) Verify that federal funds are not used as local match unless specifically authorized by law and the agency receives written approval from the federal the agency supplying the match.

g) Evaluate and approve only those contracts or inter-local agreements that satisfy all local matching requirements.

3) The agency programs must require sub-recipients to complete and submit a local match certification form prior to submitting requests for reimbursement (RFR).

604.4 Third Party In-Kind Contributions- All in-kind contributions and valuation methods must be documented. For example, if an individual's service or time is treated as an in-kind contribution for the match, this must be documented as support for the in-kind contribution. For an individual's time provided by an organization, the calculation of the wages and benefits must be based on the same method that is used by the donating organization in paying the individual. If Fair Market Value (FMV) is used for equipment or facilities, the valuation method must be documented.

The following are examples of third party in-kind contributions and the valuation method:

1) Volunteer services provided by individuals. These are based on fair market value of the service provided. The value is not based on the potential or actual earning ability of the volunteer who performed the service. For example, if a landscaper assists with landscaping, the value of the landscaper's in-kind time cannot be based on the landscaper's hourly billing rate.

2) Services provided by employees of another organization. These are the actual cost incurred by the employing organization exclusive of fringe benefits. The value cannot include organizational overhead.

3) Donated supplies. These are based on FMV for the same products. The valuation must take into consideration the volume of items and the condition of the items.

4) Donated equipment. If the title to the asset does transfer, then FMV needs to be determined. However, authorization must be obtained from the awarding agency if the entire FMV can be used as an in-kind contribution or if only the standard use allowance may be used. If the title of

the asset does not transfer, then the FMV of renting/leasing such asset may be used as an in-kind contribution.

5) Donated facilities. These must be treated similar to that of donated equipment. Facility structures may be considered in-kind contributions if the structure is available to others to rent/lease and is not used as part of the organization's daily operations.

- a) For example, a non-profit organization owns a conference facility that is rented to the public.
- b) If the non-profit donates the conference facility for program events, the FMV rental cost can be considered an in-kind contribution. However, if the nonprofit has a meeting room within that facility that they use to discuss program events, the meeting room cannot be considered an in-kind contribution.

604.5 Accounting Procedures

1) Accounting for local match by cash receipt

2) After the local entity sends in the non-federal matching funds to the agency in support of its local match requirement, the agency records the receipt using a local revenue source.

3) Accounting for Local Match by Certification (on agency records)

a) The project manager verifies that the local entity has the required match to support their Request for Reimbursement (RFR).

b) The agency is the cognizant agency for the federal grant and reports the total expenditures on its federal claim (RFR).

c) Obtain written acknowledgement of the contribution including:

- 1) Name and signature of donor
- 2) Date and Location of donation
- 3) Detailed description of item/service
- 4) Project for which the service was provided
- 5) Estimated value
- 6) Certification of the eligibility and non-federal nature of contribution
- 7) Determine if contribution was obtained with or supported by federal funds, if so provide documentation
- 8) Hourly/billable rate attributable to federal funding

9) Hourly/billable rate

4) The agency shall maintain adequate documentation to support the amounts claimed as match, for example:

- a) Signed & dated time sheets filled of the donor
- b) Donation form filled out by donor
- c) Receipts for supplies or services donated by a partner with a detailed description of the item(s) or the service (s)
- d) Record donation and valuation of item in detail
- e) Enter into the general ledger as income and expenditure

5) Remember to link the in-kind contribution (if used as match for your federal funds) to an action or project mentioned specifically in your annual work plan.

6) The values of third party in-kind contributions may not count towards satisfying a cost sharing or match requirement of a grant award if they have been or will be counted towards satisfying the matching requirement of another federal grant agreement or any other award of federal funds.

7) The value of third party in-kind contributions may be accepted as the match for all grants requiring local match and may be on either the total scope of work of the proposed project or specific planning activities or tasks of the project. The use of third party in-kind contributions must be identified in the original scope of work of the grant application, the project specific work element of the approved overall work program, and future amendments. The Caltrans Office of Regional and Inter-agency Planning (ORIP) must approve the use of third-party in-kind contributions in advance, prior to approval of the grant award.

8) The Caltrans District 2 Office of Planning and Local Assistance and the grant recipient are responsible for ensuring that the following additional criteria are met:

9) The third party providing the goods or services agrees to allow the value of the goods or services to be used as the match.

10) The goods or services provided by the third party is an eligible transportation planning activity that benefits and is specifically identifiable to the federally funded work.

11) The third party goods or services are provided during the period to which the matching requirement applies.

12) The third party in-kind contributions are verifiable from the records of Caltrans and the grant recipient and these records show how the value placed on third party in-kind contributions were derived.

13) If the total amount of third party expenditures at the end of the program period is not sufficient to match the total expenditure of federal funds by the grant recipient, the recipient will need to make up any shortfall with its own funds. CFR 710.203, 710.505, and 710.507).

14) The costs or value of third party donations counting towards satisfying the non-Federal match requirement must be verifiable from the records of the grantee or sub grantee [reference 49 CFR 18.24 and 2 CFR 225]. The grantee retains responsibility for the proper oversight of services donated by third parties and/or performed by its sub grantees [reference 23 U.S.C. 106(g) (4) and 49 CFR 18.37 and 18.40, and 49 CFR 19.51].

605. Disposals of Assets

605.1. Disposal of assets will be recorded as a gain or loss as per GASB 34.

606. Interest Expense

606.1. Interest will be accrued monthly.

606.2. Interest on construction will be capitalized.

607. Premiums and Discounts

607.1. Premiums and discounts on the issuance of debt or in the purchase of securities will be amortized over the life of the issue, if material.

608. Bid and Proposal Costs

608.1. Bid and proposal costs that are not an approved grant cost will be expensed as administration costs.

609. Credits

609.1. Refunds and rebates to the agency should be recorded as miscellaneous revenue.

700. Grants and Cost Estimating

701. Intent

701.1. With appropriate grant funding resources made available, the intent of the agency is to apply for grants through which the agency can better accomplish its, and partner agency, goals. Grant funding also potentially reduces the agency's use of local money.

In applying for appropriate grant funding, agency staff must be cognizant that the project is consistent with the agency Regional Transportation Plan and that the proposed grant does not, among other things, place the agency at undue risk of monetary loss, timely completion, liability and/or undue hardship to personnel due to the use of a potential one-time funding source.

As such, this section of the agency financial and accounting policies and procedures provides guidance to agency staff to use in the preparation of grant proposals and cost estimating.

702. Estimating Staff Labor Rates and Hours

702.1. Labor rates are to be estimated at the expected pay rates at the time the grant will be implemented.

702.2. For a multi-year project, an inflation factor may be considered in estimating labor rates from the beginning of a grant to its anticipated end.

702.3. At no time will the proposed labor rate be below the expected actual cost of labor to the agency.

702.4. Hourly estimates of grant work will be prepared based on prior experience, if successful on past similar efforts, or agency estimates based on the time needed to achieve the project deliverable(s),

702.5. At no time will the agency reduce, or intentionally underestimate, hourly rates or hours to meet a grantor's budget that would create an undue financial burden to the agency.

702.6. In its grant submission, the agency will request the authority from the grantor to amend/update the hourly rate schedule, based on future agency revisions.

703. Purchased Material Costs

703.1. Purchased material will be estimated from actual vendor quotes, engineer's estimates or recent agency experience.

703.2. At no time will the agency reduce, or intentionally underestimate, purchased material costs to meet grantor's budgets that would create an undue financial burden to the agency.

704. Consultant Costs

704.1. Consultant costing will be estimated using actual consultant estimates, engineer's estimates or recent agency experience.

704.2. At no time will the agency reduce, or underestimate, consultant costs to meet grantor budgets that would create an undue financial burden to the agency.

704.3. In its grant submission, the agency will request the authority from the grantor to amend/update the consultant fee schedule, as needed.

705. Other Costs

705.1. Proposals shall be sufficient in content as to demonstrate that all agency costs have been considered.

706. Costing of Indirect

706.1. The agency will submit proposals that capture all the material costs of the agency associated with the proposal, except in those instances when the agency applies for a grant funding source that does not allow overheadindirect expenses. In these instances where the agency determines that the grant funding is desirable even without overheadindirect reimbursement, the agency will ensure that another fund source will be used for the project to cover the unabsorbed indirect costs.

706.2. Pertaining to Section 705.1 above, the board of directors, with a majority vote, can elect to waive the full costs recapture provisions of a grant proposal when substitute alternate funding is provided to cover those costs.

706.3. Indirect costs will consist of those costs identified in OMB Circular A-87 and the agency's indirect cost proposal.

707. Effective Proposal Dates

707.1. All proposals submitted to grantors will contain an effective expiration date for the proposal. The proposal should contain an inflation clause, a renegotiation clause, or a request to amend/revise the rates/fees, as needed, should a project be extended.

708. Cost Proposal Support

708.1. The agency requires that all proposals be supported by detailed documentation as available. This shall include vendor quotes, engineer's estimates and other calculations.

708.2. Documentation shall be in sufficient detail allowing for finalization of the budget in a timely manner once the grant has been awarded.

709. Grant Acceptance Criteria

709.1. An acceptable or model grant contains the following attributes:

- 1) The project is relevant to the goals and purposes of the agency, and includes specific references to the agency Regional Transportation Plan (RTP) and Overall Work Program (OWP) work elements, as applicable.
- 2) Projects cover all negotiated costs of the agency including overhead and indirect costs unless otherwise approved by the board of directors.
- 3) Agency has the qualified personnel to prepare the project, or can hire or subcontract with qualified personnel.
- 4) Grant does not place the agency in the position of incurring an undue risk of losses for failure to perform or complete the grant in a timely manner.
- 5) Grant does not exceed the agency liability insurance limits. The board of directors may approve to increase these limits as needed.

6) Grant budgets are balanced.

7) The following limits shall be in effect for determining whether board of ~~directors~~director's approval is required prior to either grant submission or approval:

- a) The agency executive director may approve grants up to \$50,000; or
- b) The agency board of directors shall approve grants over \$50,000.

8) For those grant proposals requiring board of directors approval, staff will determine whether a resolution is required and will submit one with the grant, as needed.

9) The grantor will accept, at a minimum, quarterly invoices from the grantee, preferably monthly.

800. Purchasing and Contracting (Amended September 13, 2016)

801. Intent

801.1. The intent of the agency is to establish procedures for the purchase of goods and services at the lowest possible cost and of good quality. Under California Public Contract Code Sections 20216-20217, the agency will obtain goods and services using the competitive bid process. It is imperative that the purchasing function be open to all qualified bidders and that the processes not impair or discourage competition. The procurement procedures are designed to:

- 1) Instill public confidence in the procurement process of the agency;
- 2) Ensure fair and equitable treatment for all vendors who seek to deal with the agency;
- 3) Ensure maximum open and free competition in the expenditure of public funds; and
- 4) Provide safeguards to maintain a procurement system of quality and integrity.

801.2. Open Competition Required- All procurement transactions using all funds will be conducted in a manner providing full and open competition. Some of the situations considered to be restrictive of competition include, but are not limited to:

- 1) Placing unreasonable requirements on firms in order for them to qualify to do business;
- 2) Requiring unnecessary experience and excessive bonding requirements;
- 3) Allowing noncompetitive pricing practices between firms or between affiliated companies;
- 4) Providing a noncompetitive award to any person or firm on retainer contracts;
- 5) Permitting organizational conflicts of interest. An organizational conflict of interest means that because of other activities, relationships, or contracts, a consultant is unable or potentially unable, to:
 - a) render impartial assistance or advice to agency;

- b) be objective in performing the contract work; or
- c) not perform without an unfair competitive advantage.
- 6) Specifying only a brand name product without listing its salient characteristics and not allowing an equal product to be offered as a bona fide substitution, unless specifically specified by the grantor;
- 7) Issuing exclusionary or discriminatory specifications;
- 8) Advancing contract modifications or change order actions outside the original contract scope; and
- 9) Taking arbitrary action in the procurement process.

801.3. The procurement and contracting process will emphasize important state and federal requirements relating to the procurement of goods and services including professional services. For procurement activities or contract administration situations, the following apply:

- 49 CFR Part 18 and Part 19 (Common Grant Rules)
- Federal Transit Administration (FTA) Master Agreement in effect
- 49 U.S.C. § 5302: US Code - Section 5302: Definitions
- FTA “Circular 4220.1F (Third Party Contracting Guidelines) and revisions”
- FTA “Circular 5010.1D (Grant Management Requirements) and revisions”
- FTA “Circular 5200.1A (Full Funding Grant Agreement and Master Grant Agreements) and revisions”
- FTA’s “Best Practices Procurement Manual”
- Applicable Federal Acquisition Regulations

801.4. The agency will endeavor to conduct all procurement transactions in a manner that provides for full and open competition. When conducting procurements that are funded with FTA grants, the agency will manage the entire procurement and contract administration process in compliance with FTA Circular 4220.1F, unless purchasing thresholds have been updated under the Federal Acquisition Regulations (FAR).

801.5. The following definitions apply:

Fixed Price Contracts – A Fixed Price Contract provides for performance of specified work or supply of goods in consideration of a fixed price, and the consultant bears the risks of uncertainty. Such contracts provide maximum incentive for the consultant to control costs and perform effectively and impose minimum administrative burden upon contracting parties. A fixed price contract type is recommended for materials and equipment.

Cost-Plus-Fixed-Fee – This cost-reimbursement contract provides for payment to the consultant of a negotiated fee that is fixed at the inception of the contract. The fixed fee does not vary with actual cost, but may be adjusted because of changes in the work to be performed under the contract. This contract type permits contracting for efforts that might otherwise present too great a risk to consultants, but it provides the consultant only a minimum incentive to control costs.

Time-and-Material (T&M) – This type of contract is used to procure supplies and services at specified fixed hourly or unit rates (fully burdened) and/or material at cost. The labor hour (LH) contracts are a variation of the T&M which excludes materials supplied by the consultant. The common grant rule for government recipients permits the use of time and material contracts only when it is not possible to estimate the extent or duration of the effort or cost involved and the contract provides a not-to-exceed ceiling price that the consultant may not exceed except at its own risk. Both T&M and LH provide no incentive for consultants' cost control or labor efficiency; therefore, the agency will monitor that the consultant is performing efficiently and using effective cost control measures. The contract will specify a ceiling price that the consultant shall not exceed except at its own risk.

Period of Performance – The time of delivery or performance is an essential contract element and shall be clearly stated in solicitations. The agency shall ensure that delivery or performance schedules are realistic and meet the requirements of the procurement. Contracts for services that are infrequent and/or unique to a specific grant should allow enough time for sufficient project completion. These contracts generally expire upon project completion. Contracts for services that are reoccurring, such as monthly or annually (audit services or computer maintenance) should be of sufficient duration to ensure the development of vendor proficiency and agency efficiency. Generally, one to three year contracts, with an agency option for an additional one or two more years are used. Periodic re-competition of contracts preserves competition and keeps prices competitive.

801.6. Federal Acquisition Regulations (FAR) Part 16 requires the factors that should be considered in determining appropriate contract types are: price competition, realistic pricing standard, degree of uncertainty and impact on cost evaluation, type and complexity of the work, urgency, period of performance, consultant's technical qualification, consultant's financial responsibility, past performance, concurrent contract work load, extent of subcontracting, availability of procurement history, and contract administration.

801.7. The Federal Common Grant Rules expressly prohibit the use of the cost plus a percentage of cost, and cost plus a percentage of completion, methods of contracting. These methods involve a contractor periodically recovering his costs plus a percentage of his anticipated profit. This percentage of profit allowed to be charged is the costs of the period divided by the total project costs.

801.8. The executive director will provide systematic instructions for acquisition planning, solicitation preparation, source selection, negotiations and contract award including the specific third party contract provisions and requirements to form a sound, complete, and compliant agreement consistent with federal and state laws and regulations. Each activity item in the list covers specific guidelines and procedures in detail.

801.9. Conflict of Interest – In order to promote governmental integrity and to guard against even the appearance of impropriety, all agency employees, board members, and any consultants hired to assist in the procurement process who engage in any procurement related activity shall comply with the following standards of ethical conduct:

- 1) Agency employees and board members shall discharge their duties impartially so as to assure fair access to governmental procurement by responsible vendors and service providers and to foster public confidence in the integrity of the agency procurement system.

- 2) Agency employees and board members shall not solicit, demand, accept or agree to accept a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement, specification, standard or contract.
- 3) The agency has adopted a Conflict of Interest Code under which the following groups shall not participate in or attempt to use their official position to influence any purchasing decisions in which they or persons related to them have a financial interest:
 - a) The employee, officer, agent or board member;
 - b) Any member of his/her immediate family;
 - c) His or her partner; or
 - d) An organization that employs, or is about to employ, any of the above.

In cases where there may be a benefit, either direct or indirect, there is a responsibility to report in writing such benefit to the agency. If anyone fails to report such benefit, he or she will be subject to any disciplinary proceeding deemed appropriate by the agency, including possible dismissal. Members of the groups listed in item (3)(a) above will be subject to the conflict of interest laws of the State of California. Anyone who violates the standards of the law will be subject to penalties, sanctions or other disciplinary actions.

801.10. Gratuities, Kickbacks, and Contingent Fees – No member of the groups listed in item (3)(a) above shall solicit, demand or accept from any person, consultant, potential consultant, or potential sub-consultants, anything of a monetary value, including gifts, gratuities, favors, etc. Anyone failing to adhere to the above will be subject to any disciplinary proceeding deemed appropriate by the agency, including possible dismissal.

801.11. Confidential Information – No member of the groups listed in item (3)(a) above shall use confidential information for his or her actual or anticipated personal gain, or the actual or anticipated personal gain of any other person related to them by blood, marriage, or by common commercial or financial interest. Anyone failing to adhere to the above will be subject to any disciplinary proceeding deemed appropriate by the agency, including possible dismissal.

801.12. Organizational Conflict of Interest – Each entity that enters into a contract with the agency is required, prior to entering into such contract, to inform agency of any real or apparent organizational conflict of interest. Such organizational conflict of interest exists when the nature of the work to be performed under a contract may, without some restriction on future activities, results in an unfair competitive advantage to the consultant, or may impact the consultant's objectivity in performing the contract work.

801.13. Federal Government Excluded Parties List System – Staff is required to annually review the Federal Government Excluded Parties List System to ensure that no members of SRTA's elected board, other key decision-makers and contractors are barred from doing business with the federal government.

Staff will consult with appropriate federal agencies should any SRTA board members, key decision-makers or contractors be found to be an excluded party.

802. General Procurement

802.1. Procurement activities commence with development of project plans or annual procurement plans, and end at project closeout. The agency will use the FTA Best Procurement Practices Manual, when applicable, as its guiding procurement document and applicable local, state, and federal procurement laws and regulations.

802.2. The following procurement requirements will apply to all procurement and contracting actions at the agency:

- 1) Written record of procurement history: A written record of procurement history (procurement summary memo) for all purchases exceeding the micro purchase threshold (currently \$3,500) will be included with the documentation for all procurements. See Section 902.1.j. of the agency's Financial and Accounting Procedures for Grant Contracting and Management for a detailed summary of items needed for documentation.

802.3. The agency may form a contract for goods and services for a period based on business need and consistent with the intent of the "full and open competition" principle, as indicated in FTA Circular 4220.1.F (or its successor). The agency will contract only for its current and reasonably expected business needs.

802.4. Geographic Preferences: 49 U.S.C. Section 5325(i) prohibit the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in cases where applicable federal statutes expressly mandate or encourage geographic preference. This prohibition does not preempt state licensing laws. Geographic location may be a selection criterion on procurements for architectural and engineering services if its application leaves an appropriate number of qualified firms to compete for the contract. Regardless of the requirement prohibiting geographic preference, SRTA expects contractor familiarity with the region, as well as the ability to travel as needed for site visits, outreach, and other purposes needed to effectively complete the project.

802.5. Options: The agency may include options in its contracts to ensure future availability of equipment, property, or services, when business purpose exists. An option is a unilateral right in a contract where the agency may, within a specified period of time, elect to purchase additional equipment, supplies or services called for by the contract or may elect to extend the term of the contract. The agency will document the determination of the need to exercise contract option and that the option price is fair and reasonable based on cost and price analysis. Options will be priced, evaluated, negotiated, and documented as part of the original bid document and contract award. The agency will have unilateral right to exercise the option.

FTA requires agencies to exercise "sound business judgment," and "to establish contract terms no longer than necessary to accomplish the purpose of the contract." Good procurement practice dictates that agencies enter into contract terms no longer than minimally necessary to accomplish the purpose of the contract.

If a contract contains options, the following applies:

- 1) Review of Options: The agency will review the options in the solicitation documents to ensure that proposers or bidders are required to provide prices for required options or that the contract

provisions identify an index and procedures for pricing and exercising the options in future years before authorizing, advertising or issuance of solicitation.

- 2) **Evaluation of Options:** The option quantities or periods contained in the offer must be evaluated in order to determine contract award. The agency will ensure that prices for options included in the offers are evaluated before the agency makes a determination on award of a contract.
- 3) **Evaluation Not Required:** The agency need not evaluate bids or offers for any option quantities if there is a determination that evaluation would not be in the agency's best interests.
- 4) **Exercise of Options:** The agency must ensure that the exercise of an option is in accordance with the terms and conditions of the option stated in the original contract award, and the procurement document. An option may not be exercised unless it has been determined that the option price is fair and reasonable and in the agency's best interest. If a contract has one or more options and those options were not evaluated as part of the original contract award, exercising those options after contract award will result in a sole source award.
- 5) **Negotiating a Lower Option Price:** Prior to exercising the option, agency will perform market survey and evaluate the option. The agency may offer a price reduction due to changes in market conditions and execute a bilateral modification to the contract reflecting lower pricing before the options are exercised.
- 6) **Option Piggybacking:** It is essential that there be an assignment clause in the contract issued by the originating agency. If the contract contains an assignment clause, then the originating agency must agree to assign the contract options, together with all the terms and conditions of the contract, to the agency. The preferred method would be a contract modification between the original contracting parties (i.e., the vendor and the originating agency) or a new contract may be issued. Thereafter, the agency will issue a contract exercising the option. The agency may include federal third party contract clauses, if required.

802.6. **Advance Payments:** As a principle, the agency will not make advance payments. The federal government does not authorize and will not participate in funding payments to consultant for federally-funded projects prior to the incurrence of costs by the consultant unless prior written concurrence is obtained from the federal government. However, the federal government recognizes that advance payments are typically required for, but are not limited to, public utility connections and services, rent, tuition, insurance premiums, subscriptions to publications, software licenses, transportation, hotel reservations, and conference and convention registrations. Accordingly, the recipient may use federal assistance to support or reimburse the costs of such acquisitions. Federal concurrence is required only when such advance payment or payments customarily required in the marketplace exceed \$100,000.

802.7. **Progress Payments:** The agency may use progress payments if progress payments are only made to the consultant for costs incurred in the performance of the contract. Sufficient documentation is required to demonstrate completion of the amount of work for which progress payments are made.

802.8. **Duplicative or Unnecessary Purchases:** The agency will conduct regular reviews of procurement actions to identify duplicative or unnecessary purchases. Micro and small purchases will be reviewed to determine if, and how, purchases can be consolidated to obtain purchases that are more economical for the agency.

802.9. Procurements with Large Scopes of Work: The agency will review the scope to determine if the procurement would be more beneficial to the agency if it were to be broken out into two or more separate contracts. The ability to provide more contracting opportunities to small businesses will be a part of this consideration. However, splitting into two separate contracts to avoid small or large purchase procedures is not acceptable.

802.10. Sound and Complete Agreement: The executive director will ensure that precise language is used in describing the Order of Precedence or Contents of the Contract. All agreements, attachments, forms, and documents will be identified by dates and reference numbers. To the extent that there are different provisions in contract documents that address the same matter or subject and these different provisions conflict, the document listed first that addresses the matter or subject will control. If additional conflicting provisions exist within the same level of contract document, the agency's decision shall be binding.

802.11. Cost/Price Analysis: A cost or price analysis will be performed for every procurement action. The degree of analysis is dependent on the facts of the particular procurement but as a starting point, the initiating project manager must prepare an independent cost estimate before receiving bids or cost proposals. The agency may use the following resources as guidance in performing cost or price analysis:

Potential Resources
FTA's "Best Practices Procurement Manual"
The National Transit Institute Course, "Risk Assessment and Basic Cost or Price Analysis"
Pricing Guide for FTA Grantee, FTA Website: https://www.transit.dot.gov/funding/procurement/third-party-procurement/pricing-guide-fta-grantees
FAR Part 31, Contract Cost Principles and Procedures
Past cycles and/or comparable projects

- 1) Cost Analysis: A cost analysis will be necessary when adequate price competition is lacking and for sole source procurements including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or on the basis of prices set by law or regulation. A cost analysis must be performed when the offeror is required to submit the elements (i.e., labor hours, overhead, materials, etc.) of the estimated cost (i.e., professional consulting and architectural and engineering services contracts). A cost analysis includes verifying the proposed cost data, the projections of the data and the evaluation of specific elements of cost and profit.
 - a) Cost Analysis for Competitive Proposal: This method is most often used to contract for professional, consulting, and architect/engineering (A/E) services. (See 24 CFR 85.36(d) (3) for a definition.) To determine the reasonableness of proposed costs, the agency will obtain cost breakdowns from the offerors showing all the elements of their proposed total costs and perform a cost analysis of each proposal.

When awarding a contract using the competitive proposal method, the type of contract (e.g., firm fixed-price or cost-reimbursement) the agency proposes to award does not affect the requirement for a cost analysis. For example, if a firm fixed-price contract via the

competitive proposal method is intended, the agency must analyze all of the proposed costs contained in each offeror's price. The agency is not required to negotiate each individual cost element in arriving at an agreement on total price. The final price the agency negotiates with the chosen consultant on a fixed-price contract normally reflects agreement only on the total price. Therefore, the overall objective should be to negotiate total prices that are fair and reasonable.

- b) Cost Analysis for Sole Source Contracts: This is different from single bids. No competition is present, and usually, there is no market to help set the price or estimated cost. Since there is no price competition to indicate if the price or estimated cost is reasonable, the agency will obtain a breakdown of the proposed costs and perform a cost analysis. The cost analysis will be performed for all change order situations, as each change order likely will be unique (i.e. differing subsurface or site conditions, design errors and omissions, etc.). When using federal and state funds, a justification for use of a sole source contract must be completed.
- 2) Price Analysis: A price analysis may be used in all other instances to determine the reasonableness of the proposed contract price. The agency will annotate a finding of fair and reasonable pricing and state the most common reasons why this was so, such as catalog or market price offered in substantial quantities to the general public, regulated price, or a comparison with recent prices for similar goods and services.
- a) Price Analysis for Sealed Bidding or Competitive Quotes: As the preferred method for contracting for supplies and equipment, the competitive pricing forces of the marketplace determine the reasonableness of the low price obtained through sealed bidding. The agency will compare the independent cost estimate to the low competitive bid received. In the event they are significantly different, the agency will need to verify that either the estimate or the market price is valid. Otherwise, no further price or cost analysis is required under sealed bidding.
 - b) Price Analysis for Indefinite-Delivery Contracts: In certain cases, the contract may specify separately priced items. This is commonly done in indefinite-delivery (e.g., indefinite-quantity, sometimes called job order, or "open ended") contracts. Under these contracts, the agency orders pre-priced items on an as-needed basis, up to a stated maximum quantity. For these contracts, agreement must be reached on each item's price before award and the prices included in the final contract document.

802.12. Indirect Cost Rates: For contracts other than A&E contracts, if a contractor does not have a current approved audit report or agreement, the agency may use the report prepared by the contractor's public accountant, or indirect cost information if contained in the contractor's annual statement to their stockholders, shareholders, or owners, or examples of acceptance of their rates by other government agencies within the last six months for contracts of \$5 million or less.

802.13. Audits and Indirect Costs: As required by 49 U.S.C. Section 5325(b)(3), all federally assisted contracts and subcontracts including program management, architectural engineering, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping or related services must be performed (i.e. a consultant cannot incur and invoice the agency any unallowable, unallocable, or unreasonable costs prohibited by the Federal Acquisition Regulations (FAR) and/or the contract terms and conditions) and audited in accordance with FAR Part 31 cost principles. The recipient and the third party consultant, its sub-consultants, and sub-recipients must accept FAR indirect

cost rates for one-year applicable accounting periods established by a cognizant federal or state government agency, if those rates are not currently under dispute, and these established rates will apply for purposes of contract estimation, negotiation, administration, reporting, change order, options, and payments, not limited by administrative or de facto ceilings.

802.14. Buy America: Buy America regulations apply to federally assisted procurements exceeding certain amounts. Buy America regulations require the consultant to provide goods produced or manufactured in the US, unless the federal government has granted a waiver authorized by those regulations.

802.15. Equal Employment Opportunity/Affirmative Action: All procurement documents issued by the agency require all interested vendors to certify:

- 1) That the vendor does not discriminate against any employee or applicant for employment, because of race, religion, sex, age, creed, color, disability or national origin;
- 2) That the vendor is in compliance with all executive orders and federal, state and local laws regarding fair employment practices and non-discrimination in employment;
- 3) That the vendor agrees to demonstrate positively and aggressively the principle of equal opportunity in employment; and
- 4) That consultants must comply with 49 CFR 18.36(e) (2) (i-iv).

802.16. Disadvantaged Business Enterprise: The agency has determined that disadvantaged business enterprises as defined in 49 CFR Part 26 will have the opportunity to compete fairly for contracts financed in whole or in part with federal funds. Accordingly, all agency procurements funded with federal funds may include, as appropriate, the use of goals for the procurement of all classes of goods and services.

802.17. Public Records Act: All bids and proposals received become the exclusive property of the agency. At such time as a contract award is recommended to the agency, all bids and proposals become a matter of public record and will be regarded as public records, with the exception of those elements in each proposal which are trade secrets as that term is defined in California Government Code 6254.7 and which are so marked as "Trade Secret," "Confidential" or "Proprietary". The agency shall not in any way be liable or responsible for the disclosure of any such records or portions thereof, including, with limitation, those so marked if disclosure is deemed required by law or by an order of a court. Bids or proposals that indiscriminately identify all or most of the bid or proposal as exempt from disclosure without justification may be found technically unacceptable.

802.18. Best Value: This is a selection process in which proposals contain both price and qualitative components, and award is based upon a combination of price and qualitative considerations. Qualitative considerations may include technical design, technical approach, quality of proposed personnel, management plan, relevant experience, depth of firm expertise, and/or previous experience with agency and projects. The award selection is based upon consideration of a combination of technical and price factors to determine (or derive) the offer deemed most advantageous and of the greatest value to the agency.

802.19. Tag-Ons: “Tag-on” is defined as the addition of work (supplies, equipment or services) that is beyond the scope of the original contract that amounts to a cardinal change as generally interpreted in federal practice by the various boards of Contract Appeals. “In scope” changes, such as unseen steps to achieve the same deliverables, are not tag-ons, nor are unanticipated amounts of work to get to the same deliverables, e.g. needing to respond to three hundred comments received on a project versus the scope of work accounting for thirty responses based on past experience. The use of tag-ons is prohibited and applies to the original buyer as well as to others.

802.20. Use of Brand Name: When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equal” description may be used as a means to define the performance or other salient characteristics of procurement. The specific features of the named brand which must be met by offerors will be clearly stated.

802.21. Since the agency receives federal funds, federal procurement requirements apply to all federally funded procurements undertaken in support of agency. Listed below are some of the contract terms and/or regulatory or administrative requirements that apply when federal funds are being utilized for the procurement. The requirements of the Americans with Disabilities Act and the equal opportunity provisions of the Civil Rights Act of 1964, as amended, will apply to all procurements (if applicable) even if federal funds are not utilized.

- 1) State or local geographic preferences, except those expressly mandated or encouraged by federal statute, are prohibited. (See also Section 802.4)
- 2) Any procurement involving equipment, materials, or commodities suitable for transport by ocean vessel will contain the clauses required by 49 CFR Part 381: Cargo preference - U.S. Flag Vessels.
- 3) For any contract of over \$30,000, the consultant will abide by lobbying disclosure requirements, per compliance with 31 U.S.C. 1352.
- 4) Each third party consultant must acknowledge that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification, the federal government reserves the right to impose penalties under the Program Fraud Civil Remedies Act of 1986.
- 5) Each third party consultant is required to acknowledge the mandatory standards and policies related to every efficiency that are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321, et. seq.).
- 6) Each third party consultant for contracts over \$30,000 must certify that they will not enter into contracts for over \$30,000 with suspended or debarred consultants (Executive Order 12549; 49 CFR part 29).
- 7) Each third party consultant must comply with Civil Rights requirements concerning nondiscrimination and equal employment opportunity (29 U.S.C. 623; 42 U.S.C. 2000, 6102, 12112; 12132; 49 U.S.C. 5332; 29 C.F.R. Part 1630; 41 C.F.R. Parts 60 et. Seq.).
- 8) Each third party consultant must comply with appropriate Patent and Rights in Data requirements (37 C.F.R. Part 401 and 49 C.F.R. Part 18).

9) Each third party consultant must comply with the Department of Transportation Disadvantage Business Enterprise (DBE) regulations (49 C.F.R. Part 26). (See also Section 802.16)

10) Fly America. Each third party consultant must comply with 49 U.S.C. 40118 in accordance with the General Service Administration's regulations at 41 CFR Part 301-10.

802.22. Insurance Requirements – Insurance requirements vary depending on the project type. They may include provisions for personal injury, environmental liability and other areas. The insurance requirements for each project are established by the agency.

- 1) In assessing risk management, the agency will consider the following project information:
 - a) Scope of work;
 - b) Contract amount;
 - c) Whether the project requires the consultant to operate on agency property;
 - d) The ultimate use of the good or service provided by the consultant; and
 - e) Previous experience associated with similar or related projects.
- 2) Once the insurance requirements are defined, they must be included in the procurement document. A copy of the insurance certificate is to be kept in the project file. The executive director shall not allow any contract to continue without proper insurance in effect after notification of the lapse of requisite insurance.
- 3) All contracts shall provide that the consultant shall indemnify and save harmless the agency, its officers, agents and employees from any injuries or damages received by any person during any operations connected with the contract, by use of any improper materials, or by any act or omission of the consultant or his sub-consultant, agents, servants or employees.

802.23. Liquidated Damages- The agency will determine whether the use of a liquidated damages provision is appropriate for each specific procurement. The amount of liquidated damages must be reasonable, shall be set at a specific rate for each day of overrun in contract time or for delivery of goods, or for each instance of an incident giving rise to imposition of liquidated damages in a service contract, and the rate must be specified in the contract. A liquidated damage clause may be used if it is determined that:

- 1) The time of delivery of goods or services to the agency is critical, and the agency can expect to suffer damage if the delivery is delinquent.
- 2) The extent or amount of such damage would be difficult or impossible to determine.

The rate of the liquidated damages must be specified in the contract. If federally funded, any liquidated damages recovered shall be credited to the project account involved unless prior written concurrence is obtained from the federal government. The procurement file shall include documentation as to the methodology used to calculate liquidated damages.

802.24. Termination

- 1) Termination for Convenience – All contracts shall contain a provision allowing for the termination of the contract for convenience by the agency and prescribe methods in which the consultant may calculate cost of work already performed, and termination settlement costs. All contracts supported by federal grants are to include provisions that allow the agency to terminate the contract, and that stipulate the manner by which termination will be made and the basis for settlement. The contract provisions may read as follows:

“Termination for Convenience – This Agreement may be terminated by either party for any reason and at any time by giving no less than fourteen (14) days written notice of such termination to the other party and specifying the effective date thereof; provided, however, that no such termination may be effected by the agency unless an opportunity for consultation is provided prior to the effective date of the termination. Additionally, termination for convenience may be an immediate process, without advance days notification to the consultant, if grant funding for the project is suddenly removed.”

- 2) Termination for Default – Termination for default is generally the exercise of the agency’s contractual right to completely or partially terminate a contract because of the contractor’s actual or anticipated failure to perform its contractual obligations. All contracts shall contain a provision allowing for the termination of the contract for default by the agency. All contracts supported by federal grants are to include provisions that allow the agency to terminate the contract, and that stipulate the manner by which termination will be made and the basis for settlement. Typically, these provisions would include, but not be limited to, the contractor or ~~subrecipient~~sub-recipient failing to:

- a) make delivery of the supplies, or perform the services, within the time specified in the contract;
- b) perform any other provision of the contract;
- c) make progress, and that failure endangers performance of the contract, and/or timely completion of a grant; or
- d) ~~retain~~ the project manager or sub-consultants as specified in the contract. No project manager or sub-consultant change will be entertained without advanced written authorization from the agency.

Under this type of termination, the agency is not liable for the contractors’ or sub-recipients’ costs on undelivered work and is entitled to the repayment of advance and progress payments, if any, applicable to that work. In addition, the agency recommends the use of an immediate stop work order in the instance of a project not progressing to the agency’s satisfaction.

- 3) Termination for Cause – If either party fails to fulfill in a timely and proper manner that party’s obligations under this Agreement or otherwise breach this Agreement and fail to cure such failure or breach within fifteen (15) days of receipt of written notice from the other party describing the nature of the breach, the non-defaulting party may, in addition to any other remedies it may have, terminate this Agreement by giving fifteen (15) days written notice to the defaulting party.

- 4) Stop Work Order – The agency may, in order to investigate a possible deficiently-performing contractor or sub-recipient—or in some instances protect itself and/or contractor or sub-recipient from financial risk associated with lapsed funding—may request a stop order on all contractor or sub-recipient and sub-consultant work associated with the contract. Such stop work order will be delivered in writing to the contractor or sub-recipient and shall be effective immediately.
- 5) Late Product(s) Delivery – If agency staff elects not to terminate the contract with the contractor or sub-recipient for the late delivery of supplies or provision of services, agency staff may elect to impose a late penalty for deliverables and materials from the contract scope of work that are not delivered to the agency on, or before, the agreed scheduled final delivery date. If agency staff elects to use this provision of the agency’s policies and procedures, the provision will be included in the contract prior to execution. Under this provision, agency staff will penalize the contractor, sub-recipient or sub-consultant \$200 for each business day the final deliverable(s) are not received by the agency beyond the specified due date. Business days are normal work days, excluding Federal holidays and weekends. The penalty fees will be retained by the agency from the final contractor or sub-recipient billing after acceptance of the agreed-upon deliverables, as outlined in the contract scope of work.
- 6) Disposition of, Title to and Payment for Work upon Expiration or Termination – Upon expiration of this Agreement or termination for cause or termination for the convenience of a party, all finished or unfinished documents and other materials, if any, and all rights therein shall become, at the option of the agency, the property of and shall be promptly returned to the agency, although consultant may retain a copy of such work for its personal records only. Unless otherwise expressly provided in this Agreement, any copyrightable or patentable work created by consultant under this Agreement shall be deemed a “work made for hire” for purposes of copyright or patent law and only the agency shall be entitled to claim or apply for the copyright or patent thereof.

Contractor shall only be paid for deliverables and documented services completed and provided prior to the notice of termination, less payments of compensation previously made.

802.25. Dispute Resolution – The agency’s cognizant agency requires that “grantees alone will be responsible in accordance with good administrative practice and sound business judgment for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the grantee of any contractual responsibility under its contracts. The agency is not required to include a dispute resolution clause in its contracts but every effort should be made to resolve disputes between the consultant and agency.

Any dispute between the consultant and the agency relating to the implementation or administration of the contract shall be attempted to be resolved through the following process:

- 1) The parties will first attempt to resolve the dispute informally in meetings or communications between the consultant and the agency (for each individual contract). If the dispute remains unresolved fifteen (15) days after it first arises, the consultant may request that the agency issue a recommended decision on the matter in dispute. The project manager will issue the recommended decision in writing and provide a copy to the consultant.

- 2) The recommended decision of the project manager will become final unless, within fifteen (15) days of receipt of such recommended decision, the consultant submits a written request for review to the executive director. In connection with any such review, the consultant and the agency will be afforded an opportunity to be heard and to offer evidence on the issues presented. If the dispute remains unresolved after review by the executive director then the consultant may file an appeal with the SRTA Fiscal Committee. If remaining unresolved after appeal to the Fiscal Committee, either party may seek judicial resolution of the dispute in an appropriate court based on the venue section of the contract.

Pending final resolution of a dispute under this section, the consultant shall proceed diligently with performance in accordance with the contract and the agency's recommended decision.

803 Executive Director and Project Manager——Responsibilities **Manager Responsibilities**

803.1. The executive director, or his/her designee,:

- 1) is responsible for updating these procurement policies and procedures on an as-needed basis.
- 2) is authorized to enter into, administer, and terminate contracts. However, the executive director may bind agency only to the extent of the contracting authority delegated by the board of directors.
- 3) will ensure that a clear and accurate scope of work is developed for each procurement.
- 4) will not enter into a contract unless the executive director has ensured that all applicable requirements of federal law, federal regulations and circulars, California law, and all other applicable agency procedures (including approvals) have been met.
- 5) will ensure that consultants/vendors receive impartial, fair, and equitable treatment in accordance with the policies specified in this manual.
- 6) will be the primary agency employee to determine that contract prices are fair and reasonable prior to signing the contract or any changes thereto.
- 7) will not make any purchase or enter into any contract for an amount, which exceeds his or her specifically delegated contracting authority.

803.2. The project manager – The project manager is a duly appointed agency employee who will be directly responsible for the daily technical administration of a contract including monitoring the contract and performing those functions as specified by agency policy. The project manager should be a responsible individual assigned to and familiar with the procedures and requirements of the agency. As such, the project manager is the executive director's technical expert and is at his/her disposal to assist in ensuring consultant/vendor compliance with technical requirements of the contract. Normally, the project manager approves or disapproves the technical acceptability and timeliness of the work completed and the invoices submitted by the consultant for payment.

The project manager:

- 1) will ensure that sufficient unencumbered funds are available for obligation for each contract.
- 2) will develop a clear and accurate scope of work for each procurement.
- 3) is responsible for: soliciting bids, proposals, and qualifications requests; serving as the chairperson of pre-bid and pre-proposal conferences, qualification hearings and proposal evaluation meetings; conducting contract negotiation sessions; managing the non-technical aspects of post award contract administration including negotiation of modifications, claims, and supplemental agreements; and maintaining all official contract files.
- 4) is responsible for such tasks as writing, preparing and assembling contract documents; obtaining necessary pre-solicitation approvals; advertising RFPs/RFQs/IFBs, issuing amendments, obtaining post-bid opening approvals for award, conducting investigations of proposed vendors' past performance, conducting vendor selection meetings for negotiated contracts and conducting negotiations, monitoring vendor's performance, and managing termination for default or convenience procedures whenever the need arises.
- 5) is the person to whom reports of warranted equipment malfunctions, failures or any problems with the vendor's performance are submitted, pursuant to the specific authority granted by the executive director. The project manager makes the initial request for vendor remedial action. The executive director becomes involved when, and if, the lapse constitutes a serious, i.e., repetitive, or unresolved, breach of vendor's civil or contractual responsibility.
- 6) notifies the executive director that an apparent breach of the contract exists, if the vendor fails to respond in a timely or adequate manner to rectify any problem. After investigating the situation, the executive director and the project manager take any steps necessary and available to enforce agency's rights under the contract. This may include withholding payment, imposing liquidated damages, negotiating and recommending a settlement, terminating the vendor for default, or referring the matter for legal action.
- 7) attends pre-proposal conferences as the technical expert; conducts investigations of proposed vendor's technical past performance; questions prospective vendors during clarifications and discussions as to their technical capability to perform the contract; assists with contract negotiations; ascertains the availability of funds prior to initiating the negotiation and approval process for change orders, contract modifications and supplemental agreements; and issues directions to correct or replace defective items of work.

804 Bid Process Overview

804.1. Staff must determine the following:

- 1) Project scope;
- 2) Expected cost of the procurement;
- 3) Funding source and whether the procurement is budgeted or non-budgeted; and

4) What type of procurement will be exercised (See Section 804.8).

804.2. For procurement type, staff should refer to the policies described herein. Any questions regarding the procurement process should be immediately discussed with the executive director to ensure that the policies are being followed.

804.3 When circumstances warrant, the agency may attempt to fill requirements through a cooperative purchasing agreement with other appropriate public agencies.

804.4. Upon completion of the procurement process, authorization must be issued by the executive director, under Board of Directors approval, as needed, prior to the execution of any contract, notice-to-proceed, or initiation of work.

804.5. If only one bid is received, the sole bidder must cooperate with agency as needed in order for its bid to be considered for award. A new solicitation of bids may be made if the single bid price appears unreasonable.

804.6. Options- the agency may include options in contracts. An option is a unilateral right in a contract by which, for a specified time, a grantee may elect to purchase additional equipment, supplies, or services called for by the contract, or may elect to extend the term of the contract. If the agency chooses to use options, the requirements below apply:

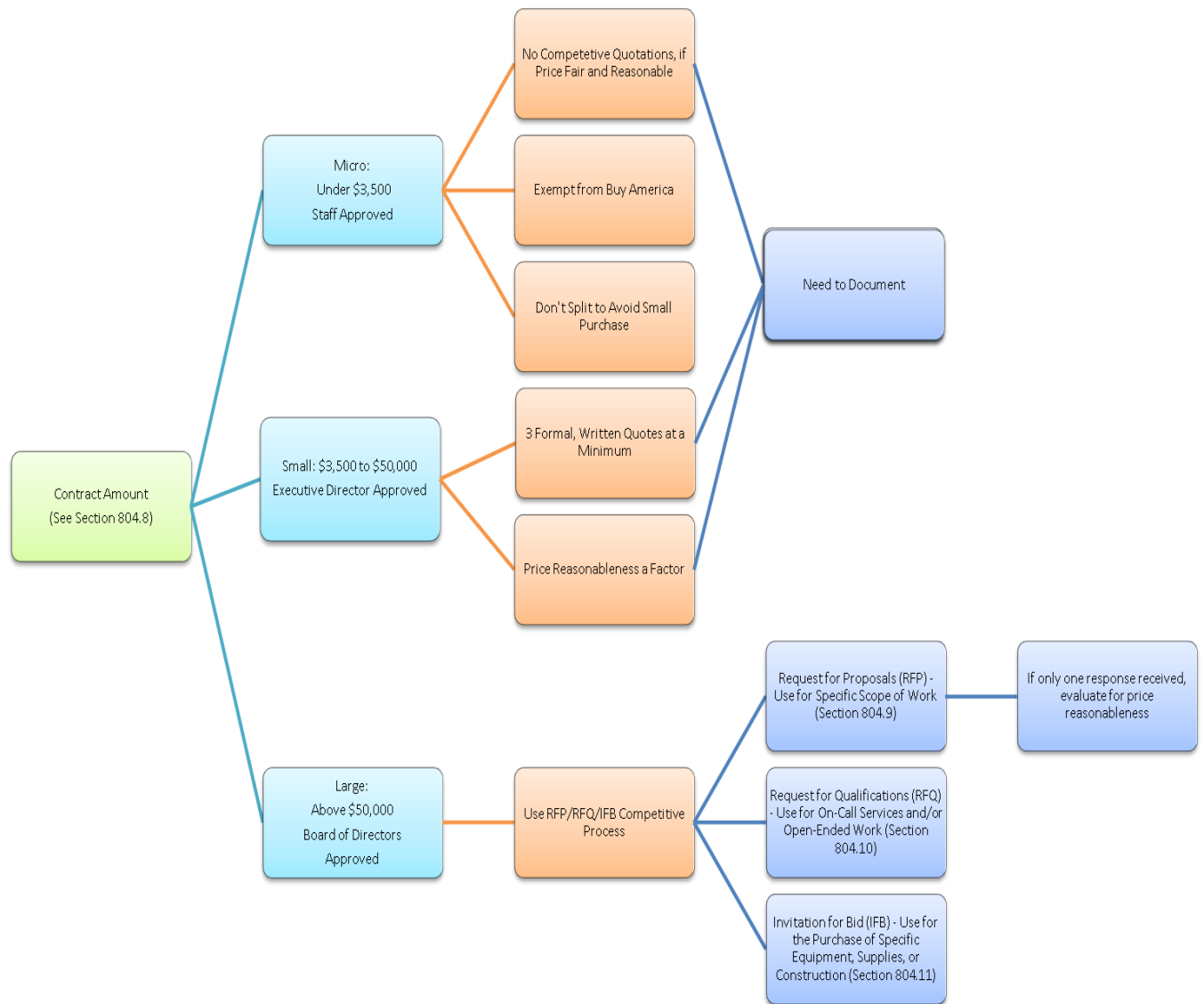
- 1) Call for Options – In releasing the bid document, the agency will request bid information on an option(s).
- 2) Evaluation of Options- The option quantities or periods contained in the consultant's bid or offer must be evaluated in order to determine contract award. When options have not been evaluated as part of the award, the exercise of such options will be considered sole source procurement.
- 3) Exercise of Options
 - a) The agency must ensure that the exercise of an option is in accordance with the terms and conditions of the option stated in the initial contract awarded.
 - b) An option may not be exercised unless the agency has determined that the option price is better than prices available in the market or that the option is the more advantageous offer at the time the option is exercised.

804.7. Advance Payments – The agency does not authorize and will not participate in funding payments to a consultant prior to the incurrence of costs by the consultant unless prior written concurrence is obtained from the appropriate cognizant agency. There is no prohibition on agency's use of local match funds for advance payments. However, advance payments made with local funds before a grant has been awarded, or before the issuance of a letter of no prejudice or other pre-award authority, are ineligible for reimbursement.

804.8. Procurement by Amount – The agency will follow procurement procedures based on the size of the procurement, as delineated in the subsequent diagram.

- 1) Micro Purchases – Micro purchases, those defined as purchases under \$3,500 (total for the life of the agreement without options), may be used by SRTA staff under the following circumstances:
 - a) Micro purchases may be made without obtaining competitive quotations if the agency determines that the price to be paid is fair and reasonable.
 - b) Micro purchases are exempt from the Buy America requirements.
 - c) Micro purchases may be equitably distributed among qualified suppliers and purchases should not be split to avoid the requirements for competition above the \$3,500 threshold.
- 2) Small Purchases – For procurements of \$3,500 up to \$50,000 (total for the life of the agreement without options), a minimum of at least three (3) informal written quotes from vendors is required. The responsibility for soliciting quotations rests with the executive director, or designee. Appropriate documentation, including but not limited to a list of the vendors contacted, a fair and reasonable price determination and the quotes received, will be filed with the project documentation. Approval of small purchases rests with the executive director.
- 3) Large Purchases – For procurements above \$50,000 (total for the life of the agreement without options), the competitive procurement process of a Request for Proposals, or Request for Qualifications, or Invitation for Bid will be used. Approval of large purchases rests with the board of directors. Upon approval, the board of directors may authorize the fiscal committee or executive director to make subsequent contract amendments, as needed.

SRTA Procurement Guidelines by Contract Amount and Approval Authority (Section 804.8)



804.9. Request for Proposals (RFP) The Request for Proposals (RFP) competitive procurement process is used when conditions are not appropriate for the use of a small purchase. The RFP process is coordinated by the project manager.

The RFP process is a competitive negotiated procurement process that requires evaluation of offeror's proposed costs and understanding of the contract performance requirements in accordance with established evaluation criteria. The competitive negotiated procurement process does not require award to the lowest offeror. An RFP *generally* includes, but is not limited to:

- Project and agency background;
- Purpose of the engagement;
- Desired use of deliverables;
- General firm qualifications desired;
- Scope of work;

- Project schedule;
- Proposal requirements;
- Criteria for selection;
- Payment terms;
- Additional services, as requested; and
- Contract extension terms, as desirable.

1) Issuance of RFP

- a) A notice of an RFP will be prepared by the project manager, and will be published electronically no less than three weeks prior to the date set for receipt of proposals. SRTA maintains an RFP template for staff use and also uses a bid posting section on SRTA's website. The notice must include the following minimum information:

- i) A general description of the services or goods to be purchased;
- ii) Where to request an RFP;
- iii) The location, day and time of the pre-proposal conference (if one is held);
- iv) The location, last day and hour proposals will be accepted (deadline); and
- v) Whether federal funds are being used for the procurement.

2) RFP Packet- The project manager will coordinate the release of the RFP packet. The RFP packet will include the following:

- a) Instructions To Proposers - General instructions concerning the proposal format, pre-contractual expenses, contract conditions, pre-proposal conferences, federal conditions and requirements (when using federal funds) and other information.
- b) Attachments - Required forms to be completed by the proposer and submitted with the proposal including required federal certifications.
- c) Exhibits - These can be documents which display key facts, specifications, maps, report formats, and other important information to clearly define the goods or services needed in order for the proposers to properly respond to the RFP. For professional services, a copy of the standard technical service agreement will be included.
- d) Scope of Work - Each RFP will contain a statement or scope of work prepared by the project manager which provides a clear and accurate description of the technical requirements for the materials, products, or services being produced. A statement or scope of work should only state the actual minimum needs of the agency, and be developed in a manner designed to promote full and open competition. At a minimum, the statement or scope of work should address the following areas:
 - i) A detailed description of the work to be performed outlining various tasks or phases to be performed, and defining the limits of the proposed project;

- ii) A requirement for periodic reporting or progress on the project if the procurement involves consultant or professional services;
 - iii) A proposed delivery schedule; and,
 - iv) A proposed contract period.
- e) Evaluation Criteria – Each RFP will identify all evaluation factors and their relative importance. If the selection is to be made by lowest price, that will be stated in the solicitation documentation. If the selection process will be a “best value” determination, the solicitation will state so and the relative significance of each criteria will also be included in the solicitation document.
- f) A control record will be maintained by project manager as RFP packets are distributed to prospective bidders. The control record profiles the following information:
- i) Date and time RFP packets are distributed.
 - ii) Names and addresses (physical or email) of vendors receiving the RFP and attending any pre-proposal conference. The control record’s primary purpose is to ~~provides~~provide a record for verification in cases of vendor protests and other issues.
- g) Advertising. All RFPs should be advertised in a manner that promotes participation in the bidding by all qualified and capable firms. If there is a DBE goal, the goal amount should be advertised. Advertising only in the immediate local news media may not be adequate for large projects needing consultants that are not common locally.
- 3) Pre-Proposal Conference- A pre-proposal conference may be used as a means of briefing prospective proposers and explaining complicated specifications and requirements to them as early as possible after the RFP has been issued and before the proposals are received. The pre-proposal conference will not be used as a substitute for amending RFP discrepancies. Attendance by prospective proposers is not mandatory. Minutes of the conference and the list of attendees will be issued to all prospective proposers who attended the conference, or be posted in an accessible location, e.g. the Internet, with notice made to all attendees.

The pre-proposal conference will be chaired by the project manager, and will follow the guidelines below:

- a) Discuss basic requirements such as instructions to the proposers, funding, contract type, evaluation criteria, and specific points that should be addressed in each proposal;
- b) Discuss the participation requirements for disadvantaged business enterprises (DBE);
- c) Discuss the scope of work; and,
- d) Conclude by announcing when and where the proposals are due and by restating the requested proposal length and maximum pages in scope of work.

- 4) RFP Amendments- If after issuance of requests for proposals, but before the time set for receipt of proposals, it becomes necessary to make changes in quantities, specifications, delivery schedules, opening dates, etc. or to correct or clarify RFP discrepancies, any such changes shall be accomplished by issuance, in writing, of an addendum, or addenda, to the RFP. Before issuing an addendum to an RFP, the period of time remaining until the time set for proposal submittal and the need for extending this time must be considered.

No award will be made on the request unless such addendum has been issued in sufficient time to permit all prospective proposers to consider such information in submitting or modifying their proposals.

The RFP will indicate that the agency is not bound by any oral representations, clarifications, or changes made in the written specification by the agency's employees, unless such clarification or change is provided to potential proposers in written addendum form from the agency.

Each amendment issued to a request for proposals will:

- a) Be serially numbered and dated.
 - b) Include the title, date and a description of the original RFP concerned.
 - c) Clearly state the changes made in the RFP, and extend the due date, as appropriate.
 - d) Be posted to the bid-posting section of SRTA's website, to which prospective vendors have been directed to sign-up for any communications related to the RFP.
- 5) Cancellation of RFP- the agency has the right to cancel RFPs at any time.
- 6) Receipt of Proposals- Proposals will be submitted so as to be received at the location designated in the RFP not later than the exact time set for the receipt of proposals. The only acceptable evidence to establish the time of receipt at the agency's offices is the agency date stamp, the written time of receipt, or for electronic submissions, the receipt date on the email transmitting the proposal. The timeliness of proposals is the sole responsibility of the proposer.
- 7) Withdrawal of Proposals- Any proposer may withdraw its proposal, either personally, through e-mail or by written request, received by agency at any time prior to the time fixed for the receipt of the proposals. Negligence on the part of a proposer in preparing the proposal confers no right of withdrawal of the proposal after such proposal has been opened. No proposal may be withdrawn for a period of 60 days following the proposal deadline.
- 8) Format of Proposal- The proposal to each RFP must be made in accordance to the requirements set forth in the RFP, both for mandatory content and for sequence. Noncompliance on the inclusion of conditions, limitations or misrepresentations may be cause for rejection of a proposal.
- 9) Evaluation and Selection Process- Proposals submitted to the RFP will be evaluated by an evaluation committee established by the agency, in accordance with the criteria set forth in the RFP. The evaluation committee will score the proposals and make a recommendation to the executive director. The consultant selection process may use the following criteria and

associated point percentages as a guide when applicable and each criterion may be weighted according to its importance to the project's success. If using criteria-point based scoring, as per the below, the agency may establish modified evaluation criteria at the time of release of the RFP.

Criteria	Point Scoring Maximums
Thoroughness of proposal and meeting the RFP project scope of work and the project's overarching objectives	40
Qualifications and similar experience of the consulting firm and project team	25
Local knowledge demonstration	15
Innovative ideas to meet RFP objectives	15
DBE participation level (all points for DBE/WBE Registration; no points for none)	5

Alternatively, if delineated in the RFP, the SRTA project manager may employ consensus scoring as a method of evaluation. After discussing the initial review results among evaluating committee members, the evaluating committee discusses reasoning for differences in scoring to come to consensus on the top-ranked firm, followed by the second, and so on.

10) The Executive Director Makes Final Determination- After review of the evaluating committee's recommendations, whether point based, or consensus scoring based, the executive director, or designee, will make a recommendation of award to the agency board of directors for contracts greater than \$50,000, unless the agency has already delegated its authority to the executive director for the procurement. If any RFP-based contract award recommendation differs from the recommendation(s) of the evaluating committee, the executive director, or designee, will include the evaluating committee's recommendation in the report to the board of directors, as well as the executive director's, or designee's, reasons for the alternate recommendation. After review and consideration of this recommendation, the board of directors will have the discretion to:

- a) Award the agreement to the proposer whose proposal is most advantageous to the agency, with price and other evaluation factors specified of the RFP considered. The agency board of directors is not bound by the recommendation of the executive director, but must document the justification for making an alternate selection.; or
- b) Reject any and all proposals; or.
- c) Direct staff to issue a new RFP.

11) Debriefing of Unsuccessful Proposers- Unsuccessful proposers will be notified of the agency's award of agreement to the successful proposer within five (5) working days of said decision. When a contract is to be awarded on some basis other than price alone, unsuccessful proposers will be debriefed upon their written request submitted to the project manager within a reasonable time.

Debriefings for the unsuccessful proposers will be provided at the earliest time after the executive director makes a final determination recommending the award of the contract. The

debriefing will be conducted by the project manager, or designee familiar with the rationale for the selection decision and contract award. Debriefing will:

- a) Be limited to discussion of the unsuccessful proposer's proposal and must not include specific discussion of a competing proposer's proposal;
- b) Be factual and consistent with the evaluation of the unsuccessful proposer's proposal; and
- c) Provide information on areas in which the unsuccessful proposer's technical proposal was deemed weak or deficient.

- 12) Public Record- All proposals submitted in response to an RFP will become the exclusive property of the agency. At such time as the executive director recommends a proposal to the board and such recommendation appears on the board agenda, all proposals submitted in response to the RFP shall become a matter of public record and shall be regarded as public records. If there are any trade or proprietary secrets included by the consultant, the consultant may provide a different copy of the proposal that would be acceptable to release to the public. Proprietary information can include secret formulas, processes, and methods used in production. It can also include a company's business and marketing plans, salary structure, customer lists, contracts, and details of its computer systems. In some cases, the special knowledge and skills that an employee has learned on the job are considered to be a company's proprietary information.
- 13) Analysis of Limited RFP Response- If only one proposal has been received, the project manager will examine the reasons for the limited response. A price or cost analysis will be performed to establish the reasonableness of the bid price before an award is made.
- 14) Notice of Contract Award- Award will be made by mail, e-mail and/or personal delivery to the successful proposer of a notice of award and the proper contract documents. The agency will finalize the execution of the contract and send a copy to the successful proposer. In addition, the agency will notify all unsuccessful proposers of its intent to award a contract to the successful proposer at the same time it notifies the successful proposer if agency approval is not required, and at the same time as the publication of the agency agenda-- if the agency approval is required.
- 15) Final Contract Draft- The standard contract template will be used for the agreement, unless amendment to the template is required for specific items. Such amendment will be reviewed by legal counsel prior to forwarding the contract to the consultant. The project manager will ensure that the contract is executed at the approval level required in these procedures. The contract does not take effect until signed by both parties; its effective date is the date of last signature to the contract. Two or more original signed copies of each contract will be executed by agency and the consultant. The agency will maintain one original of the contract and will distribute the others to appropriate parties, including at least one original to the consultant.
- 16) Project Completion- All original documentation related to each procurement, such as the RFP, proposals received, control record, agenda report, background data, evaluation criteria and scores, and meeting reports/notes will be submitted to the project manager for storage when the file becomes inactive. For audit purposes, complete files will be maintained for a minimum of five years after the project is closed out and completed unless a different time period is mandated by a funding entity. Procurement records sufficient to detail the significant history of

procurement will be maintained. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, consultant selection or rejection, and the basis for the contract price.

804.10 Request for Qualifications (RFQ) – The RFQ process is used when services of a vendor are needed, yet the agency cannot definitively outline a complete scope of work, such as modeling, geographic information systems, and other types of technical assistance that are typically needed on an on-call basis. SRTA maintains an RFQ template for staff use. The RFQ requests prospective vendors to submit their qualifications, experience, references and, if requested, pricing for different members of their team. The RFQ typically includes:

- Project and agency background;
- Purpose of the engagement;
- Request for a background on the experience the firm has for which the agency is requesting, including references;
- A profile of the firm, including location of business, personnel structure, and rate schedule;
- Firm team members proposed for the work, and their respective qualifications;
- Expected evaluation criteria (sample below) to be used to evaluate the Statements of Qualifications received;
- Expected duration of the contract period;
- Option for extension(s) of the original contract, for a specified period of time, if the vendor is satisfactorily performing, performing and the rate structure is reasonable at the time of extension. (FTA requires grantees to exercise "sound business judgment," and "to establish contract terms no longer than necessary to accomplish the purpose of the contract." Good procurement practice dictates that grantees enter into contract terms no longer than minimally necessary to accomplish the purpose of the contract.)

1) RFQ Ranking and Selection for SRTA Project Needs

Sample Evaluation Criteria and Scoring	
Criteria	Scoring
Experience and Local Knowledge	55
Qualifications	25
Value	15
DBE	5

If the RFQ was for a generally defined type of work, over a period of time, the selection committee will establish a vendor list and select the vendor, as follows:

- a) Based on both the evaluation criteria weighting, and information received from references, the committee will select vendors for further consideration. Alternatively, if delineated in the RFQ, the SRTA project manager may employ consensus scoring as a method of evaluation. After discussing the initial review results among evaluating committee members, the evaluating committee discusses reasoning for differences in scoring to come to consensus on the top-ranked firm, followed by the second, and so on.
- b) The committee **may** interview the vendors selected for further consideration.

- c) SRTA will select the top-ranked vendor from the list and will negotiate a scope of work.
- d) SRTA and the selected vendor will enter into a technical services agreement for an initial term, and if specifically called out in the RFQ, for another specific period of time.

2) RFQ Ranking and List Establishment for SRTA and Planning Partners Future Project Needs

Alternatively, the RFQ may be used as the initial request for vendor services for establishing a list of qualified vendors for a specific type of goods and/or services for which SRTA, or its planning partners, need. For this type of purpose, the selection committee will establish a vendor list and select future vendors by the following process:

- a) Based on both the evaluation criteria weighting, and information received from references, the committee will select vendors for further consideration.
 - b) The committee **may** interview the vendors selected for further consideration.
 - c) The committee will establish a ranked list of providers pre-approved to provide the requested type of services. The list will be valid for up to five years, at which time SRTA will issue a new RFQ. SRTA reserves the right to establish a new list at any time prior to the expiration of the five-year period.
 - d) During the period of list eligibility, SRTA may enter into technical services agreements with approved firms on the list for that type of service, based on agency need, and the vendors' areas of expertise. Additionally, the list of approved firms will be made available to SRTA's planning partners for use, if desirable and/or needed.
- ## 3) The Executive Director Makes Final Determination-
- After review of the evaluating committee's recommendations, whether point based, or consensus scoring based, the executive director, or designee, will make a recommendation of award to the agency board of directors for contracts greater than \$50,000, unless the agency has already delegated its authority to the executive director for the procurement. If any RFQ-based contract award recommendation differs from the recommendation(s) of the evaluating committee, the executive director, or designee, will include the evaluating committee's recommendation in the report to the board of directors, as well as the executive director's, or designee's, reasons for the alternate recommendation. After review and consideration of this recommendation, the board of directors will have the discretion to:
- a) Award the agreement to the respondent whose qualifications are most advantageous to the agency, with reimbursement rate and other evaluation factors of the RFQ considered. The agency board of directors is not bound by the recommendation of the executive director, but must document the justification for making an alternate selection; or
 - b) Dismiss any and all responses; or
 - c) Direct staff to issue a new RFQ.

- 4) **Public Record-** All responses to an RFQ will become the exclusive property of the agency. At such time as the executive director recommends a contract award to the board and such recommendation appears on the board agenda, all proposals submitted in response to the RFQ shall become a matter of public record and shall be regarded as public records. If there are any trade or proprietary secrets included by the consultant, the consultant may provide a different copy of the proposal that would be acceptable to release to the public. Proprietary information can include secret formulas, processes, and methods used in production. It can also include a company's business and marketing plans, salary structure, customer lists, contracts, and details of its computer systems. In some cases, the special knowledge and skills that an employee has learned on the job are considered to be a company's proprietary information.
- 5) **Analysis of Limited RFQ Response-** If only one response has been received, the project manager will examine the reasons for the limited response. A price or cost analysis will be performed to establish the reasonableness of the reimbursable rates before an award is made.
- 6) **Notice of Contract Award-** Award will be made by mail, e-mail and/or personal delivery to the successful respondent of a notice of award and the proper contract documents. The agency will finalize the execution of the contract and send a copy to the successful firm. In addition, the agency will notify all unsuccessful respondents of its intent to award a contract to the successful respondent at the same time it notifies the successful respondent—if agency approval is not required, and at the same time as the publication of the agency agenda—if the agency approval is required.
- 7) **Final Contract Draft-** The standard agency contract template will be used for the agreement, unless amendment to the template is required for specific items. Such amendment will be reviewed by legal counsel prior to forwarding the contract to the consultant. The project manager will ensure that the contract is executed at the approval level required in these procedures. The contract does not take effect until signed by both parties; its effective date is the date of last signature to the contract. Two or more original signed copies of each contract will be executed by agency and the consultant. The agency will maintain one original of the contract and will distribute the others to appropriate parties, including at least one original to the consultant.
- 8) **Project Completion-** All original documentation related to each procurement, such as the RFQ, responses received, control record, agenda report, background data, evaluation criteria and scores, and meeting reports/notes will be submitted to the project manager for storage when the file becomes inactive. For audit purposes, complete files will be maintained for a minimum of five years after the project is closed out and completed unless a different time period is mandated by a funding entity. Procurement records sufficient to detail the significant history of procurement will be maintained. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, consultant selection or rejection, and the basis for the contract price.

804.11 Invitation For Bid (IFB) – This process is typically used for procurement of equipment, supplies and construction. As with the RFP and RFQ processes under SRTA's procurement policies and procedures, the IFB process only applies to purchases above \$50,000. Under this procedure, bids are publicly solicited, and a firm-fixed-price contract (lump sum or cost per unit of work with a not-to-

exceed amount) is awarded to the responsive and responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price.

1) Guidelines for IFBs:

- a) The IFB includes the complete assembly of related documents (whether attached or incorporated by reference) furnished to prospective bidders for the purpose of bidding.
- b) IFBs must be based on a clear and accurate description of the technical requirements for the material, product, or service to be procured. The description should not contain, in competitive procurements, features that unduly restrict full and open competition. The “brand name or equal” description may be used to define the performance or other necessary requirements of ~~a procurement~~procurement. When so used, the specific features of the brand name product that must be met by bidders must be clearly identified. Brand names that are known to meet the “or equal” requirements should be listed.
- c) IFBs should be publicized through distribution to prospective bidders, posting on SRTA’s website, posting in public places, advertising in newspapers, and such other means as may be appropriate in sufficient time to enable bidders to prepare and submit their best bids before the time set for the public opening of bids.
- d) If the procurement is successful, the contract will be awarded to the responsive and responsible bidder submitting the lowest bid determined on the basis of the specifications set forth in the IFBs.
- e) The IFBs, including specifications and attachments, should permit full and open competition consistent with the requirement for the property or services to be procured. The requirement should represent SRTA’s minimum needs and be sufficiently described to promote full and open competition.
- f) All bids should be opened publicly at the time and place stated in the IFB.

2) In order for sealed bidding to be feasible, the following conditions should be present:

- a) A complete, adequate, and realistic specification or purchase description is available;
- b) Two or more responsible bidders are willing and able to compete effectively for the business;
- c) The procurement lends itself to a firm fixed-price contract, and the selection of the successful bidder can be made principally on the basis of price; and
- d) There is no price negotiation with bidders before sending out the notice of intent to award.

3) If the sealed bid procurement method is used, the following requirements apply:

- a) The IFB will be publicly advertised, and bids should be solicited from an adequate number of known suppliers or contractors, providing them sufficient time to prepare bids prior to the date set for opening the bids;

- b) The IFB, which will include any specifications and pertinent attachments, should define the items or services sought in order for the bidder to properly respond;
 - c) All bids will be publicly opened at the time and place described in the IFB;
 - d) Bid amounts will be included in the bid opening documentation;
 - e) A firm-fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. For the procurement of items, when specified in bidding documents, factors such as discounts, transportation costs, and life cycle costs may be considered in determining which bid is lowest; payment discounts will only be used to determine the low bid when industry practice for the type of project involved indicates that such discounts are usually taken advantage of; and
 - f) Any or all bids may be rejected if there is a sound, documented reason.
- 4) For purchases of equipment or supplies that are better suited for an RFP or purchase on the open market instead of an IFB, approval may be sought from the Executive Director to utilize a different procurement process. An alternate procurement process to the IFB may be in SRTA's best interest in the following example situations:
- a) The purchase may be made at a lower price on the open market.
 - b) Competitive bidding is an inadequate method of procurement because it is necessary to purchase prototype equipment or modifications in order to conduct and evaluate operational testing.
 - c) The article(s) to be procured is undergoing rapid technological changes, and it is in the public's interest to issue an RFP so that the broadest possible range of competing product and materials available, fitness of purpose, manufacturer's warranty, and other similar factors in addition to price can be taken into consideration.
 - d) If staff seeks authorization to utilize an alternate procurement process, documentation setting forth the reasons a deviation from the typical competitive bidding process is warranted, and a technical evaluation of the articles, prices, and suppliers should be placed in the contract folder.

5) Payment Method

Contracts awarded as a result of IFBs should be fixed price. Escalation may be appropriate where unusual risks for labor or material are present and some flexibility is necessary and feasible. When escalation is necessary, an escalation ceiling must be established and must be the same for all bidders. Payment for unbid items, including items in change orders will not call for payment to the contractor on the basis of cost, plus a fixed percentage of cost. Markup amounts must be negotiated and determined reasonable on each item added to a ~~low~~ low bid procurement.

6) Solicitation of Bids

- a) Preparation of IFBs. For supply and construction contracts, IFBs should contain the following information if applicable to the procurement involved. Additionally, requirements from the California Public Contract Code should be included if a construction-related contract.
 - i) Invitation number.
 - ii) Name and address of Executive Director.
 - iii) Date of issuance.
 - iv) Date, hour, and place of bid opening (prevailing local time should be used.)
 - v) Number of pages and numbered pages.
 - vi) A description and specifications of supplies to be furnished under each item in sufficient detail to promote full and open competition.
 - vii) The time of delivery or performance requirements.
 - viii) Statement of whether submission of electronic bids will be permitted.
 - ix) The IFB should set forth full, accurate, and complete information, including attachments.
 - x) Bid guarantee, performance, and payment bond requirements.
 - xi) A requirement that all bidders must allow an acceptance period of not less than a specified number of calendar days and that bids offering less than the minimum stipulated acceptance period will be rejected.
 - xii) Special experience and/or technical qualifications due to the complexity of the equipment being procured, or for some other special reason.
 - xiii) Any authorized special provisions relating to such matters as progress payments, patents, liquidated damages, etc.
 - xiv) Any additional contract provisions or conditions required by state, local, or other jurisdictions.
 - xv) All factors to be considered in the evaluation of bids that weigh on price. Bidders must know these factors to properly construct their bid prices. It is imperative that this process be followed to assure that any perception of arbitrary application of the price factors by buyers is eliminated.
 - xvi) Directions for obtaining copies of any documents that have been incorporated by reference. All documents incorporated in the IFB by reference must be readily available to all potential bidders.

- xvii) A bid price form should be included that is tailored such that it breaks down all of the appropriate cost elements and options such that SRTA staff can determine the low bidder and the responsiveness of the bids.
- xviii) Information on liquidated damages.
- b) Bidding Time. Consistent with the need for obtaining the supplies, all IFBs should allow sufficient bidding time (i.e., the period of time between the date of distribution of an IFB and the date set for opening the bids) to permit prospective bidders to prepare and submit bids. Generally, bidding time should not be less than 21 calendar days when procuring standard commercial articles and services. It should not be less than 30 calendar days when procuring other-than-standard commercial articles or services. The exception is when the urgency of the need does not permit such delay.
- c) Place and Method of Delivery of Supplies. IFBs specifying f.o.b. origin should state that bids will be evaluated on the basis of bid price plus transportation cost to the buyer from point of origin to one or more designated destinations.
- d) Bid Sample. For the procurement of tangible items, a “bid sample” may be required by the IFB document to assist the buyer in determining whether the bid is an offer to perform exactly as required in the invitation. Such samples, however, may be used solely for the purpose of determining responsiveness and should not be used to determine the bidder’s ability to produce the required items. Bidders should not be required to furnish samples unless there are certain characteristics of the product that cannot be described adequately in the specification or purchase description, thus necessitating inspection of a sample to assure procurement of an acceptable product. Submission of bid samples should be discouraged unless they are absolutely necessary.
- e) Descriptive Literature for the Procurement of Tangible Items
 - i) Definition. The term “descriptive literature” means information, such as cuts, illustrations, drawings, and brochures, which describe or show the characteristics or construction of a product or explain its operation. The term includes only information required to determine acceptability of the product. It excludes other information such as that furnished in connection with the qualifications of a bidder or for use in operating or maintaining equipment;
 - ii) Use. Bidders should not be required to furnish descriptive literature as a part of their bids unless the project manager determines that such literature is needed to determine whether the product(s) offered meet the specification requirements of the IFB or establish exactly what the bidder proposes to furnish.
- f) Final Review of IFBs. SRTA’s executive director, or designee, shall review each IFB allowing adequate review time as necessary to correct any discrepancies or ambiguities that could limit competition unnecessarily.
- g) Contacting Prospective Bidders. Notice of release of the IFBs should be sent via email or otherwise delivered to the maximum number of prospective bidders to promote and ensure full and open competition. Unnecessary restrictions on competition should be avoided. From

the time the solicitation is being prepared to the time of contract award, only the Executive Director, or designee, should have contact with potential or actual proposers in order to reduce the likelihood of any unfair advantage in the competitive process. All questions should be answered in writing only.

- h) Pre-bid Conference. A pre-bid conference may be used as a means of briefing prospective bidders and explaining to them complicated specifications and requirements, including DBE information, goals, and documentation as early as possible after the invitation has been issued and before the bids are opened or proposals are due. The pre-bid conference should not be used as a substitute for clarifying IFB discrepancies. If a modification is demonstrated necessary as a result of the pre-bid conference, such modifications should be made through a formal addendum and not through the pre-bid notes. SRTA will reference Caltrans' DBE database within the IFB documents to assist contractors and subcontractors in locating each other to potentially partner on the project and may be provided again at the pre-bid conference as needed.
- i) Advertising. All IFBs should be advertised in a manner that promotes participation in the bidding by all qualified and capable firms. If there is a DBE goal, the goal amount should be advertised. Advertising only in the immediate local news media may not be adequate for large projects needing contractors of a type that are not common locally.
- j) Records of IFBs and Records of Bids. The Executive Director, or designee, will retain a record of every IFB he/she issues and a copy of each abstract or record of bids. Executive Director, or designee, should review this record during each subsequent procurement action for the same and, when appropriate, similar items. This should ensure that the information in the file is utilized with the new procurement. The IFB file should show the date of the IFB and the original distribution source list.
- k) Amendment of IFBs. If after issuance of IFBs, but before the time set for bid opening it becomes necessary to make changes or corrections in quantities, specifications, delivery schedules, opening dates, etc., or to clarify or correct discrepancies, the changes will be accomplished by issuance of an addendum to the IFB at least 72 hours before the bid is due. Distribution of the addendum will be made to each concern to whom which the invitation for bids has been furnished and/or placed on SRTA's website. Before amending an IFB, the period of time remaining to bid opening and the possible need to extend this period should be considered and, if necessary, confirmed in the addendum. Any information given to a prospective bidder concerning an IFB should be furnished promptly to all other prospective bidders as an addendum to the IFB. No award should be made unless the addendum has been issued in sufficient time to permit all prospective bidders to consider the information in submitting or modifying their bids. In this regard, changes to DBE goals or requirements that may require additional time for bidders to conduct a good faith effort to locate DBE firms will be considered in determining whether an extension of the deadline is needed.
- l) Responsiveness of Bids. To be considered for award, a bid should comply in all material aspects with the IFB. Bidders must use SRTA bid forms in order to be in material compliance with the IFB requirements. This applies to both the method and timeliness of submission and the substance of any resulting contract. It is imperative that all bidders be afforded an equal opportunity so that the integrity of the bidding system is maintained. Bids

should be completed, executed, and submitted in accordance with the instructions contained in the IFB.

- m) Time of Bid Submission. Bids should be submitted so as to be received at the location designated in the IFB, not later than the exact time set for opening of bids. Late bids must be rejected.
- n) Modification or Withdrawal of Bids. Bids may be modified or withdrawn by written notice. The notice must be received at the location specified in the IFB not later than the exact time set for bid opening. A bid may be withdrawn, in person, by a bidder or his authorized representative provided:
 - i) his/her identity is made known;
 - ii) he/she signs a receipt for the bid; and
 - iii) the withdrawal is prior to the exact time set for bid opening.
- o) Late Modifications and Withdrawals. Modifications and requests for withdrawal of bids that are received after the exact time set for bid opening are considered “late modifications” and “late withdrawals,” respectively. A late modification will not be considered.

7) Opening of Bids and Award of Contracts

The official designated as the bid opening officer should decide when the time set for bid opening has arrived and so declare to those present. All bids received prior to the time set for opening should be publicly opened, read aloud to the persons present, and be recorded. The name of the bidder and the total amount of each bid should be read and documented in the IFB file. Bidders may obtain copies of the bid documents that must be disclosed pursuant to the California Public Records Act at any time after the bid amounts are publicly read and recorded.

The original copy of each bid should be carefully safeguarded, particularly until a contract has been awarded. SRTA may allow for electronic bidding of IFBs. If electronic bidding is allowed, the electronic process will record all data, and the results will be immediately available on the SRTA website, or other industry-accepted locations, for the public to view.

8) Recording of Bids

All hard copy bids must be time and date stamped upon their receipt. A time-and-date stamp should be kept at the desks of the receptionists and administrative staff handling mail, and these staff members should be instructed to place a time-and-date stamp on all proposals/bids. To comply with FTA Circular 4220.1F, all bids received against an IFB will be documented using a bid summary form. The invitation number, bid opening date, general description of the procurement item, names of bidders, prices bid, and any other information required for bid evaluation should be entered into the bid summary. When the items are too numerous to warrant the complete recording of all bids, an entry should be made of the invitation number, opening date, general description of the procurement items, and the total price bid. The bid summary should be completed as soon as practicable after the bids have been opened and read. The Executive Director, or designee, serving as the bid opening officer will certify the accuracy of

the information. If the IFB is cancelled before the time set for bid opening, the cancellation should be recorded, together with a statement of the number of organizations invited to bid and the number of bids received.

9) Review of Bids

Review of bids for responsiveness should be conducted by technically qualified staff and/or consultants without financial or organizational conflicts of interest. Consultants or non-employees that assist staff in evaluating and reviewing bids must fill out a declaration concerning conflicts prior to reviewing bids. No oral discussion or written communication should be conducted with bidders except to obtain clarification regarding the bid contents or provide information regarding protests or delays.

10) Cancellation of Invitation After Opening

Preservation of the integrity of the competitive bid system dictates that, after bids have been opened, award must be made to the bidder who submitted the lowest-priced, responsive bid unless there is a compelling reason to reject all bids and cancel the invitation. Cancellation of an IFB may be necessary if one of the following occurs (this is not an exhaustive list):

- a) all bids contained unreasonable prices;
- b) there is evidence of collusion or bad faith (although this could lead to a disqualification of the involved vendors versus the bid process); or
- c) competition was not adequate to ensure a reasonable price.

The solicitation documents will be corrected, when necessary, before the procedure for re-solicitation may be followed.

11) Rejection of Individual Bids

Any bid that fails to conform to the essential requirements of the IFB, such as specifications, delivery schedule, or any alternatives to these or other requirements specifically provided for in the IFB should be rejected as nonresponsive. Ordinarily, a bid will be rejected when a bidder imposes conditions that would modify requirements of the IFB or limit its liability to the buyer in a way that gives the bidder an advantage over other bidders.

Minor deviations may be waived. A minor deviation is an error that does not go to the substance of a bid. A condition goes to the substance of a bid when it affects the price, quantity, quality, or delivery of the items offered. Waivers of minor deviations should be consistently applied to avoid allegations of favoritism. Any bid, except lowest price bid, may be rejected if SRTA determines that it is unreasonable as to price, and the determination is supported by review and analysis of the action. If a bid guarantee is required and the bidder fails to furnish the guarantee in accordance with the requirements of the IFB, the bid must be rejected.

12) Notice to Bidders of Rejection of All Bids

When it is determined to reject all bids, the Executive Director, or designee, should notify bidders in writing that all bids have been rejected, stating the reason(s) for such action if appropriate.

13) Award

Unless all bids are rejected, award should be made by written notice within the time specified for acceptance in the bid or extension thereof. Award should be made to that responsible bidder whose bid, conforming to the IFB, will be most advantageous to SRTA, price and other factors considered. Determination of the lowest bidder must include the bid amount that includes all options that may be awarded. If the option bid amounts are not used to determine the low bidder, such options, if exercised, will need to be justified as a sole source. Award should not be made until the protest period has ended and all required SRTA approvals have been obtained. All unsuccessful bidders will be notified at the time SRTA staff publicly issues a staff report. That should be as soon as possible in order to start the clock running on the protest period.

14) Responsible Bidder-Reasonableness of Price

Before awarding the contract, the executive director, with the assistance of technical staff or consultants, should determine that prospective contractor is responsible and that the prices offered are reasonable. These determinations should be made in the light of all prevailing circumstances.

15) Discounts

Prior to issuing an IFB (except one for construction), a determination should be made to establish the minimum period for prompt payment discounts to be considered in the evaluation. The minimum period should be stated in the IFB.

16) Delay of Award

If, after bid opening, administrative problems threaten to delay award beyond the bidder's acceptance period, bidders should be requested to extend the bid acceptance period. This request must be made and confirmed in writing prior to the expiration of their bids (with consent of sureties, if any) to avoid the need for re-advertisement

17) Information to Bidders

When award is made to other than the low bidder, the Executive Director, or designee, should promptly notify the unsuccessful lower bidders. The notification should state the reason for rejection of their bid. In addition, notification that an award has been made to another firm should be given immediately to all unsuccessful bidders.

18) Technical Evaluation Memorandum

A procurement memo should be prepared for each IFB procurement. The procurement memo should include a certifying statement confirming that the low bidder is acceptable with respect to the technical specifications of the IFB. It should be prepared by the project manager in cooperation with the executive director to ensure that the apparent low bidder is technically responsive. The memorandum should be supported by documentation and placed in the contract file. Any non-SRTA employee involved in evaluating bidders or bids will be given SRTA's conflict of interest form to both review and sign.

19) Protests

Protest procedures shall be included in the IFB. See also Section 804.13.9 – Protest Procedures)

804.13. General Provisions to Evaluate RFPs, RFQs, or IFBs and Protest Procedures:

1) Scope of Work

- a) A common basis for responding must be provided. Specifications and scopes of work should set out the essential characteristics of the items or services to be procured. Whenever possible, the expected quality of services to be provided or the performance characteristics of the item should be specified.
- b) Scopes of work should not call for features or quality levels which are not necessary to meet the proposal requirements.
- c) All optional items will be identified by the agency, and the solicitation documents should set forth the expected needs and the manner in which the related proposal prices will be considered.
- d) In order to foster free and open competition, specifications may not require a “brand name” product without allowing an “or equal” product to be offered. The specifications would, accordingly, describe the performance or other salient characteristics of the brand name product.
- e) Because standard specifications and requirements allow for more efficient operations and result in lower prices, they should be used wherever suitable. Maximum use should be made of industry, federal, state and local government specifications and requirements.

2) Technical Specifications:

- a) Specifications will incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Specifications will also seek to promote overall economy for the purposes intended, and encourage competition in satisfying the agency's needs. Descriptions will not contain features that unduly restrict competition. The description will include a statement of the qualitative nature of the material, product, or service to be procured. When necessary, the description will set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.

- b) Overly detailed product specifications should be avoided. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equal” description will be used.
- c) A “brand name or equal” description can be used only when an adequate specification or more detailed description cannot be provided, without performing an inspection and analysis, in time for the acquisition under consideration. If “brand name or equal” is used, the RFP must carefully identify the minimum needs, and clearly set forth those salient physical and functional characteristics of the brand name product in the solicitation.

3) Mistakes in Bids:

- a) General. Technicalities or minor irregularities in bids may be waived if the project manager determines that it will be in the agency’s best interest. The executive director may either give a responder an opportunity to cure any deficiency resulting from a technicality or minor irregularity in its bid, or waive the deficiency if it is to the agency’s advantage to do so.
- b) Mathematical Errors. Errors in extension of unit prices or in mathematical calculations will be corrected by the agency prior to award. In all cases of errors in mathematical computation, the unit prices will not be changed.
- c) Mistakes Discovered Before Opening. A responder can correct mistakes discovered before the time and date set for bid opening by withdrawing the original bid and submitting a new bid prior to the time and date set forth for bid opening.
- d) Confirmation of Proposal. If the project manager knows or has reason to conclude that a mistake has been made, the responder will be requested to confirm the bid. Situations in which confirmation will be requested include obvious, apparent errors on the face of the proposal or a proposal unreasonably lower than the other proposals submitted. If the proposer alleges mistake, the proposal will be corrected or withdrawn if any of the following conditions are met:
 - i) If the mistake and the intended correction are clearly evident on the face of the proposal document, the proposal will be corrected to the intended correct proposal and must not be withdrawn. Examples of mistakes that may be clearly evident on the face of the proposal document are typographical errors, errors in extending unit prices, transportation errors, and mathematical errors.
 - ii) A proposer will be permitted to withdraw a low proposal if:
 - A) A mistake is clearly evident on the face of the proposal document but the intended correct proposal is not similarly evident; or
 - B) The bidder submits proof of evidential value, which clearly and convincingly demonstrates that a mistake was made.

- C) Determination Required. When a proposal is corrected or withdrawn, or correction or withdrawal is denied, the executive director will prepare a determination showing that the relief was granted or denied.

4) Minor Irregularities in Proposals

- a) A minor irregularity is one that is merely a matter of form and not of substance or pertains to some immaterial or inconsequential defect or variation in a proposal from the exact requirement of the solicitation. If such a situation exists, the correction of the irregularity or waiver of the requirement may be made if it would not be prejudicial to other responders.
- b) A defect or variation in a proposal is considered immaterial and inconsequential (except for public works contracts) when its significance as to price, quantity, quality or delivery is trivial or be eligible when contracted with the total cost or scope of the procurement.
- c) The project manager may either give the responder an opportunity to cure any deficiency resulting from minor informality or irregularity in a proposal, or waive the deficiency, whichever is to the advantage of the agency.

5) Multiple or Alternate Proposals- Unless multiple or alternate proposals are requested in the solicitation, these proposals will not be accepted. However, if a responder clearly indicates a base proposal, it will be considered for award as though it were the only proposal submitted by the responder. These provisions will be set forth in the solicitation and, if multiple or alternate bids are allowed, it will specify their treatments.

6) Determination of Responsiveness

- a) Any proposal which fails to conform to the essential requirements of the RFP/RFQ/IFB, such as specifications, delivery schedule, warranty, or the required proposal documents, will be rejected as non-responsive.
- b) A proposal will be rejected when the proposer imposes conditions, which modify requirements of the invitation for proposal. Proposals may be rejected in cases, including but not limited to, in which the responder:
 - i) Attempts to protect itself against future changes in conditions such as increased costs, if a total price to the agency cannot be determined for bid evaluation.
 - ii) Fails to state a price and in lieu thereof states that price will be “price in effect at time of delivery.”
 - iii) States a price but qualifies such price as being subject to “price in effect at time of delivery.”
 - iv) Where not authorized by the invitation for proposal, conditions or qualifies the proposal by stipulating that the proposal is to be considered only if, prior to date of award, responder received (or does not receive) award under a separate procurement.
- v) Limits rights of agency under any contract clause.

- vi) Fails to comply with all of the requirements of the RFP/RFQ/IFB.
 - vii) If a bond is required and a proposer fails to furnish it in accordance with the requirement of the RFP.
 - viii) Proposals received from any person or firm debarred or ineligible will be rejected if the period of debarment or ineligibility has not expired.
 - ix) Low bids received from firms determined to be not responsible pursuant to federal or state procurement regulations will be rejected.
 - x) A proposal may be rejected if a proposal guarantee is required and a proposer fails to furnish it in accordance with the requirement of the RFP. The originals of all rejected proposals, and any written findings with respect to such rejections, will be preserved in the file relating to the procurement.
 - xi) After submitting a proposal, if a proposer transfers all of his assets or the part of his assets related to the proposal during the period between the bid opening and the award, the agency may accept or reject the bid at its sole discretion.
- 7) Responsible Proposer Evaluation- Before awarding the contract, the agency will determine that a prospective consultant is responsible and that prices are reasonable. Proposers may be asked to provide any information required to determine the responsibility of the proposers. A responsible responder is one who meets the standards set forth below:
- a) Has adequate financial resources, or the ability to obtain such resources as required during performance of the contract.
 - b) Is able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing business commitments.
 - c) Has a satisfactory record of performance. Consultants who are, or have been seriously deficient in current or recent contract performance, when the number of contracts and the extent of deficiency of each are considered, may be considered to be non-responsible responder. Documented past unsatisfactory performance will ordinarily be sufficient to justify a finding of non-responsibility.
 - d) Is otherwise qualified and eligible to receive an award under applicable laws and regulations.
 - e) Has the necessary organization, experience, operational controls, and technical skills, or the ability to obtain them.
 - f) Has the necessary production and technical equipment and facilities, or the ability to obtain them. Evaluation of the responsibility of prospective consultants may be made based upon the following sources:
 - i) From the prospective consultant's bids and proposals, replies to questionnaires, financial data such as balance sheets, profits and loss statements, cash forecasts, and financial

histories of the consultant and affiliated concerns; current and past production records, list of tools, equipment, and facilities, written statements or commitments concerning financial assistance and subcontracting arrangements.

- ii) Publications, including credit ratings, trade and financial journals, and business directories and registers may also be used.
- iii) References such as suppliers, sub-consultants, customers of the prospective consultant, banks and financial institutions, commercial credit agencies, other government agencies, purchasing and trade associations, and better business bureaus and chambers of commerce.
- iv) Documented past performance on contracts with the agency or its member agencies.

8) Rejection of All Proposals- Any time prior to the bid opening date and time, the agency may cancel or postpone the bid opening, or cancel the RFP/RFQ/IFB in its entirety. Preservation of the integrity of the competitive bid system dictates that after proposals have been opened, award will be made to that responsible proposer who submitted the lowest responsive proposal, unless: there is compelling reason to reject all proposals and cancel the invitation; or acceptance of the lowest responsible bidder would not be in the best interest of the agency.

Every effort will be made to anticipate changes in a requirement prior to the date of bid opening and to notify all prospective bidders of any resulting modification or cancellation, thereby permitting proposers to change their proposal and preventing unnecessary exposure of bid prices.

As a general rule, after opening, an invitation for proposals should not be canceled and re-advertised due solely to increased requirements for the items being procured. Award should be made on the proposals and the additional quantity should be treated as a new procurement.

Invitations for proposals may be canceled after opening but prior to award, and all proposals rejected, where it is consistent with federal and state procurement regulations. A written determination must be included in the invitation for proposal file stating that cancellation is in the best interest of the agency for reasons such as, but not inclusive of, the following:

- a) Inadequate, ambiguous, or otherwise deficient specifications were cited in the invitation for proposals.
- b) The supplies or services are no longer required.
- c) The bid document did not provide for consideration of all factors of cost to the agency.
- d) Proposals received indicate that the needs of the agency can be satisfied by a less expensive item differing from that on which proposals were received.
- e) All otherwise acceptable proposals received are at unreasonable prices.
- f) The proposals were not independently arrived at in open competition, were collusive, or were submitted in bad faith. Such situation must be substantiated and reported to the agency's legal counsel.

- g) The proposals received did not provide competition which was adequate to ensure reasonable prices. A price or cost analysis may be used to establish the reasonableness of prices.

When it is determined to reject all proposals, the agency will notify each proposer that all proposals have been rejected and stating the reason for such action.

9) Protest Procedures

- a) All protests, signed by the protesting party, must be received in writing (email acceptable) within three (3) business days from the results notification to the bidders, and be addressed to the SRTA Executive Director. Bidders should include a description of the expected relief or corrective action in the protest. The protest should stipulate an issue of fact concerning the following points:
- A matter of bias, discrimination, or conflict of interest on the part of an evaluator(s);
 - Errors in computing the score; and/or
 - Non-compliance with procedures described in the bid document or the agency's established policies.
- b) The agency will only consider protests based on the above points. The agency will reject protests without merit if they address issues such as an evaluator's professional judgment on the objective quality of a proposal. The SRTA Executive Director will review and respond to protests within five (5) business days from receipt. Protests considered unresolved by the protesting party will be forwarded to the SRTA Board of Directors either at the meeting at which the subject contract/agreement is under consideration, or at a subsequent meeting.

805. Disbursements and Check Processing

1) Invoices

All invoice payment requests should include the vendor's name, invoice date and number; date payment must be mailed to arrive at the vendor or consultants on time, account allocation, description of expenditure, project number, invoice documentation, and amount of the invoice.

The executive assistant will date stamp all bills/invoices upon receipt (mail or email). A copy of the approved bill/invoice will be forwarded to the project manager or responsible employee for approval and account and work element coding. Consultant and ~~subrecipients~~sub-recipient invoices will require Executive Director approval. The approved invoice will then be forwarded to the chief fiscal officer ~~or accountant~~. Accounting personnel enter the invoice into the accounting software program.

2) Check Processing/Accounts Payable

- a) Accounts payable shall be paid no later than thirty (30) days after receipt of a correct invoice unless the contract specifically states an alternate due date, such as: Net 10 – payment is due 10 days after receipt of invoice. Those invoices that state “due immediately” will be paid within 30 days of receipt of invoice. Accountant or chief fiscal officer will notify the agency project manager if for any reason an invoice cannot be paid on time, and of any invoices that have been returned for corrections.

- b) Checks may be issued in written form or issued using an electronic bill payment service.
- c) Checks under \$100,000 shall be signed or approved electronically by the executive director. Checks over \$100,000 shall require an additional signature from an authorized board member. Electronic payments (checks or ACH) over \$100,000 shall require an email approval from an authorized board member.
- d) Signed checks will be mailed by the executive assistant.

3) Disbursement Verification

The board of directors shall periodically approve check registers for disbursements.

4) Internal Check Control

- a) All blank checks will be locked in ~~the agency's~~the agencies safe.
- b) No signature stamp may be used.
- c) Voided checks will be marked VOID and filed.
- d) No checks will be made payable to "Cash" or "Bearer." Petty Cash checks will be made out to the executive assistant who maintains the petty cash fund.
- e) Blank checks will not be pre-signed.

806. Sole Sourcing

806.1. A sole source procurement is defined as a small or large procurement where only one source is practically available for the goods or services required. The purpose of the written sole source determination is to show that the competitive bid process is not practical because only one source is practically available to meet a specific need. Competition is not available in a sole source procurement thus distinguishing it from a proprietary procurement where the product is restricted to that of one manufacturer, but is sold through distributors and competition between them can be obtained. In addition, in sole source procurements, written documentation must be provided that the proposed price is deemed to be fair and reasonable.

806.2. Proprietary Specification: A propriety procurement is a procurement where the desired good/service must be restricted to one manufacturer/consultant because the good/service is compatible with or is an integral component of existing equipment or products; is necessary to support a specific need of a project or program; is covered by patent or copyright; must yield absolute continuity of results, or is one which a user has extensive experience, and the use of any other similar piece of equipment or services would require considerable reorientation and training. In such cases, an equitable evaluation of comparable products and/or services must be made and documented which shows that rejection of other products/services is solely based on their failure to meet that need. In cases where no other comparable source can be identified, a technical description of the product or service requested and a listing of those sources which were considered as alternates must be documented.

806.3 A sole source procurement is a purchase accomplished through solicitation of a proposal from only one source. A sole source purchase must be documented as to the reasons why only one supplier is acceptable. This documentation will be furnished by the project manager and verified by the executive director, who is responsible for making the final determination on sole source procurements.

806.4 The following areas must be considered in sole source determinations: A contract amendment or change order that is not within the scope of the original contract is considered a sole source procurement. Sole source procurement may be used only when the award of a contract is infeasible under small or large-purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances applies:

- 1) The item is available only from a single source;
- 2) The public exigency or emergency (i.e., a threat to public health, welfare, safety, property or other substantial loss to agency, or a situation requiring immediate action by agency, as determined by agency) for the requirement will not permit a delay resulting from competitive solicitation;
- 3) The cognizant agency authorizes noncompetitive negotiations;
- 4) The item is an associated capital maintenance item as defined in 49 U.S.C. § 5307(a) (1) that is procured directly from the original manufacturer or supplier of the item to be replaced. The grantee must first certify in writing to the cognizant agency: (I) that such manufacturer or supplier is the only source for such item; and (II) that the price of such item is not higher than the price for such item by like customers.

A cost analysis, i.e., verifying the proposed cost data, the projection of the data, and the evaluation of the specific elements of costs and profit, is required. The executive director will conduct negotiations, as appropriate, as to price, delivery, and terms.

806.5. The board of directors, or the fiscal committee, must approve all sole source contracts.

807. Emergency Procurements

807.1 Emergency procurements (defined as purchases immediately necessary for the preservation of life or property, or to prevent an immediate termination of a critical agency function, facility, or activity) will be handled immediately and expedited as required. The executive director has the authority to approve the purchase of all goods and services in emergency conditions. If the executive director is unavailable to authorize an emergency procurement, the executive director's designee may provide the necessary authorization. Upon completion of the emergency procurement, the executive director will immediately document the actions taken and report to the board of directors the emergency procurement(s).

808. Addenda and Change Orders

808.1. An addendum is any change to a contract, task order, or work order for any professional services that alters the terms and conditions of the original document. Prior to proceeding with an amendment, a determination should be made as to whether a new procurement is most appropriate. Any change in the scope of a contract that increases the cost of the contract (and does not have change order provisions outlined below in Section 808.2) must follow the sole source procurement procedures. Addenda are formal changes that must be approved at the same signature authority level as the original document.

808.2. The agency shall have the right, based on a clause contained in the technical services agreement to issue an amendment, or change order, to correct errors, omissions, or discrepancies; to cover acceptable overruns as defined in Section 802.19 of these policies; to expand or reduce the scope of work within the contract without an increase in contract price; or to direct other changes in contract execution to meet unforeseen field, regulatory or market conditions. All change orders must be approved in advance in accordance with the value of the change order or the calculated value of the time extension.

808.3. All addenda and change orders will be documented and submitted to the project manager complete with explanations and back up information and, when applicable, a detailed breakdown of changes for review and/or recommendation of approval.

808.4 Verification of Addenda and Change Orders: The project manager will verify all amendments and change orders as to the:

- 1) Appropriateness of the modification of the contract, or whether a separate bid is required for the item and/or scope change under consideration.
- 2) The methods of calculating the amount of the amendment or change order are in conformance with the terms of the contract.

The issuance of change orders for contracts will be approved at the same signatory level as the original document.

900. Grant Contracting and Management (Amended September 13, 2016)

901. Grant Contract Approval Process

- 1) Applications for grant funding require pre-authorization by the board of directors. If required, a signed resolution of the board of directors shall be obtained. On occasion, the deadline to submit a grant application and the timing of board of directors meetings do not align. In such cases, the executive director may authorize submittal of a grant application followed by a request for authorization at the next scheduled board of directors meeting. The board of directors shall have the option to rescind the grant application at this time.
- 2) Upon notice of grant award, a grant contract shall be prepared by the project manager for review and approval by the executive director and legal counsel. Approval of the grant contract shall then be agendaized at a meeting of the board of directors. Non-administrative changes to the originally proposed scope of work (i.e. the addition, subtraction, or substantive changes to work

tasks), budget (i.e. a change in overall or major work task cost), or deliverables (i.e. the deletion or substantive modification of specified deliverables) must be agreed upon by the grantor and be included in the grant contract.

- 3) Grant contracts approved by the board of directors shall be signed first by the chair or vice-chair of the board of directors, or designee of the board of directors (e.g. executive director). The grant contract is then returned to the grantor for signature. A 'notice-to-proceed' is typically provided by the grantor, once the signed grant contract has been received and processed. This date may be different than the date of the last signature on the grant contract. In no case shall grant-reimbursable work be performed until the grant contract is signed by both parties and a notice-to-proceed, if required by the grantor, has been received and documented in the contract folder.
- 4) Copies of all grants and contracts, including any modifications or amendments thereof, shall be maintained in the agency in a form approved by the executive director.

902. Grant Management Responsibilities

- 1) It is the project manager's responsibility to :
 - a) Arrange for signatures on the grant contract and any amendments thereof.
 - b) Work with the accountant/chief fiscal officer to convert the grant agreement budget into line item codes that can be entered into the agency's accounting system.
 - c) Assign the grant project a name and unique numerical work element number for inclusion in the agency's overall work program and accounting system.
 - d) Read and understand the particulars of each grant contract.
 - e) Ensure that staff working on the project understands any particulars unique to the project, grant contract, and funding source.
 - f) Understand the budget for each project and monitor expenses through the term of the grant contract.
 - g) Ensure that all documentation, reports, and paperwork needed by an auditor to evaluate compliance with SRTA policies and the terms of the grant contract are documented in the grant contract file.
 - h) Ensure that all deliverables stated in the grant contract are accumulated during the term of the contract.
 - i) Complete and submit progress reports and final report in accordance with the term of the grant contract.
 - j) For any contracting opportunity under the grant, the project manager will keep a control file (throughout the term of the contract and for five years following completion of all work) consisting of the following sections:

- I. Copy of the RFQ, RFP, IFB or informal bid process, and any respective addenda.
- II. Vendor list and copy of notice (if required).
- III. Rationale for type of procurement used.
- IV. Independent cost estimate, if informal procurement followed.
- V. Documentation of the publication or advertisement of the procurement.
- VI. List of all vendors responding to the procurement.
- VII. All documentation relating to the selection process, including, but not limited to: evaluation score sheets, bids, rationale for selection and/or rejection of respondents, the basis for the contract price, and documentation of the price analysis or cost analysis if sole source.
- VIII. Final contract.

IX. Agency board report, if required.

X. Notice to proceed

~~IX.~~XI.

~~X.~~XII. Change ~~O~~orders or addenda.

~~XI.~~XIII. Cost/price analyses to support change orders.

~~XII.~~XIV. Proof of insurance.

~~XIII.~~XV. Original proposals to the procurement.

~~XIV.~~XVI. DBE information, as necessary.

~~XV.~~XVII. Returned mail.

2) It is the accountant/chief fiscal officer's responsibility to:

- a) Prepare and enter the agency budget for each grant into the accounting system.
- b) Know the financial requirements of each particular grant (sometimes the travel reimbursement rate is different, etc.).
- c) Monitor the expenses on each grant to be sure staff complies with rules and regulations of the grant and the budget as approved by the grantor.
- d) Generate quarterly project financial reports to assist the project manager and the executive director in keeping project costs within budget. These may be monthly or quarterly financial

reports as agreed upon, and shall include budget versus actual expenditures for each grant and major work task or category.

- e) Invoice the granting agency for reimbursement as soon as it is allowed, and as frequently as permissible and desirable by the agency.
- f) Prepare and submit expenditure reports or financial forecast reports as required by the grant contract.
- g) Retrieve Catalog of Federal Domestic Assistance (CFDA) numbers for financial statement purposes.

3) It is the executive director's responsibility to:

- a) Review quarterly and final reports and expenditures, including eligible staff time, direct expenses, and consultant invoices.
- b) Compare actual spending with budgeted amounts and request budget modifications as necessary.
- c) Determine the accrued income and expenses prior to the end of the grant period.
- d) Review each contract and/or amendment to ensure compliance with fiscal and legal provisions.

903. Entering into and Managing Agreements with Sub-Recipients of Federal (State) Grant Funds

SRTA may receive Federal (State) awards as well as disburse Federal (State) funds to sub-recipients and contractors, depending on the terms of agreements with Federal (State) awarding agencies. SRTA staff must make a case-by-case determination whether the agreement entered into for the disbursement of Federal (State) program funds casts the recipient of funds in the role of a sub-recipient or that of a contractor. The Federal (State) awarding agency may supply and require recipients to comply with additional guidance to support these determinations.

1) Determining a Sub-Recipient and Contractor Role

- a) Sub-Recipients – A sub-award, sometimes referred to as 'pass-through' funding, is for the purpose of carrying out a portion of a Federal (State) award and creates a Federal (State) assistance relationship with the sub-recipient. Characteristics that support the classification of the non-Federal (State) entity as a sub-recipient are when the non-Federal (State) entity:
 - i) Determines who is eligible to receive what Federal (State) assistance;
 - ii) Has its performance measured in relation to whether objectives of a Federal (State) program were met;
 - iii) Has responsibility for programmatic decision making;

- iv) Is responsible for adherence to applicable Federal (State) program requirements specified in the Federal (State) award; and
 - v) In accordance with its agreement, uses the Federal (State) funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.
- b) Contractors – A contract is for the purpose of obtaining goods and services for SRTA's own use and creates a procurement relationship with the contractor. Characteristics that support a procurement relationship between the non-Federal (State) entity and a contractor are when the contractor:
- i) Provides the goods and services within normal business operations;
 - ii) Provides similar goods or services to many different purchasers;
 - iii) Normally operates in a competitive environment;
 - iv) Provides goods or services that are ancillary to the operations of SRTA; and
 - v) Is not subject to compliance requirements of the Federal (State) program as a result of the agreement, though similar requirements may apply for other reasons.
- c) Use of Judgment in Making Determination – In determining whether an agreement between SRTA and a non-Federal (State) entity casts the latter as a sub-recipient or a contractor, the substance of the relationship is more important than the form of the agreement. Whereas all characteristics listed above may not be present in all cases, SRTA must apply best judgment in classifying each agreement as a sub-award or a procurement contract.
- 2) Requirements to Pass-through Federal (State) Funds to a Sub-Recipient
- All sub-awards of Federal (State) funding to a sub-recipient must be preceded by a sub-recipient agreement. Prior to doing so, SRTA shall:
- a) Ensure that each sub-award is clearly identified as such in a sub-recipient agreement that includes the following information. Should any of the following information not be available, the best available information shall be used.
 - i) Federal (State) Award Identification
 - ii) Sub-recipient name (which must match the name associated with its unique entity identifier);
 - iii) Sub-recipient's unique entity identifier;
 - iv) Federal (State) Award Identification Number (FAIN);

- v) Federal (State) Award Date of award to the recipient by the Federal (State) agency;
 - vi) Sub-award Period of Performance Start and End Date;
 - vii) Amount of Federal (State) Funds Obligated by this action by SRTA to the sub-recipient;
 - viii) Total Amount of Federal (State) Funds Obligated to the sub-recipient by SRTA including the current obligation;
 - ix) Total Amount of the Federal (State) Award committed to the sub-recipient by SRTA;
 - x) Federal (State) award project description, as required to be responsive to the Federal (State) Funding Accountability and Transparency Act (FFATA);
 - xi) Name of Federal (State) awarding agency, SRTA, and contact information;
 - xii) Catalog of Federal Domestic Assistance (CFDA) Number and Name, including dollar amount made available under each Federal (State) award and the CFDA number at time of disbursement;
 - xiii) Identification of whether the award is for Research and Development;
 - xiv) Indirect cost rate for the Federal (State) award (including if the de minimis rate is charged); and
 - xv) Any additional information imposed by SRTA on the sub-recipient to ensure that the Federal (State) award is used in accordance with Federal (State) statutes, regulations, and the terms and conditions of the Federal (State) award.
- b) Evaluate each sub-recipient's risk of noncompliance with Federal (State) statutes, regulations, and the terms and conditions of the sub-award, which may include consideration of such factors as:
- i) The sub-recipient's prior experience with the same or similar sub-awards;
 - ii) The results of previous audits, including whether or not the sub-recipient receives a Single Audit and the extent to which the same or similar sub-award has been audited as a major program;
 - iii) Whether the sub-recipient has new personnel or new or substantially changed systems; and
 - iv) The extent and results of Federal (State) awarding agency monitoring (e.g., if the sub-recipient also receives Federal (State) awards directly from a Federal (State) awarding agency).

- c) Ensure that SRTA imposes any additional requirements on the sub-recipient necessary for SRTA to meet its own responsibility to the Federal (State) awarding agency, including identification of any required financial and performance reports.
- d) Receive an approved Federal (State) recognized indirect cost rate negotiated between the sub-recipient and the Federal (State) Government or, if no such rate exists, either a rate negotiated between SRTA and the sub-recipient, or a de minimis indirect cost rate.
- e) Require that the sub-recipient permit SRTA and auditors to have access to the sub-recipient's records and financial statements.
- f) Require appropriate terms and conditions concerning closeout of the sub-award.
- g) Consider imposing specific sub-award conditions upon a sub-recipient as appropriate.

3) Monitoring Sub-Recipients

Sub-recipient activities must be monitored as necessary to ensure that the sub-award is used for authorized purposes and that the sub-recipient is in compliance with Federal (State) statutes, regulations, and the terms and conditions of the sub-award—and if applicable, that sub-award performance goals are achieved. SRTA's monitoring activities shall include:

- a) Reviewing financial and performance reports required by SRTA.
- b) Following-up to ensure that the sub-recipient takes timely and appropriate action on all deficiencies pertaining to the Federal (State) award, as detected through audits, on-site reviews, and other means.
- c) Issuing a management decision for audit findings pertaining to the Federal (State) award.
- d) Monitoring tools identified by SRTA to ensure proper accountability and compliance with program requirements and performance goals, as identified during SRTA's assessment of compliance risk posed by the sub-recipient. Such tools may include:
 - i) Providing sub-recipients with training and technical assistance on program-related matters;
 - ii) Performing on-site reviews of the sub-recipient's program operations; and
 - iii) Arranging for agreed-upon-procedures engagements.
- e) Verifying that every sub-recipient is audited when it is expected that the sub-recipient's Federal (State) awards expended during the respective fiscal year equaled or exceeded the single audit threshold.
- f) Considering whether the results of the sub-recipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate a correction to SRTA's accounting records.
- g) Considering taking enforcement action against noncompliant sub-recipients in response to noncompliance with the terms and regulations imposed by SRTA and the Federal (State) funding agency.

1000. Cash Receipts and Deposits

1001. Cash Receipts and Deposit Policy

1001.1. The agency receives cash and checks as a normal course of business. All employees will adhere to the following policy and procedures when handling these receipts.

1) Receipts

- a) Records of accounts receivables shall be maintained by the accountantCFO.
- b) The agency prefers to receive payments through electronic transfer, or in the form of a check. All checks shall be made payable to the agency.
- ~~e) The agency will use a standard pre-numbered receipt cash form, which will include all of the information necessary for a basic audit. All receipts will be in duplicate and include the agency's name and address.~~
- ~~d) The receipt book shall be kept in the agency office and shall be available for audit at any time.~~
- ~~e) The receipt shall always include the project and/or account number to which it is credited.~~
- f)c) The administrative assistant will make photo copies of the checks, stamp the agency's endorsement on the checks, fills out a bank deposit slip, and the accountantCFO or other designated personnel deposits the proceeds in the agency's bank account on the same day the money is received.
- g)d) The accountantCFO will post all receipts in the accounting software program by noting the payee's name, date; amount received, and grants number.
- ~~h) The audit committee may perform random audits to ensure that the receipt process is being followed and that calculations are accurate.~~

2) Deposits

- a) Deposit slips will include the bank number and amount of each check. Cash will be listed separately. ~~Separate deposit slips per grantor check will be prepared.~~ All deposit slips will be totaled, dated, and initialed by the preparer. ~~The grant number will be written on the yellow copy of the deposit slip.~~
- b)a) _____
- e)b) _____ A copy of deposited checks and the deposit slip and the bank's proof of deposit will be forwarded to the accountantCFO.

1100. Agency Travel and Expense Advancements and Reimbursements

1100.01 Travel Policy – Employees and Board members compelled to travel in the performance of his or her duties and in the service of SRTA shall be reimbursed for transportation, lodging, meals and other

necessary incidental charges in conformance with the policies, rates, and provisions herein set forth. As used in this section, "travel" means the duration of an authorized departure continuing until the first return. No allowance shall be made for travel by any employee to and from their regularly assigned place of work.

1101.02 Process for Requesting Agency Travel and Expense Advancement and Reimbursement – A request for the advancement and reimbursement of travel and related expenses is initiated by the employee or board member by way of the agency's Travel Request form, submitted to the Executive Director, or designee, for review and approval in advance of the incurred expenses. Non-routine travel that is not regularly scheduled will be verbally discussed with the Executive Director, or designee, before preparing a Travel Request form. In limited cases, where unanticipated travel and expenses are incurred and pre-approval was not possible, the Executive Director, or designee, may approve reimbursement after the fact, in conformance with the same policies, rates, and provisions.

1101.03 Reimbursement – Receipts must be attached for air or rail travel, automobile rental, lodging, registration fees and other expenses for which receipts are normally issued. In such cases where eligible expenses are incurred without a receipt (e.g. a baggage handler tip), a signed document produced and submitted by the employee or board member will be reimbursed.

1) Travel by vehicle

- a) Travel by personal vehicle shall be reimbursed at the current IRS per mile rate, which covers all associated costs, including vehicle depreciation (or lease payments), insurance, registration and license fees, personal property taxes, gasoline and all taxes thereon, oil, tires, and routine maintenance and repairs.

Reimbursement for mileage shall be limited to the shorter of: 1) the distance between the employee's/Board member's residence and the destination and, 2) the distance between the SRTA office and the destination.

- b) Alternatively, the actual cost of renting a vehicle from an SRTA-authorized rental agency will be reimbursed, including the cost of fuel and damage, personal injury, and liability waivers.
- c) SRTA shall not be liable for any claim for vehicle repair or restoration arising out of the use of a privately-owned or rented vehicle except reimbursement for expenses as provided herein, unless otherwise required by law.

2) Travel by vehicle other than automobile

- a) Air (coach class), train, or other means of transportation may be authorized by the Executive Director, or his/her designee, when in the best interests of SRTA.
- 3) Lodging expenses – Lodging shall be reimbursed at actual, reasonable, and necessary costs. A receipt is required to support the expense.
- 4) Meals

- a) Meals shall be reimbursed at the IRS per diem rates. For the purpose of determining entitlement for meal reimbursements the following will apply:
 - i) Breakfast - Reimbursable travel began not later than 7:00 a.m. and lasted at least four hours.
 - ii) Lunch - Reimbursable travel began not later than 11:00 a.m. and extended at least four hours.
 - iii) Dinner - Reimbursable travel began not later than 5:00 p.m. and extended to or after 7:00 p.m.
- b) Reimbursement in excess of the IRS per diem rate, including an up to 15% tip to servers of meals in restaurants, will be reimbursed with a receipt. Reimbursement is not authorized for alcoholic beverages or for any part of a tip attributable to the cost of alcoholic beverages. The Executive Director, or designee, reserves the right to refuse reimbursement for excessive and unreasonable expenses.
- c) No meal reimbursement is permitted for an in-region activity, unless the meal is both concurrent with an agency business meeting and authorized by the Executive Director, or designee.

D. Other Travel and related expenses

- 1) Other travel and related expenses may be claimed if incurred during the performance of official SRTA business, as follows:
 - a) Parking fees;
 - b) Street car, bus and train fares;
 - c) Taxi, shuttle, and rideshare service fares, including tips actually paid to the driver;
 - d) Baggage handling, including tips actually paid to the handler;
 - e) Ferry, bridge, and road tolls;
 - f) Communication-related expenses on SRTA business (e.g. long distance telephone and fax);
 - g) Registration and conference fees; and
 - h) Other necessary extraordinary expenditures upon approval of the Executive Director, or designee. However, no claim for personal services such as cleaning, laundering, grooming, or similar items of expense will be allowed.
- 2) Receipts must be attached for other expenses for which receipts are normally issued. In such cases where eligible expenses are incurred without a receipt (e.g. a baggage handler tip), a signed document produced and submitted by the employee or board member will be reimbursed.

1101.05 Travel Advances.

- 1) Travel expenses can be advanced using the required form at eighty percent (80%) of estimated costs except for the following pre-payments which may be advanced at one hundred percent (100%):

- a) Lodging, registration, and/or tuition expenses.
 - b) Air, train, and/or bus fares.
- 2) Repayment of travel advances for travel that is cancelled or otherwise not taken shall be reimbursed to the agency in full within three business days.

1102. CreditDebit and Credit Cards

- 1102.1. The existing administrative policies on purchasing and travel apply to all creditdebit card usage.
- 1102.2. A creditdebit card may be issued to executive director to use for agency related travel and other travel related expenditures such as lodging and transportation.
- 1102.3. The agency creditdebit card may be used to purchase food for committee meetings, office supplies and equipment.
- 1102.4. All users of the agency creditdebit card must turn in receipts to the accountant for all purchases, with supporting documentation for the purpose of the purchase such as meeting agendas.
- ~~1102.5. The credit card statements are included with the monthly report to the board on agency check payments.~~
- 1102.~~6~~5. Relating to travel: The agency creditdebit cards shall be used in accordance with the agency travel policies and IRS reimbursement limits unless there are mitigating circumstances such as no hotels or restaurants available at the IRS rates and conferences being held at a given hotel, or meetings held at a given restaurant.
- 1102.~~7~~6. Limit on expenses: all purchases shall be made in accordance with the agency purchasing policies in purchasing of goods.
- 1102.~~8~~7. Office/food purchases shall be reserved for official agency functions and committee meetings, with the exception of purchase of food during travel or out-of-office meetings.
- 1102.~~9~~8. Employees shall reimburse the agency for the actual loss where the employee: voluntarily chooses not to travel and does not inform the executive director or designee of that decision with adequate time to cancel or change the travel plans. No reimbursement is required where, upon approval of the executive director, an alternate employee or board member assumes the original employee's place.
- 1102.~~10~~9. The agency creditdebit card shall remain on the business premises at all times.

1200 Program Specific

1205. Monitoring Pass-through Funds

Background- The agency is mandated by the federal and state governments to develop regional plans for transportation, growth management, hazardous waste management, air quality and other issues of regional significance. The agency receives federal funds through the California Department of Transportation (Caltrans).

Federal sources of funds primarily include the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) consolidated planning grant funds (CPG). These funds are administered through the Master Fund Transfer Agreement (MFTA) between Caltrans and the agency.

The following fund sources are governed by the terms and conditions of the MFTA, as included in each annual Overall Work Program Agreement (OWPA) between agency and Caltrans:

- FHWA-- Metropolitan Planning
- FHWA-- Partnership Planning
- FTA Metropolitan Planning-- Section 5303
- FTA State Planning and Research-Section 5304
- Any other federal or state Funds administered by and through Caltrans, Office of Regional and Inter Agency Planning Agency and the sub-recipients have access to the Regional Planning Handbook developed by the Caltrans Headquarters Office of Regional and Inter agency Planning (ORIP) as a resource to describe the interactions between Caltrans District, ORIP staff, Metropolitan Planning Organizations (MPOs), Regional Transportation Planning Agencies (Agency's) on the Overall Work Program (OWP) and the Regional Transportation Plan (RTP).

1205.1. The purpose of this policy is to ensure that sub-recipients agree to comply with 2 CFR Part 225 and 49 CFR, Part 18. It is the intent of this policy to document the agency's procedures to ensure that payments made to sub-recipients are for costs associated with activities and/or products identified in the continuing cooperative agreement and that such costs are allowable and eligible for reimbursement. This manual also provides procedures that agency will follow to exercise oversight of the sub-recipients and the procedures that the sub-recipients will follow to insure compliance with federal and state laws and regulations.

1205.2. The procedures in this policy apply to the agency and its sub-recipients seeking to receive grant funds from agency. All sub-recipients of federal and/or state grant funds through agency are subject to the same federal and state requirements as the agency.

1205.3. Sub-recipients are non-federal entities that expend federal grant awards or state funds received from a pass-through entity to carry out a federal and/or state program. A sub-recipient may also be a recipient of other federal awards directly from a federal awarding agency. A sub-recipient may also be a recipient of state funds directly from a state agency. Whether the sub-recipient receives awards from a federal agency or state agency or a pass-through entity, the sub-recipient is subject to the same federal and state regulations as the pass-through entity.

1205.4. The agency is considered a "pass-through entity" in relation to its sub-recipients, and as such requires that its consultants and sub-recipients comply with the applicable terms and conditions (flow-down provisions) of the MFTA and fund requirements. A "pass-through entity" is defined as a non-federal entity that provides a federal award to a sub-recipient to carry out a federal program.

1205.5. The agency's sub-recipients include, but are not limited to, transportation providers, cities, counties and other public, private and/or non-profit agencies. Agreements with these sub-recipients take the form of Memorandum of Understanding (MOU), Funding Agreements, or similar agreements. agency's agreements with its sub-recipients.

1205.6. Sub-recipients are subject to the same federal and state requirements as the agency. The agency's MFTA with Caltrans requires the agency and its consultants, sub-consultants and sub-recipients to comply with federal and state requirements set forth in the MFTA.

1205.7. Applicable federal regulations include, but are not limited to, the following:

1) Code of Federal Regulations, Title 48, Federal Acquisition Regulations System, Chapter 1, Part 31, Contract Cost Principles and Procedures- This part defines the various types of costs for consultants, including direct and indirect costs, the principles and procedures and a discussion of selected costs that are allowable or unallowable.

2) Code of Federal Regulations, Title 49, Transportation, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local and Indian Tribal Governments- This part establishes uniform administrative rules for Federal grants and sub awards. Some of the items discussed are rules for matching, or third party in-kind contributions. This part also sets out the requirement that sub-grantees must conform to the rules imposed upon grantees and that grantees are responsible for managing and monitoring grant and sub-grant supported activities to assure compliance with applicable federal requirements and that performance goals are being achieved. Rules on conflicts of interest are also included in this part.

3) Code of Federal Regulations, Title 2, Part 225 (Formerly known as Office of Management and Budget Circular A-87, Cost Principles for State, Local and Indian Tribal Governments)- This regulation establishes principles and standards for determining allowable costs for federal awards carried out through grants, cost reimbursement contracts and other agreements with State and local governments and Indian tribal governments. It defines certain elements of costs and discusses allowable and unallowable costs, similar to the Code of Federal Regulations, Title 48, Part 31, noted above. It also contains a section on Indirect Cost Rate Proposals and the way to submit them for approval.

4) Federal Transit Administration, Circular C 4220.1E, Third Party Contracting Requirements; This circular sets forth the requirements a grantee must adhere to in the solicitation, award and administration of its third party contracts.

5) Federal Transit Administration, Circular C 5010.1C, Grant Management Guidelines- The purpose of this circular is to provide guidelines and management procedures for Metropolitan Planning grants, Capital Program grants and Urbanized Area Formula grants for assistance programs of the Federal Transit Administration (FTA), after award.

6) Federal Transit Administration, Circular C 8100.1B, Program Guidance and Application Instructions for Metropolitan Planning Grants- This circular provides application instructions and program guidance instructions for the preparation of Metropolitan Planning Program (MPP) grant applications for funds authorized by 49 U.S.C. 5303.

7) The Code of Federal Regulations, Titles 48 and 49, may be accessed on the Internet at

<http://www.gpoaccess.gov/lcfr> The Office of Management and Budget (OMB) Circular A-87 may be accessed at <http://www.whitehouse.gov/omb/circulars/a087>. The Federal Transit Administration circulars may be accessed at <http://www.fta.dot.gov/laws/circulars>.

1205.8. Sub-recipients should review the above federal regulations so that they can comply with the requirements.

1205.9. Sub-recipients must also comply with the Federal Certifications and Assurances, including the Lobbying Certification, published annually in agency's OWP, as required by the MFTA.

1205.10. Sub-recipients must also comply with the Caltrans Local Assistance Procedures Manual Chapter 5, Accounting/Invoicing (LPP 04-10) when seeking reimbursement of indirect costs. In instances where the agency authorizes a sub-recipient to retain a consultant(s) to perform work, the consultant selection process must comply with competitive selection requirements under 49 CFR 18.36 and State law and procedures, including the Caltrans *Local Assistance Procedures Manual* at www.dot.ca.gov/hq/LocalPrograms/lam/lapm.htm.

1205.11. Sub-recipients must incorporate all applicable flow-down requirements (from the CCA or other funding agreement between the agency and the sub-recipient), including the federal and state requirements described above, into such consultant(s) contracts.

1205.12. The agency performs oversight of sub-recipients through various means. The agency utilizes various methods to monitor sub-recipients and insure compliance. The agency will periodically review sub-recipients procurement practices to ensure compliance. Procurements will be conducted according to the Federal Acquisition Regulations (CFR Title 48, Part 31 and CFR Title 49, Part 18.36).

1205.13. The following are the descriptions of the various types of oversight management that will be performed by agency:

- 1) The agency will develop overall work programs and corresponding continuing cooperative agreements in sufficient detail to provide a clear understanding of activities, tasks, deliverables, cost and schedule for work to be done by sub-recipients.
- 2) The agency will require sufficient invoice detail to ensure that work performed and costs billed are compliant with the continuing cooperative agreements and to ensure that costs are for eligible work and are allowable under 49 CFR, Part 18, 2 CFR Part 225 and 48 CFR Ch. 1 Part 31.
- 3) The agency will review each invoice received from sub-recipients for compliance with the above. Reviews and approvals will be documented by the project manager's signature. The accountant will also signify concurrence by initialing the invoice.
- 4) Payments will be withheld from sub-recipients for the following:
 - a) Insufficient detail to support the costs billed
 - b) Unallowable costs
 - c) Ineligible costs

5) Invoices will be date stamped upon receipt if received in hard copy. A record of the date of receipt will be maintained for those invoices sent electronically.

6) Periodic training of the agency and sub-recipient staff will be provided to ensure currency and continued compliance with this policy.

1205.14. Project managers will perform oversight in the following ways:

- 1) Encourage sub-recipients to submit monthly invoices;
- 2) Verify that invoices include progress reports;
- 3) Review progress reports to ensure project is progressing accurately and on schedule;
- 4) Compare invoice to contract budget to ensure eligibility of costs and costs do not exceed budget;
- 5) Review invoice to ensure supporting documentation is included and invoiced costs are within the scope of work for the project(s) being billed;
- 6) Obtain report, certification and supporting documentation of local (non-federal)/in-kind match work from the sub-recipient;
- 7) Review sub-recipient match tasks for eligibility;
- 8) Notify the accountant that invoice is approved or disapproved.

1205.15. Project managers will maintain a project file to include:

- 1) Project proposal (cooperative agreement tasks);
- 2) Project scope;
- 3) Correspondence, including communications log;
- 4) Meeting agendas, minutes, and attachments;
- 5) Progress reports;
- 6) Interim and final products;
- 7) Project close out form;
- 8) Copies of other applicable project documents as required, such as copies of contracts or MOUs.

1205.16. Any changes to the OWP must be approved by the Federal and State grantors in the form of an amendment. There are two types of amendments: Administrative and Formal.

1) Administrative: These amendments require concurrence from Caltrans and involve changes to the OWP that do not affect the budget or the delivery of regional transportation planning tasks, activities, steps and products. Examples of an Administrative Amendment would be the correction of errata; project schedule change; changing from a staff task to a consultant task or vice-versa. The agency usually processes one administrative amendment by the end of September of the budget year and may process more on an as needed basis. Sub-recipients must notify the agency project manager of the need for an administrative amendment at the earliest possible time. The agency project manager will notify sub-recipients of the changes after receipt of written approval from Caltrans.

2) Formal: These amendments require Caltrans District approval and concurrence from Caltrans Headquarters before the amendment can be forwarded to FHWA/FTA for their review and final approval. A formal amendment is required if there are substantive changes to work elements funded with CPG, or if the changes (regardless of funding type) impact regional transportation planning activities and if there are changes to the total OWP budget and would require that the agency's OWP Agreement with Caltrans be amended. Some examples of changes that require a formal amendment are deleting or adding projects; a change in work scope; substitution of fund sources within a work element and/or project; redirection of CPG funds or local match among work elements and/or projects; increasing the work element/project budget. The agency will prepare a formal amendment, usually in October, to encompass both previous year's carryover balances and adjustments to the current year's budget due to circumstances that have occurred since the beginning of the fiscal year. Caltrans must concur with the carryover balances prior to submission of the amendment. The agency/board also must approve of the budget amendment prior to submission. This budget amendment must be submitted to Caltrans timely to allow sufficient time for review by FHWA, FTA and Caltrans. Once the amendment has been approved, costs can be incurred and any new RFP/contract process

1210. Priorities and Procedures for the Distribution of Planning Funds

| 1210.01. Terms and Conditions.

- 1) The award of planning funds to local agency partners shall be made through the Overall Work Program (OWP) and contracted with SRTA's Sub-Recipient Cooperative Agreement.
- 2) Funds shall be subject to all applicable funding program guidelines.
- 3) SRTA may stipulate a minimum percentage or specific dollar amount in cash and/or in-kind local match.
- 4) All funds shall be provided on a reimbursement basis for deliverable(s) defined in the Sub-Recipient Cooperative Agreement.
- 5) Funds may be subject to an administrative charge of up to fifteen (15) percent, as allowable under the grant program source (*currently applicable to Safe Routes to Schools grants*).
- 6) Awards from SRTA to local agency partners shall be for a period not to exceed two years, unless otherwise specified in the Sub-Recipient Cooperative Agreement.

| 1210.02. Regional Planning Funds Priorities.

SRTA may contract with local agency partners to accomplish work on behalf of, or in support of, SRTA's core functions and/or auxiliary planning tasks. In addition, after all of SRTA's core functions

and/or auxiliary planning responsibilities have been met, local agency planning and planning tools may be funded with regional planning funds. The distribution of regional planning funds to local agency partners shall adhere to the following priority order:

1) Core functions, e.g.:

~~1)-~~

- a. MPO/RTPA Administration
- b. Regional Transportation Plan
- c. Overall Work Program
- d. Federal Transportation Improvement Program
- e. Regional Transportation Improvement Program
- f. Other regional plans, ~~and~~ programs required to receive transportation funds

2) Auxiliary planning and work tasks in support of SRTA's core functions, e.g.:

- a. Travel demand model
- b. Special plans including, but not limited to, modal, technology, and public information plans
- c. Data and performance measures, including Geographic Information Systems (GIS) data and analysis
- d. Coordination and consultation

3) Grant-funded plans and tools, e.g.:

- a. As defined by applicable grant agreement

1210.03. Planning Funds Distribution Procedures.

1) A local agency-led planning project to be funded all or in part by regionally-administered federal or state funds may be introduced in one of the following ways:

- a. Direct request from SRTA for a specific project/scope of work;
- b. Open call for projects from SRTA; and/or
- c. Local agency request submitted to SRTA.

2) Timeline for preparing funding proposals:

- a. December 1 of each year – SRTA publishes programming priorities for the ensuing fiscal year and, if applicable, issues a direct request and/or call for projects to one or more local agency partners.
- b. December 31 of each year – Deadline for local agencies to submit a concept proposal.
- c. January 31 of each year – Deadline to submit a detailed scope of work, schedule, and deliverable(s) for inclusion in the upcoming fiscal year OWP.

d. June 30 of each year– Deadline to execute Sub-Recipient Cooperative Agreement.

3) For discretionary grant funds, where SRTA is the lead agency or designated recipient of such funds, the introduction and timing set forth above may be adjusted to accommodate the grant program.

1210.04. Project Initiation and SRTA Involvement.

- 1) Notice to proceed shall be issued by SRTA before reimbursable work may begin.
- 2) As the responsible entity for all expenditures of regional planning funds, SRTA shall be afforded a direct role in all work tasks, including but not limited to:
 - a. Consultant procurement processes;
 - b. Meetings and public outreach;
 - c. Receipt of timely quarterly project status updates and invoicing; and
 - d. Opportunity to review and comment on preliminary and draft documents.
 - e. Receipt of final work products, in format(s) acceptable to SRTA
- 3) Deliverable(s) shall, upon request, be formally presented at an SRTA Board of Directors meeting, for information, acceptance, approval, or other appropriate action.

1220. Administration of Regional Surface Transportation Program (RSTP) (Policy adopted by the SRTA Board of Directors October 22, 2013)

1220.1. Background

The RSTP program allows the exchange of federal funds for nonfederal State Highway Accounts funds. Funding is allocated on an annual basis from the Department of Transportation (DOT). The amount of funding allowable is calculated by the DOT.

1220.2 SRTA agrees to allocate all state funds within the RSTP agreement to projects defined under Title 23 – Section 133 of the Federal Aid for Highways, and in accordance with the State of California Constitution. Section 133(b) eligible projects may include:

- 1) Construction, reconstruction, rehabilitation, resurfacing, restoration, preservation, or operational improvements for highways.
- 2) Replacement (including replacement with fill material), rehabilitation, preservation, protection (including painting, scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) and application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions for bridges (and approaches to bridges and other elevated structures) and tunnels on public roads of all functional classifications, including any such construction or reconstruction necessary to accommodate other transportation modes.
- 3) Construction of a new bridge or tunnel at a new location on a Federal-aid highway.
- 4) Inspection and evaluation of bridges and tunnels and training of bridge and tunnel inspectors, and inspection and evaluation of other highway assets (including signs, retaining walls, and drainage structures).
- 5) Capital costs for transit projects eligible for assistance under Chapter 53 of Title 49, including vehicles and facilities, whether publicly or privately owned, that are used to provide intercity passenger service by bus.

- 6) Carpool projects, fringe and corridor parking facilities and programs, including electric vehicle and natural gas vehicle infrastructure in accordance with Section 137, bicycle transportation and pedestrian walkways in accordance with Section 217, and the modifications of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).
- 7) Highway and transit safety infrastructure improvements and programs, installation of safety barriers and nets on bridges, hazard eliminations, projects to mitigate hazards caused by wildlife, and railway-highway grade crossings.
- 8) Highway and transit research and development and technology transfer programs.
- 9) Capital and operating costs for traffic monitoring, management, and control facilities and programs, including advanced truck stop electrification systems.
- 10) Surface transportation planning programs.
- 11) Transportation alternatives.
- 12) Transportation control measures listed in section 108(f) (1) (A) (other than clause (xvi)) of the Clean Air Act (42 U.S.C. 7408) (f) (1) (A).
- 13) Development and establishment of management systems
- 14) Environmental mitigation efforts relating to projects funded under this title in the same manner and to the same extent as such activities are eligible under section 119(g).
- 15) Projects relating to intersections that—
 - A) Have disproportionately high accident rates;
 - B) Have high levels of congestion, as evidenced by—
 - i) Interrupted traffic flow at the intersection; and
 - ii) a level of service rating that is not better than “F” during peak travel hours, calculated in accordance with the Highway Capacity Manual issued by the Transportation Research Board; and
 - C) Are located on a Federal-aid highway.
- 16) Infrastructure-based intelligent transportation systems capital improvements.
- 17) Environmental restoration and pollution abatement in accordance with section 328.
- 18) Control of noxious weeds and aquatic noxious weeds and establishment of native species in accordance with section 329.

19) Projects and strategies designed to support congestion pricing, including electric toll collection and travel demand management strategies and programs.

20) Recreational trails projects eligible for funding under section 206.

21) Construction of ferry boats and ferry terminal facilities eligible for funding under section 129(c).

22) Border infrastructure projects.

23) Truck parking facilities eligible for funding under section 1401 of the Moving Ahead for Progress in the 21st Century Act (MAP-21).

24) Development and implementation of a state asset management plan for the National Highway System in accordance with section 119, including data collection, maintenance, and integration and the costs associated with obtaining, updating, and licensing software and equipment required for risk based asset management and performance based management, and for similar activities related to the development and implementation of a performance based management program for other public roads.

25) A project that, if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port.

26) Construction and operational improvements for any minor collector if—

A) The minor collector, and the project to be carried out with respect to the minor collector, are in the same corridor as, and in proximity to, a Federal-aid highway designated as part of the National Highway System;

B) The construction or improvements will enhance the level of service on the Federal-aid highway described in subparagraph (A) and improve regional traffic flow; and

C) The construction or improvements are more cost-effective, as determined by a benefit-cost analysis, than an improvement to the Federal-aid highway described in subparagraph (A).

1220.3 Exchange funds will be subject to financial and compliance audits by state of California auditors.

| 1220.4 Jurisdictions will certify to SRTA the following:

1) Compliance with Davis-Bacon Act: The Davis-Bacon Act requires that all laborers and mechanics employed by consultants or sub-consultants to work on construction contracts in excess of \$2,000 financed by federal assistance funds must be paid wages not less than those established for the locality of the project (prevailing wage rates) by the Department of Labor (40 USC 276 to 276a-7).

2) The jurisdictions are required to submit an annual document stating that RSTP exchange funds have been used for eligible projects as defined in Section 133(b), and that the jurisdictions are in compliance with the Davis-Bacon Act. Jurisdictions must submit documentation prior to distribution of current year exchange funds.

3) Compliance with OMB Circular A-87, *Cost Principles for State and Local Governments*

4) Compliance with CFR, Part 18, *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*.

5) Agree that Contract Cost Principles and Procedures, Part 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 shall be used to determine the allowability of individual project costs items.

6) A special fund for the purpose of depositing exchange funds has been established within a jurisdiction's special gas tax street improvement fund or county road fund.

1220.5 Calendar

PROCEDURES

December	Notification from Caltrans for Federal Fiscal Year allocation
January-February	SRTA provides to Caltrans Federal Apportionment Exchange Buyout Program Annual Report
May	SRTA completes RSTP agreement
June	Caltrans returns fully executed agreement
June-July	SRTA invoices Caltrans for exchange funds
July	SRTA verification of expenditure of funding for eligible projects
July-August	Upon receipt of funds, SRTA disburses funds to jurisdictions

1220.6 Background on Distributions

Resolution 5-93 states that funds are to be divided among the jurisdictions in the same manner as they are allocated to SRTA. These funds shall be shared among the jurisdictions based on the ratio of the jurisdiction's latest population estimate to that of the total county's population.

Each of the jurisdictions has the capability of selecting and prioritizing projects using those funds allocated to them. SRTA delegates to each of the eligible entities project selection authority for projects to be funded under this program.

1220.7 Distributions

The annual exchange funds are allocated to SRTA on an annual basis from Caltrans. The amount of funding allowable is calculated by Caltrans.

SRTA shall annually determine the allocation based on the following:

- 1) Population estimates shall derive from the CA Department of Finance E-1 Tables.
- 2) The total amount allocated to each jurisdiction shall include both the annual RSTP funds and the State mandated annual set-aside for the county of Shasta.
- 3) The total shall first be allocated by population to each jurisdiction. The state mandated annual set aside for the county of Shasta shall be subtracted from the county of Shasta's allocation to determine the amount the county of Shasta will receive of annual RSTP funds.

1220.8. SRTA expenditures of exchange funds will be subject to financial and compliance audits by state of California auditors.

- 1) Jurisdictions are required to submit an annual document stating that RSTP exchange funds have been used for eligible projects as defined in Section 133(b). Jurisdictions must submit documentation no later than July 31 of each year in order to receive distribution of current year exchange funds.
- 2) In the event of an adverse audit finding, a jurisdiction must return the state cash to SRTA for allocation to other eligible projects. If an adverse finding is not corrected, a hold will be placed on future exchange and match payments to the jurisdiction until such time as the adverse findings are corrected to the satisfaction of SRTA.

3) Any federal monies received from SRTA must be audited under Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations

1230. Distribution of Regional Surface Transportation Program (RSTP) Federal Exchange and State Match Request to Jurisdictions

1230.1. In March of 1993 (Resolution 5-93) the agency agreed to accept Exchange program funds as allocated under Section 182.6 of the Streets and Highways Code. Funds may be exchanged for nonfederal state highway accounts funds.

Resolution 5-93 states that funds are to be divided among the jurisdictions in the same manner as they are allocated to the agency. These funds shall be shared among the jurisdictions based on the ratio of the jurisdiction's latest urban area population estimate to that of the total county's urban area. Funds derived under Section 182.6 (d) (2) shall be allocated to the county as specified by law, and the balance of the funds shall be allocated between the cities and the county on the basis of the ratio of each jurisdiction's population growth from 1980-1990 to the county population growth during that period. The staffs of the two cities and the county have agreed on the allocation formula.

Each of the entities has the capability of selecting and prioritizing projects using those funds allocated to

them. The agency delegates to each of the eligible entities project selection authority for projects to be funded under this program.

1230.2. The annual exchange funds are allocated to the agency on an annual basis from the Department of Transportation (DOT). The amount of funding allowable is calculated by the DOT.

Two factors are used to determine the amount allocated by jurisdiction. Amounts are first allocated based upon the population in the urban area based on 110% of the Federal Aid Urban (FAU) that preceded ISTEA. The remainder of funding, “other” is allocated based upon the growth in each entity from 1980 to 1990. The urban population is updated annually using the Department of Finance’s E-1 report. These population figures determine the percentage of funding allocated to each jurisdiction based on the old FAU funding figures.

The amount of funds received from exchange that exceed the old FAU are presented as “other” and are allocated based upon prior population figures for each jurisdiction as presented on the attached allocation schedule.

The [agencycity](#) of Shasta Lake was incorporated on July 2, 1992. Prior to incorporation, Shasta Lake’s population was included in the unincorporated area of Shasta County. In order to obtain census data, the United States Census Bureau must incorporate a city for one year before it is recognized as a city. The first documented census data for the [agencycity](#) of Shasta Lake occurred in 1994/1995. The [agencycity](#) of Shasta Lake became eligible for exchange funds at this time, and was removed from the County’s population.

An allocation summary is disbursed to the jurisdictions that combine the Old FAU population allocations, and “other” funding allocations.

1230.3. Agency expenditures of exchange and match funds will be subject to financial and compliance audits by State of California auditors.

Agencies are required to submit an annual document stating that RSTP exchange funds have been used for eligible projects as defined in Section 133(b). Agencies must submit documentation no later than July 31 of each year in order to receive distribution of current year exchange funds.

In the event of an adverse audit finding, the agency must return the state cash to the agency for allocation to other eligible projects. If an adverse finding is not corrected, a hold will be placed on future exchange and match payments to the jurisdiction until such time as the adverse findings are corrected to the satisfaction of the agency.

Any federal monies received from the agency must be audited under Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations.

1235 POLICY FOR COMMENTING ON REGIONALLY SIGNIFICANT PROJECTS

The RTPA is responsible for regional transportation policy and funding, including new land use responsibility under Senate Bill 375. As approved by the RTPA Board on April 28, 2009, it is

the policy of the RTPA to comment on the following types of projects, at the discretion of the Executive Director:

- Transportation projects
- In support of grants related to transportation
- To provide technical information
- Planning documents within Shasta County
- Regionally significant projects within Shasta County
- Regionally significant projects and plans located outside of Shasta County that impact our region

The RTPA shall comment on other projects as directed by the full Board.

Politically sensitive items, as determined by the Executive Director, shall be brought to the full Board.

Copies of comment letters signed by staff will be provided to the Board as part of the “Correspondence” agenda item at the next RTPA meeting.

1240 Policy for Consultation with Native American Tribal Governments

Background - Consultation is the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties’ cultural values, and where feasible, seeking agreement.

1240.1 Requirement to Consult

U.S. Department of Transportation Order 5301.1 ensures that programs, policies, and procedures administered by the U.S. DOT are responsive to the needs and concerns of Native American Tribal Governments. This order provides an overview of the various federal regulations and executive orders on this subject. This order is available at:

<http://environment.fhwa.dot.gov/guidebook/vol2/5301.1.pdf>

US Code Title 23 Sec 135 (e) and (f) generally state that tribal government concerns should be considered in developing planning documents. Title 23 CFR Part 450.316(c) specifies that Metropolitan Planning Organizations (MPOs) involve federally recognized Native American Tribal Governments in the development of the Regional Transportation Plan (RTP) and Federal Transportation Improvement Program (FTIP).

1240.2 Federally Recognized Tribes

A contact list of California Native American Tribes that are both federally and non-federally recognized is maintained by the Native American Heritage Commission. The two federally recognized tribes in Shasta County are the Pit River Tribe, and the Redding Rancheria. Although consultation is not mandated for non-federally recognized tribes, this does not preclude the RTPA from consulting with local non-federally recognized tribes when plans or activities might impact cultural values or the community.

Federal recognition is a legal distinction that applies to a tribe's right to a government-to-government relationship with the federal government and eligibility for federal programs.

All California Native American Tribes are distinct and independent governmental entities with specific cultural beliefs and traditions and unique connections to areas of California that are their ancestral homelands.

Federal and state law require local agencies to consult with federally recognized tribal governments prior to making transportation decisions, taking actions or implementing programs that may impact their communities. This activity is separate from, and precedes, the public participation process. Protocol should be flexible and dynamic with respect to initiation of communication and discussion format. More than one tribe may have an affiliation with the area of consideration. Individual consultation may be necessary if a combined consultation format is not preferred by the tribal government. Determining the degree and adequacy of consultation will vary depending on a number of factors including the scope of proposed activities, whether the activity is short-term or long-term, the cultural or political sensitivity of the issue at hand, and the number of potential stakeholders.

The Shasta County Regional Transportation Planning Agency (RTPA) intends to continue consulting with Native American Tribal Governments on activities that may impact their communities.

1240.3 Consultation

The executive director is the designated RTPA official with principal responsibility for the agency's implementation of consultation requirements. At the appropriate time in the planning phase, contact shall be initiated directly with the tribal chair to inquire as to protocols in place, such as cultural resource contacts, procedures, time limits and restrictions affecting communication. Development of mutually agreed-upon protocols may result in more effective consultation efforts with individual tribes. Consultation should be done face-to-face whenever possible.

Consultation is a process, not a single event, and communication should continue until the project or plan is complete. Notification of tribes is not the same as consultation. Sufficient time should be provided in a request for consultation in order to allow the tribal council to take official action. Consultation requests should include a clear statement of purpose, explaining the reason for the request and declaring the importance of the tribe's participation in the planning process. The request should specify the location of the area of potential effect addressed in the proposal. All aspects of the consultation process should be documented, including how the lead agency reaches a final decision.

In 1999 the California Transportation Commission adopted additional guidelines:

The Regional Transportation Plan process shall meet the federal and state requirements to consult with and consider the interests of Indian Tribal Governments in the development of transportation plans and programs, including funding and programming of transportation projects accessing tribal lands through state and local transportation programs.

Planning Documents

Planning studies, Transportation Improvement Programs (FTIP, STIP, RTIP), Regional Transportation Plan (RTP) and Overall Work Program (OWP)

Consult with tribal governments in preparation of planning studies and programs affecting the tribe:

- ❖ Initiate consultation by letter from the executive director to the tribal chair with copies to the Chief Administrative Officer (CEO), Administrator, and Cultural Department representatives.
- ❖ Offer to meet to discuss the tribe's needs and concerns regarding impacts within their jurisdiction prior to the beginning of preparation of documents. If the tribal chair and/or their representatives elect not to meet, send a copy of the draft report for their review.
- ❖ Consult with tribal governments while developing the RTP, addressing tribal concerns regarding impacts within their jurisdiction and again prior to adoption of the RTP.
- ❖ Invite representatives of the tribe to public meetings.

Transit studies, unmet needs hearing, transit needs assessment

Consult with the tribal governments on transit needs in their area:

- ❖ Initiate consultation and invitation to the unmet needs hearing by letter from the executive director to tribal chair with copies to the CEO, Administrator, and Cultural Department representatives.
- ❖ Offer to meet to discuss the tribe's transit needs and concerns.
- ❖ Outreach to members of the tribe through local newspapers, Native American newsletters, or trust lands meeting places.

Grant Programs: Federal Transit Administration Transit Grant Programs, Transportation Enhancements, JARC, New Freedom, etc.

| [1240.4](#) Coordinate with the tribal governments to provide information and technical assistance on grant programs administered by the RTPA or other agencies:

- ❖ Initiate consultation by letter from the executive director to the tribal chair with copies to the CEO, Administrator, and Cultural Department representatives.
- ❖ Provide notice of each grant and its application deadlines.
- ❖ Offer assistance in completing grant applications.
- ❖ Invite representatives of the tribe to training or public meetings regarding the grants.
- ❖ Coordinate between the tribe and RTPA member agencies.
- ❖ Consult with and consider the interests of the tribal government.

| [1240.5](#) Indian Reservation Road (IRR) Planning and Programming

Coordinate amongst planners and engineers in local agencies and tribes:

- ❖ Offer to meet to discuss the ~~tribe~~[tribe's](#) needs and concerns when contacted by the tribal representatives.
- ❖ Provide assistance in IRR planning.
- ❖ Coordinate with federal entities as requested by the tribe.

1250. Regional Transportation Improvement Program (RTIP) Project Selection Priorities

The Regional Transportation Improvement Program (RTIP) is a candidate listing of transportation projects proposed for funding with State Transportation Improvement Program (STIP) monies. The Shasta Regional Transportation Agency (SRTA) makes transportation funding decisions based on the availability of its regional share of STIP funds, called Regional Improvement Program (RIP) funds, while Caltrans makes funding decisions for the Interregional Improvement Program (IIP) funds portion of the STIP. The RTIP must be submitted by December 15th of odd-numbered years to the California Transportation Commission (CTC) for approval and incorporation into the STIP. As SRTA's share of RIP funds is insufficient to meet all needs of the region, the board of directors hereby adopts the following priorities for assessing and selecting RTIP candidate projects:

- 1) Project consistency with Regional Transportation Plan (RTP).** The project must be consistent with the SRTA Board of Directors-approved RTP, in accordance with state and federal regulations.
- 2) Project ability to leverage other funds for the region.** Due to limited RTIP funding availability, the project should be able to leverage other funds, such as state Interregional Transportation Improvement Program (ITIP) funds, local funds, state grants, federal grants, and/or State Highway Operation and Protection Program (SHOPP) dollars.
- 3) Regional congestion-relief benefit.** Priority will be given to projects that serve wide-spread regional traffic needs – as opposed to ones that serve localized areas and/or individual development projects. Regional significance is evaluated using the travel model, functional road classifications, and joint project sponsorships among local agencies and/or Caltrans.
- 4) Capacity increasing benefit.** RTIP funding priority will be for new facilities. RTIP funds will generally not be used for maintenance and/or safety which have other dedicated transportation funding sources.
- 5) Likelihood of full project funding.** RTIP projects will not be programmed unless full funding can be reasonably expected.
- 6) Other eligible funds.** Projects more appropriately funded through other eligible programs shall have low priority for RTIP funding. Examples of other eligible funding include bridge, safety, and/or rehabilitation programs.
- 7) Cost sharing.** Priority should be given to projects where there is appropriate cost sharing among local, state and/or federal fund sources considering project benefits and agency responsibilities/needs.