



REQUEST FOR PROPOSALS

US-123/US-76 Corridor Study

Proposal Due Date: April 15th, 2026 3:00 P.M.

March 25th, 2026
APPALACHIAN COUNCIL OF GOVERNMENTS
30 Century Circle, Greenville, SC 29607
www.scacog.org

REQUEUST FOR PROPOSALS

RFP#: P107

This RFP is available in its entirety in electronic form via the Appalachian Council of Governments (ACOG) website at <https://www.scacog.org/rfp-portal>. You are responsible for sending your name, address, email address, and telephone number to the RFP Coordinator for your organization to receive any RFP amendments or bidder questions/agency answers.

You may also obtain a copy of the RFP by submitting a written request to the Transportation Planner, Jake Whitmire, Appalachian Council of Governments, jwhitmire@scacog.org, Phone: 803-241-4674.

A pre-proposal conference will not be held for this project.

PROJECT TITLE: US-123 Corridor Study

PROPOSAL DUE DATE...(Opening Date/Time): April 15th, 2026, 3:00 pm.

RETURN PROPOSAL TO: Jake Whitmire, Transportation Planner, Appalachian Council of Governments via email at jwhitmire@scacog.org

EXPECTED TIME PERIOD FOR CONTRACT

May 15th, 2026 to May 15th, 2027. Appalachian Council of Governments reserves the right at its discretion to extend the contract up to three additional months.

CONSULTANT ELIGIBILITY: This procurement is open to those consultants that satisfy the minimum qualifications stated herein and that are available for work in the Appalachian COG Region.

PART I: GENERAL INFORMATION

- A. This project will be administered by the Appalachian Council of Governments (ACOG) on behalf of Oconee County, the City of Seneca, and the City of Westminster.
- B. Proposals will be considered as specified herein or attached hereto under the terms and conditions of this proposal.
- C. Proposals should be prepared simply and economically, providing a straightforward, concise description of OFFEROR's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content.
- D. Proposals must be made in the official name of the firm or individual under which business is conducted (showing official business address) and must be signed in ink by a person duly authorized to legally bind the person, partnership, company or corporation submitting the proposal.
- E. Proposals must provide **90 days for acceptance** by the Appalachian Council of Governments from the due date for receipt of proposals.
- F. OFFERORS are to include all applicable requested information and are encouraged to include any additional information they wish to be considered.
- G. **SUBMISSION OF QUESTIONS:** All questions or request for information must be submitted via email to Transportation Planner, Jake Whitmire, at jwhitmire@scacog.org and received by April 8th, 2026. After this date no further questions will be addressed. After all responses have been received, a written response will be mailed to all potential OFFERORS.
- H. **ONE (1) DIGITAL COPY OF YOUR PROPOSAL IS REQUIRED.**
- I. Notice of intended award of contract will be posted on the ACOG website at <https://www.scacog.org/>. All bidders will be notified via email.

PART II: GENERAL INSTRUCTIONS

Proposals shall include the following information:

- A. Proposals must not be more than the equivalent of 15 single-sided 8 ½ by 11-inch pages in length (not counting the front and back covers of the proposal, section dividers that contain no information or SF 330 forms). The font size should be no smaller than 12 pt.
- B. Name the prime and subconsultants that will comprise the team and identify the Executive Officer of each company.
- C. Identify the proposed Program Manager for the team who will be the sole point of contact for ACOG for day to day operations.
- D. List the key personnel with their office location who will participate in performing the scope of work. Provide a brief résumé for each listed team member. (Including subconsultants' key personnel with their office who will be completing a portion of the scope of work).
- E. Provide an organizational chart depicting the relationships between the team members and agencies.
- F. List three (3) recently performed, relevant projects within the past 5 years that indicate the past performances and abilities of the proposed team. Include a key client contact person for each project with their current daytime phone number.
- G. Provide a proposed list of required tasks and milestones to address the provided scope of work.
- H. Provide a proposed project schedule that includes the key task activities, duration, milestones and deliverables that will complete the scope of work in the shortest time frame that is responsive to the required review.
- I. Provide a flow chart depicting key task activities and sequence.
- J. Provide Standard Federal Form 330 for the prime consultant and all subconsultants.

Unless stated otherwise herein, the basic and governing language of the contract resulting from this solicitation shall be comprised of the RFP documents, including any attachments and amendments, and the successful OFFEROR's signed proposal. In the event of a conflict between the two documents, the RFP shall govern.

PART III: INTRODUCTION

Agency Overview

The Appalachian Council of Governments (ACOG) serves as the Council of Governments (COG) for Anderson, Cherokee, Greenville, Oconee, Pickens and Spartanburg Counties. ACOG is responsible, in cooperation with the South Carolina Department of Transportation and local planning partners, for carrying out planning issues of a rural and regional nature.

Purpose of Request:

The RFP provides interested OFFERORS with sufficient information to enable them to prepare and submit written proposals for consideration by the Appalachian Council of Governments (ACOG) to develop a corridor study for US-123/US-76 between the SC-93 Intersection to the east and to the point west of the City of Westminster where US-123 and US-76 diverge to separate routes. This project will be funded through the Appalachian Council of Governments federal Guideshare funds. The study will provide a framework of strategies and implementation actions intended improve traffic operations, efficiency and safety on the US-123/US-76 corridor. The plan will address federal and state regulations and directives related to corridor planning.

PART IV: SCOPE OF WORK

Overview

The Appalachian 2045 Long Range Transportation Plan (LRTP) serves as the comprehensive plan for transportation investment to support the safe and efficient movement of people and goods within the ACOG region through the plan horizon year of 2045. The Plan establishes the purpose and need for major projects included in the federal transportation funding program, identifies activities to address major transportation issues, and prioritizes investments in the transportation system. Based on this plan, a corridor study has been requested for the US-123/US-76. This corridor serves as a critical regional connector for commuter traffic, freight movement, tourism, and local access. The corridor experiences a mix of rural, suburban, and urban contexts, varying traffic demands, safety challenges, and land use pressures. The study is intended to support regional mobility objectives, improve safety and operations, and inform future SCDOT, Regional Mobility, and local transportation investments.

Task 1: Project Structure and Work Plan

Building on the scope of work presented in their proposal, and incorporating any relevant changes made during contract negotiations, the consultant will prepare a detailed work plan and the achievable timeline for the Plan. The work plan will outline the overall approach, as well as specific actions and activities that will occur during the project and how these will result in a successful conclusion to the study.

Task 2: Project Management and Coordination

The consultant shall be required to manage the study and coordination with any subconsultants, as well as bear responsibility for all documentation and equipment needs. The

consultant will identify a project lead from their team to act as the direct point of contact for ACOG's project manager.

This task will also include regular progress meetings with ACOG staff, the preparation of monthly progress reports, documentation of travel and expense receipts, and the preparation and submission of invoices. When submitting progress reports, the consultant will be required to outline the following:

1. Performed work;
2. Upcoming tasks or milestones;
3. Status of scope and schedule; and
4. Any issues to be aware of.

Development of the Plan will be guided by the ACOG Board of Directors which will provide policy level oversight. A Technical Committee will also be created and input into study assessments, analyses, policies, and recommendations for the Steering Committee approval. Technical Committee meetings can be virtual or in person (either in person or virtual). The consultant shall be responsible for the preparation and coordination of all data collection, data analysis, technical memorandum, and draft documents for the Plan. In addition to the Steering Committee meetings the Consultant will present up to two times to the ACOG Board of Directors meeting in person.

ACOG staff shall be responsible for coordinating and scheduling committee meetings and assisting the consultant in developing agendas. The consultant will be expected to work closely with ACOG on the coordination and distribution of materials to the committees as applicable to consultant work tasks, as well as be responsible for the recording of meeting minutes.

The Technical Committee should be comprised at the minimum of representatives from the ACOG Regional Transportation Advisory Committee from Oconee County, the City of Seneca, the City of Westminster, ACOG and SCDOT.

Task 3: Stakeholder and Public Engagement Program

The consultant will develop and implement a detailed stakeholder and public engagement program that seeks to gain authentic and meaningful public input from community members. At minimum, the stakeholder and public engagement program should address the following:

1. Specific activities for reaching identified stakeholder groups and engagement strategies that inform, involve, and empower stakeholders and the public;
 - a. Wiki Mapping Tool or other interactive Public Involvement tool or survey
 - b. Minimum of one public open house meeting
2. Timeline for stakeholder and public engagement activities;
3. Communication methods for sharing information with residents and community members; and
4. Strategy for effective and consistent messaging.
5. Public Outreach and input: Engage stakeholders and the public with both in person and virtual options (include engagement with ACOG Board of Directors and Technical Committee throughout the project.)

Task 4: Existing Conditions Assessment

Using the data collected in this task the consultant will prepare existing capacity analyses for the study area intersections. The consultant will prepare a crash analysis based on various crash characteristics such as lighting condition, crash type, contributing factors, pavement condition, etc. Crashes will also be mapped using GIS to establish any spatial trends in crash locations. The findings of the crash analysis will be used to identify any trends and areas of concern that may be suitable for safety improvements. The findings of this analysis will be communicated with the Technical Committee and used to identify areas of focus moving forward in the project. The consultant will also review the study area and prepare an inventory of existing land use data, roadway geometry data, multimodal facilities, and supporting utilities and infrastructure. The consultant will conduct an existing conditions assessment of the corridor including the following activities but not limited to:

1. Refine list of existing facilities for data collection based on Technical Committee input.
2. Traffic data collection will include all relevant sections and intersections along the US-123/US-76 corridor.
3. Turning movement counts will be collected at intersections for use in traffic signal warrant analyses.
4. Available AADT volume information along the corridor will be obtained from publicly available sources and the ACOG travel demand model will be provided by ACOG for forecasts.
5. Crash Data Collection: The most recent five (5) years of crash data will be obtained from the South Carolina Department of Public Safety.
6. Previous and Ongoing Studies/Projects: ACOG will provide any previous studies that include relevant data related to planned development, traffic impacts, land uses, etc. SCDOT will also be contacted to request relevant data related to planned development, traffic impacts, current ongoing or planned improvement projects, etc.
7. Roadway Data Collection: The consultant will collect SCDOT roadway plans, as available, to determine geometry, rights-of-way, access management, multimodal facilities, and supporting utilities and infrastructure.
8. The consultant will review available information on natural resources to determine what environmental and cultural resources are known to be present with the areas that may be considered for transportation improvements.
9. Land Use Data Collection: ACOG will provide available land use and relevant geographic information system (GIS) data for the study area. The consultant will gather publicly available GIS data relevant to the study.
10. Future Impacts:
 - a) The consultant will work with local jurisdictions to review future traffic impacts and traffic patterns as a part of the Land Use Data Collection task.

Task 5: Purpose and Needs Statement

The consultant with Technical Committee input will use previously gathered information and analysis to develop a Purpose and Need statement for the project. The statement will be developed in conjunction with National Environmental Policy Act (NEPA) guidelines.

Task 7: Identify Alternatives and Recommendations

The consultant will develop design concepts that will include the recommendations from the preliminary investigation, evaluation methodology, and alternative feasibility.

1. This task will include planning level cost estimates using current local and SCDOT unit costs for highway construction.
2. The consultant will prioritize projects and determine an implementation schedule, which will be used in the final recommendations and preferred alternative. The timeline should include near mid and long-term improvements.

Task 8: Develop Final Corridor Study and Documentation

The consultant will prepare a final study document that includes an executive summary and outlines the analyses and findings of previous tasks. This document will include descriptive text, tables, and figures to portray the analysis and clearly define the recommendations of the study. An electronic PDF draft version of the study document will be submitted to the ACOG and the Technical Committee for review and comment. Upon receipt of committee comments, a final version of the study document will be prepared and submitted to ACOG in electronic PDF format.

PART V: EVALUATION AND SELECTION CRITERIA

Proposals will be reviewed internally by ACOG Staff and evaluated against the following criteria. Each of the identified criteria has an assigned weight (whole numbers between 1 and 100) that is used to establish their relative importance in the evaluation process.

Criteria	Maximum Points
Method of Approach: This refers to the technical soundness of the consultant's stated approach to the project, the comprehensiveness of the proposed approach, and the techniques to be used.	20%
Originality and innovativeness: A key factor in the selection of the firm is any innovative approach to the project that goes beyond the suggested Scope of Work, design, functionality, interactivity, etc. It must be shown how this will be accomplished within the time limits.	20%
Understanding of Purpose: A determination will be made of the consultant's understanding of the purpose and tasks as presented in the RFP. Familiarity with local, regional and SCDOT studies and documents of multimodal transportation opportunities and obstacles. Evaluation will be based on the information presented in the consultant's proposal, the allocation of time on specific tasks. Consultants should feel free to suggest other requirements, problems, and solutions that may have been overlooked.	25%

Capability and Qualifications: The ability of a prospective consultant will be evaluated under the terms of the RFP, relative to having a staff with the qualifications needed to successfully complete the project. Qualifications of professional personnel assigned to the project will be measured by both education and experience, and with reference to experience on similar projects. The consultant’s professional and project staff that work on the project must be the same staff that is identified in the proposal.	25%
Schedule: The prospective consultant will be evaluated on their ability to follow a schedule that will successfully complete the project within a reasonable time frame.	10%

PART VI: PERFORMANCE CONDITIONS

- A. The Contract shall be on the basis of a **fixed fee** with a Contract **maximum**.
- B. The contractor shall be required to assume sole responsibility for the complete effort as required by this RFP. ACOG will consider the contractor to be the sole point of contact with regard to contractual matters.
- C. **Timing.** The consultant shall complete the project and provide deliverables by May 15th, 2027.

PART VII: TIMELINE

Approximate RFP timeline for solicitation and award of contract.

Procurement Step	Date
RFP Release Date	March 25 th , 2026
RFP Advertised	March 25 th to April 15 th , 2026
Deadline for Questions	April 8 th , 2026
Deadline for submission of proposals	April 15 th , 2026 at 3pm
Evaluate Proposals	April 16 th to April 30 th , 2026
Technical Interviews (if needed)	April 16 th to April 30 th , 2026
Consultant Selection/Notification	May 1 st , 2026
Contract Award Date	Early May 2026
Notice to Proceed	May 15 th , 2026
Contract Duration	12 months
Contract Completion	May 15 th , 2027

PART VIII: CONTRACTUAL REQUIREMENTS

- 1) FORCE MAJURE: The Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the contractor. Such causes may include, but are not restricted to acts of God or of the public enemy, acts of the Governments in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the contractor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the contractor and subcontractor, and without the fault or negligence of either of them, the contractor shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the contractor to meet the required delivery schedule.

- 2) GOVERNING LAW: Contractor consents to be governed by Section 11-35-4230 of the South Carolina Code of Laws and agrees that Section 11-35-4230 applies to and governs the Agreement. Contractor waives any objection it may have now or hereafter to the administrative process required by Section 11-35-4230. To the extent that Section 11-35-4230, by its own terms, does not govern a claim or controversy arising out of or relating to the Agreement, Contractor agrees that any suit, action or proceeding arising out of or relating to the Agreement shall be instituted and maintained only in a state or federal court located in Beaufort County, State of South Carolina. Notwithstanding any other agreement between Contractor and the State, the Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, and any suit, action or proceeding arising out of or relating to the Agreement shall be governed by the laws of the State of South Carolina. Contractor agrees that any act by the State regarding the Agreement is not a waiver of either the State's sovereign immunity or the State's immunity under the Eleventh Amendment of the United States Constitution. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by this solicitation. As used in this paragraph, the phrase "the State" includes any governmental entity transacting business with Contractor pursuant to the Agreement and the South Carolina Budget & Control Board.

- 3) OFFEROR'S QUALIFICATION: OFFEROR must, upon request of ACOG, furnish satisfactory evidence of its ability to furnish products or services in accordance with the terms and conditions of this proposal. The Planning Department reserves the right to make the final determination as to the OFFEROR's ability to provide the services requested herein.

- 4) OFFEROR RESPONSIBILITY: Each OFFEROR shall fully acquaint himself with conditions relating to the scope and restrictions attending the execution of the work under the conditions of this proposal. It is expected that this will sometimes require on-site observation. The failure or omission of an OFFEROR to acquaint himself with existing conditions shall in no way relieve him of any obligation with respect to this proposal or to the contract.
- 5) AFFIRMATIVE ACTION: The contractor will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of the handicapped, and concerning the treatment of all employees, without regard or discrimination by reason of race, color, religion, sex, national origin or physical handicap. The following are incorporated herein by reference: 41 C.F.R. 60-1.4, 60-250.4 and 60-741-1.
- 6) TERMINATION: Subject to the Provisions below, any contract resulting from this proposal may be terminated by the Appalachian Council of Governments, provided a thirty (30) days advance notice in writing is given to the contractor.
- a) Non-Appropriations: Funds for this contract are payable from State and/or Federal and/or Appalachian Council of Governments appropriations. In the event sufficient appropriations are not made to pay the charges under the contract it shall terminate without any obligation to the Appalachian Council of Governments
- i) Convenience: In the event that this contract is terminated or canceled upon request and for the convenience of the Appalachian Council of Governments without the required thirty (30) days advance written notice, then the Appalachian Council of Governments shall negotiate reasonable termination costs, if applicable.
- ii) Cause: Appalachian Council of Governments for cause, default or negligence on the part of the contractor shall be excluded from the foregoing provisions; termination costs, if any shall not apply. The thirty (30) days advance notice requirement is waived and the default provision listed herein shall apply.
- (a) Default: In case of default on contractor, the Appalachian Council of Governments reserves the right to purchase any or all items/services in default in open market, charging contractor with any excessive costs. SHOULD SUCH CHARGE BE ASSESSED, NO SUBSEQUENT PROPOSALS OF THE DEFAULTING CONTRACTOR WILL BE CONSIDERED UNTIL THE ASSESSED CHARGE HAS BEEN SATISFIED.
- 7) PRIME CONTRACTOR RESPONSIBILITIES: The contractor will be required to assume sole responsibility for the complete effort as required by this RFP. Appalachian Council of

Governments will consider the contractor to be the sole point of contact with regard to contractual matters.

- 8) SUBCONTRACTING: If any part of the work covered by this RFP is to be subcontracted, the contractor shall identify the subcontracting organization and the contractual arrangements made therewith. All subcontractors must be approved by the Appalachian Council of Governments. The successful OFFEROR will also furnish the corporate or company name and the names of the officers of any subcontractors engaged by the OFFEROR.
- 9) OWNERSHIP OF MATERIAL: Ownership of all data, material and documentation originated and prepared for the Appalachian Council of Governments pursuant to this contract shall belong to the Appalachian Council of Governments, FHWA/FTA, and SCDOT.
- 10) LEGAL OR CONSULTANT SERVICES: If this contract is for legal or consultant services, it is subject to the provisions of Section 11-9-105 of the 1976 Code of Laws of South Carolina as amended. "Any contract for legal or consultant services entered into by a state agency or institution shall include a provision which requires completion of all services. The Provisions shall further require that in the event all services are not fully rendered as provided for in the contract, any Monies which have been paid by the agency under the contract must be refunded to the agency along with a twelve (12) percent penalty".
- 11) INDEMNIFICATION: The Appalachian Council of Governments, its officers, agents, and employees, shall be held harmless from liability from any claims, damages and actions of any nature arising from the negligent performance by OFFEROR of a resultant contract, provided that such liability is not attributable to negligence on the part of the using agency or failure of the using agency to comply with the offer as outlined in the OFFEROR's proposal.
- 12) COMPLIANCE WITH FEDERAL REQUIREMENTS: State or Federal requirements that are more restrictive shall be followed.
- 13) CONTRACT FORMAT: When applicable, the contractor shall also be required to abide by all the covenants, conditions, responsibilities, terms and stipulations as set forth in the contract format (attachment and accompanying schedules). Said contract format is subject to change prior to final execution of any contract which is awarded subsequent to this Request for Proposal.

- 14) DRUG-FREE WORKPLACE: (Note: This clause applies to any resultant contract of \$50,000 or more). The State of South Carolina has amended Title 44, code of Laws of South Carolina, 1976, relating to health, by adding Chapter 107, so as to enact the Drug-Free Workplace Act. (See Act No. 593, 1990 Acts and Joint Resolutions). By submission of a signed proposal, you are certifying that you will comply with this Act. (See Section 44-107-30). This will certify to the using agency your compliance.
- 15) PURCHASING LIABILITY: The Planning Department of the Appalachian Council of Governments is acting under the authority given to it in the Consolidated Procurement Code to procure contracts on behalf of governmental agencies and acts only as their agent in this respect. The resulting contract is between the Appalachian Council of Governments and the successful OFFEROR and the Planning Department bears no liability for any damages that any party may incur in the execution or enforcement of the contract.
- 16) CONTRACT AMENDMENTS: Amendments to any contract between the agency and the contractor must be reviewed and approved by the Appalachian Council of Governments.
- 17) ASSIGNMENT: No contract or its provisions may be assigned, sublet, or transferred without the written consent of the Appalachian Council of Governments.
- 18) RECORDS RETENTION & RIGHT TO AUDIT: The State shall have the right to audit the books and records of the contractor as they pertain to this contract, both independent of, and pursuant to, S.C. Code Section 11-35-2220. Such books and records shall be maintained for a period of three (3) years from the date of final payment under the contract.
 - i) The State may conduct, or have conducted, performance audits of the contractor. The State may conduct, or have conducted, audits of specific requirements of this bid as determined necessary by the State.
 - ii) Pertaining to all audits, contractor shall make available to the State access to its computer files containing the history of contract performance and all other documents related to the audit. Additionally, any software used by the contractor shall be made available for auditing purposes at no cost to the State.

PART VIII: SPECIAL INSTRUCTIONS

- 1) INTENT TO PERFORM: It is the intent and purpose that this request permits competition. It shall be the OFFEROR's responsibility to advise the Planning Department of the Appalachian Council of Governments if any language, requirements, etc., or any combinations thereof, inadvertently restricts or limits the requirements stated in this RFP to a single source. Such notification must be submitted in writing, and must be received by the Planning Department of the Appalachian Council of Governments within fifteen (15) days of the date of issue. A review of such notifications will be made.

- 2) RECEIPT OF PROPOSAL: State law requires that a copy of the proposal be submitted no later than the date and time specified in the Request for Proposal.
- 3) PREPARATION OF PROPOSAL:
- i) All proposals should be complete and carefully worded and must convey all of the information requested by the Appalachian Council of Governments. If significant errors are found in the OFFEROR's proposal, or if the proposal fails to conform to the essential requirements of the RFP, the Appalachian Council of Governments and the Appalachian Council of Governments alone, will be the judge as to whether that variance is significant enough to reject the proposal.
 - ii) Proposals should be prepared ***simply and economically***, providing a straightforward, ***concise*** description of OFFEROR's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content.
 - iii) Proposals should be submitted via email to Jake Whitmire, jwhitmire@scacog.org. No hard copy of the proposal is required.
 - iv) If your proposal includes any comment over and above the specific information requested in our Request for Proposal, you are to include this information as a separate appendix to your proposal.
- 4) DISCUSSION/NEGOTIATION: By submission of a proposal, OFFEROR agrees that during the period following issuance of a proposal and prior to final award of contract, OFFEROR shall not discuss this Procurement with any party except RFP Coordinator designated in this solicitation. OFFEROR shall not attempt to discuss with or attempt to negotiate with the using Agency any aspect of the procurement without prior approval of the Planning Director.
- 5) AMENDMENTS:
- i) 5.1 VERBAL COMMENTS OR DISCUSSIONS BY THE ACOG RELATIVE TO THIS SOLICITATION CANNOT ADD, DELETE OR MODIFY ANY WRITTEN PROVISION. ANY ALTERATION MUST BE IN THE FORM OF A WRITTEN AMENDMENT TO ALL OFFEROR'S.
 - ii) 5.2 If it becomes necessary to revise any part of the RFP, an amendment will be provided to all eligible OFFERORS.
- 6) ORAL PRESENTATIONS: OFFERORS may be requested to make oral presentations of their proposals to Appalachian Council of Governments. Such presentations provide an opportunity for the OFFERORS to clarify their proposals and to ensure a thorough understanding.
- 7) FUNDING: The OFFEROR shall agree that funds expended for the purposes of the contract must be appropriated by the Appalachian Council of Governments included within the contract period. Therefore, the contract shall automatically terminate without penalty or termination costs if such funds are not appropriated. In the event that funds are not appropriated for the contract, the OFFEROR shall not prohibit or otherwise limit the Agency's right to pursue and contract for alternate solutions and remedies as deemed necessary by the Agency for the conduct of its affairs. The requirements stated in this paragraph shall apply to any amendment or the execution of any option to extend the contract.

- 8) AWARD: An award resulting from this request shall be awarded to the responsive and responsible OFFEROR(s) whose proposal is determined to be most advantageous to the Appalachian Council of Governments, taking into consideration price, when required, and the evaluation factors set forth herein; however, the right is reserved to reject any and all proposals received and in all cases, the Appalachian Council of Governments will be the sole judge as to whether an OFFEROR's proposal has or has not satisfactorily met the requirements of this RFP.
- 9) SUBMITTING CONFIDENTIAL INFORMATION:
- a. OVERVIEW / APPLICABLE STATUTES: Under the South Carolina Freedom of Information Act ("FOIA"), certain documents an OFFEROR submits to the ACOG may be subject to public disclosure. All references are to the South Carolina Code of Laws, which is available on the Internet at: <http://www.lpittr.state.sc.us/code/statmast.htm>. OFFERORs are urged to become familiar with FOIA (Title 30, Chapter 4 of the Code), the Trade Secrets Act (Title 39, Chapter 8), and the Consolidated Procurement Code (Title 11, Chapter 35). Section 11-35-410 of the Procurement Code exempts certain procurement information from release under FOIA: "[C]ommercial or financial information obtained in response to a 'Request for Proposals' or any type of bid solicitation which is privileged and confidential need not be disclosed. Privileged and confidential information is information in specific detail not customarily released to the general public, the release of which might cause harm to the competitive position of the party supplying the information. Examples of this type of information would include: (1) customer lists; (2) design recommendations and identifications of prospective problem areas under an RFP; (3) design concepts, including methods and procedures; (4) biographical data on key employees of the bidder."
 - b. INSTRUCTIONS: In determining whether to release documents, the ACOG will detrimentally rely on OFFEROR's marking of documents, as required by these bidding instructions, as being either "CONFIDENTIAL" or "TRADE SECRET". For every document OFFEROR submits in response to or with regard to this solicitation, OFFEROR must separately mark with the word "CONFIDENTIAL" every page, or portion thereof, that OFFEROR contend contains information that is exempt from public disclosure because it is either (a) a trade secret as defined in Section 30-4-40(a)(1), or (b) privileged and confidential, as that phrase is used in Section 11-35-410. For every document OFFEROR submits in response to or with regard to this solicitation, OFFEROR must separately mark with the words "TRADE SECRET" every page, or portion thereof, that OFFEROR contends contains a trade secret as that term is defined by the Trade Secrets Act. All markings must be conspicuous; use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text. If a portion of a bid or proposal is improperly marked as confidential or trade secret, the State may, in its sole discretion, determine it nonresponsive. If only portions of a page are protected, do not mark the entire page.
 - c. CONSENT TO RELEASE: By submitting a bid or proposal, OFFEROR (1) consents to the release of documents governed by section 11-35-1810 unless OFFEROR conspicuously

states otherwise on the cover of its bid or proposal, (2) agrees to the public disclosure of any documents regarding this solicitation submitted at any time prior to entering into a contract (including, but not limited to, documents contained in a bid or proposal, documents submitted to clarify either a bid or proposal, and documents submitted during negotiations), unless the document is conspicuously marked "TRADE SECRET" or "CONFIDENTIAL", (3) agrees that any information not marked, as required by these bidding instructions, as a "TRADE SECRET" is not a trade secret as defined by the Trade Secrets Act, and (4) that, notwithstanding any claims or markings otherwise, any prices used to determine the award are subject to public disclosure. By submitting a bid or proposal, OFFEROR agrees to defend, indemnify and hold harmless the State of South Carolina, it's officers and employees, from every claim, demand, loss, expense, cost, damage or injury, including attorney's fees, arising out of or resulting from the State withholding information that OFFEROR marked as "CONFIDENTIAL" or "TRADE SECRET".

- 10) RIGHT OF NON/COMMITMENT OR REJECTION: This solicitation does not commit Appalachian Council of Governments to award a contract, to pay any costs incurred in the preparation of a proposal, or to procure or contract for the articles of goods or services. Appalachian Council of Governments reserves the right to accept or reject any or all proposals received as a result of this request, or to cancel in part or in its entirety this proposal if it is in its best interest to do so.
- 11) RIGHT TO PROTEST: Any OFFEROR desiring to exercise rights under Section 11-35-4210 (Right to Protest) of the South Carolina Consolidated Procurement code should direct all correspondence to Executive Director, Appalachian Council of Governments, 30 Century Circle, Greenville, SC 29607.
- 12) UNSUCCESSFUL OFFERORS: OFFERORS not awarded a contract under this solicitation, may request return of their proposals within thirty (30) days after notification of award is emailed.
- 13) DISCUSSION WITH RESPONSIVE OFFERORS: Discussions may be conducted with responsive OFFERORS who submit proposals for the purpose of clarification to assure full understanding of the requirements of the request for proposals. All OFFERORS, whose proposals, in the procuring agency's sole judgment, needing clarification shall be accorded such an opportunity.
- 14) PAYMENT FOR GOODS & SERVICES: Payment for goods & services received by the Appalachian Council of Governments shall be processed in accordance with Section 11-35-45 of the South Carolina Procurement Code.

IMPORTANT NOTICE

APPLIES TO NONRESIDENTS ONLY

CODE SECTION 12-9-310(A)(2)(3)

Effective July 1, 1994, Section 49, Appropriations Bill, Part II Amended The Above-Referenced Code Section To Eliminate Withholding From Payments To Nonresident Contractors And Rental Recipients If The Nonresident Is Registered Or Registers With The S.C. Department Of Revenue Or The S.C. Secretary Of State's Office. The Nonresident Must Provide An Affidavit To Whomever They Are Contracting With To That Effect.

The Affidavit Will Be Retained By The Entity Or Person Letting The Contract To The Nonresident. In The Absence Of An Affidavit Being Provided, Withholding Will Be Required (Contracts--2%, Rental Or Royalty Recipients--7% For Corporations, Or 5% For Individuals And Partnerships).

The Filing Of The Affidavit Affirming Registration By The Nonresident Eliminates The Requirement To Withhold By Those Letting Contracts To Nonresident As Well As The Posting Of The Surety Bond By The Non Resident. Enclosed Is An Affidavit And Instructions To Be Used When Contracting With Nonresidents.

Forms To Register For All Taxes Administered By The South Carolina Department Of Revenue May Be Obtained By Calling The License And Registration Section At **803 898-5872** Or Writing The S.C. Department Of Revenue, Registration Unit, Columbia, S.C. 29214-0140.

Instructions - Nonresident Taxpayer Registration Affidavit

Requirements To Make Withholding Payments: Code Section 12-9-310 (A) (3) Requires Persons Hiring Or Contracting With A Nonresident Taxpayer To Withhold 2% Of Each Payment Made To The Nonresident Where The Payments Under The Contract Exceed \$10,000.00 In Any One Calendar Year.

Code Section 12-9-310 (A)(2) Requires Persons Making Payment To A Nonresident Taxpayer Of Rentals Or Royalties At A Rate Of \$1,200.00 Or More A Year For The Use Of Or For The Privilege Of Using Property In South Carolina To Withhold 7% Of The Total Of Each Payment Made To A Nonresident Taxpayer Who Is Not A Corporation And 5% If The Payment Is Made To A Corporation.

Purpose Of Affidavit: A Person Is Not Required To Withhold Taxes With Regard To Any Nonresident Taxpayer Who Submits An Affidavit Certifying That It Is Registered With The South Carolina Secretary Of State Or The South Carolina Department Of Revenue.

Term And Duration Of Affidavit: It Is Recommended That An Affidavit Be Obtained From A Nonresident Taxpayer For Each Separate Contract Or Agreement. Otherwise, The Affidavit Submitted By A Nonresident Tax Payer Shall Remain In Effect For A Period Of Three (3) Years, Or For A Lesser Time If The Person Earlier Receives Notice Of Revocation Of Exemption From Withholding From The S.C. Department Of Revenue.

THIS AFFIDAVIT APPLIES TO NONRESIDENTS ONLY

Nonresident Taxpayer Registration Affidavit, Income Tax Withholding

The Undersigned Nonresident Taxpayer On Oath, Being First Duly Sworn, Hereby Certifies As Follows:

1. Owner, Partner(s) Or Corporate Name Of Nonresident Taxpayer:

2. Trade Name (Doing Business as): _____

3. Mailing Address: _____

4. Federal Identification Number: _____

5. _____ Hiring Or Contracting With:

Name: _____

Address: _____

_____ Receiving Rentals Or Royalties From:

Name: _____

Address: _____

6. I Certify That The Above Named Nonresident Taxpayer Is Currently Registered With:

(Check Appropriate Box):

() The South Carolina Secretary Of State Or

() The South Carolina Department Of Revenue

Date Of Registration _____

7. I Understand That By This Registration, The Above Named Nonresident Taxpayer Has Agreed To Be Subject To The Jurisdiction Of The S.C. Department Of Revenue And The Courts Of South Carolina To Determine Its South Carolina Tax Liability, Including Estimated Taxes, Together With Any Related Interest And Penalties.

8. I Understand The South Carolina Department Of Revenue May Revoke The Withholding Exemption Granted Under Code Section 12-9-310 At Any Time It Determines That The Above Named Nonresident Taxpayer Is Not Cooperating With The Department In The Determination Of Its Correct South Carolina Tax Liability.

The Undersigned Understands That Any False Statement Contained Herein Could Be Punished By Fine, Imprisonment Or Both.

_____(Seal)
(Signature Of Owner, Partner Or Corporate Officer

Date

If Corporate Officer State Title: _____

(Name - Please Print)