



**MENDOCINO
COUNCIL OF GOVERNMENTS**

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**Special Meeting
AGENDA**

Monday, September 15, 2014 at 1:30 p.m.

Primary Location:

County Administration Center, Board of Supervisors Chambers
Room 1070, 501 Low Gap Road, Ukiah

Audioconference Location:

Caltrans District 1, 2430 6th St., Eureka

Additional Media for Later Viewing:

Public Access TV Channel 65 and <http://mendocinoaccess.org/>

**The Mendocino Council of Governments (MCOG) meets as the Board of Directors of:
Mendocino Regional Transportation Planning Agency (RTPA) and
Mendocino County Service Authority for Freeway Emergencies (SAFE)**

NOTE: All items are considered for action unless otherwise noted.

1. Call to Order / Roll Call
2. Convene as RTPA
3. Recess as RTPA - Reconvene as Policy Advisory Committee

PUBLIC EXPRESSION

Participation is welcome in Council meetings. Comments will be limited to three minutes per person and not more than ten minutes per subject, so that everyone can be heard. "Public Expression" time is limited to matters under the Council's jurisdiction that may not have been considered by the Council previously and are not on the agenda. No action will be taken. Members of the public may comment also during specific agenda items when recognized by the Chair.

CONSENT CALENDAR

The following items are considered for approval in accordance with Administrative Staff, Committee, and/or Directors' recommendations and will be enacted by a single motion. Items may be removed from the Consent Calendar for separate consideration, upon request by a Director or citizen.

4. Approval of September 4, 2014 Executive Committee Minutes
5. Amendment of Resolution #M2014-03 Approving Mendocino Transit Authority's Revised Grant Application for Federal Transit Administration (FTA) Section 5311(f) Intercity Bus Program Funds – "Expansion of Route 65 Service" – Increasing Grant from \$300,000 to \$330,000

REGULAR CALENDAR

6. CLOSED SESSION pursuant to Government Code § 54957 – PUBLIC EMPLOYEE APPOINTMENT: Administrative and Fiscal Services.

"For the purposes of this subdivision, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee . . ."

Cal Gov Code § 54957(b)(4)

7. **CLOSED SESSION** pursuant to Government Code § 54957 – **PUBLIC EMPLOYEE APPOINTMENT: Transportation Planning Services**

“For the purposes of this subdivision, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee . . .”

Cal Gov Code § 54957(b)(4)

8. Discussion and Possible Action to Adopt Professional Services Contract for Administrative and Fiscal Services
9. Discussion and Possible Action to Adopt Professional Services Contract for Transportation Planning Services

RATIFY ACTION

10. Recess as Policy Advisory Committee - Reconvene as RTPA - Ratify Action of Policy Advisory Committee

ADJOURNMENT

11. Adjourn

AMERICANS WITH DISABILITIES ACT (ADA) REQUESTS

To request disability-related modifications or accommodations for accessible locations or meeting materials in alternative formats (as allowed under Section 12132 of the ADA) please contact the MCOG office at (707) 463-1859, at least 72 hours before the meeting.

ADDITIONS TO AGENDA

The Brown Act, Section 54954.2, states that the Board may take action on off-agenda items when:

- a) a majority vote determines that an “emergency situation” exists as defined in Section 54956.5, **or**
- b) a two-thirds vote of the body, or a unanimous vote of those present, determines that there is a need to take immediate action and the need for action arose after the agenda was legally posted, **or**
- c) the item was continued from a prior, legally posted meeting not more than five calendar days before this meeting.

CLOSED SESSION

If agendaized, MCOG may adjourn to a closed session to consider litigation or personnel matters (i.e. contractor agreements). Discussion of litigation or pending litigation may be held in closed session by authority of Govt. Code Section 54956.9; discussion of personnel matters by authority of Govt. Code Section 54957.

POSTED 9/8/2014

MENDOCINO COUNCIL OF GOVERNMENTS

Agenda # 4
Consent
MCOG Meeting
9/15/2014

Executive Committee MINUTES

September 4, 2014
County Administration Center, Conference Room C
501 Low Gap Rd., Ukiah

Present: Committee Members: Chair Dan Gjerde, Director John Pinches
MCOG Staff: Janet Orth
County Staff: Douglas Losak, Janelle Rau, David Grim, Nicole French
Contractors: Phil Dow, Lisa Davey-Bates

Absent: Vice Chair Doug Hammerstrom

1. **Call to Order** at 1:00 p.m., Chair Gjerde presiding.
2. **Public Expression** - None.

3. Review of Request for Proposal (RFP) Process for Administrative/Fiscal Services and Transportation Planning Services by Mendocino County General Services Personnel. Phil Dow stated that from this point he would be speaking only as the consultant (not as Executive Director). David Grim of the Mendocino County Executive Office introduced the matter, noting that County staff is coordinating the RFP process. Janelle Rau of General Services Agency (GSA) reviewed County Counsel Douglas Losak's staff report of progress to date and invited questions. Discussion included the following. At several points County staff reminded the group it was not an open negotiation, only an informational session.

Caltrans requirements:

- Caltrans has requested a meeting with County staff next week about the contracting process. (Losak)
- What would happen if Caltrans did not approve of the process as conducted? (Pinches)
- The RFP was widely distributed. (Rau)
- A recent conversation with Garth Hopkins, Caltrans Planning Chief, was intended to confirm how the RFP process had been conducted, considering the conflict-of-interest finding of the MCOG pre-award audit. (Davey-Bates)
- Caltrans gave approval to proceed with these contracts. (Losak)

Lake Area Planning Council's RFP process:

- GSA contacted Lake APC about their process and found that Mendocino County had conducted a more extensive outreach effort. (Rau)
- Lake and Mendocino RFPs were more or less concurrent. (Rau, others)

Status of contractor selection:

- Based on results of the proposal evaluation panel, it was recommended to go forward with contract negotiation, currently in progress with Dow & Associates for Administrative/Fiscal Services and Davey-Bates Consulting (DBC) for Planning Services. (Grim)
- Some changes have been made to the draft contracts as requested. Some of the issues raised in negotiations were the length of contract; on Counsel's review of MCOG board minutes, it was confirmed that the Board had specified a five-year contract. Cost is now the main issue. (Losak)
- There was a brief discussion of five one-year extensions as offered in the RFP.
- What is the purpose of today's meeting? (Pinches) A general update and opportunity for questions. (Losak)

Cost issues:

- Both contractors have proposed a base year cost and annual increases, in addition to Cost of Living Adjustments (COLA). (Losak)

- On which index is the COLA based? (Pinches) It is the same index that MCOG has used to update its public transit cost standards for many years, the California Consumer Price Index (CPI), All Urban Consumers, issued by the State's Department of Industrial Relations. In the Administrative proposal, the actual statewide CPI rate would be applied annually, which is always calculated in arrears, after costs have been incurred. This method is fair and reasonable for all concerned. (Grim, Dow)
- County has proposed adding a capped COLA to a base amount and no other increases. (Losak)
- What are the reasons for consultants' proposed increases? (Gjerde) Several anticipated business cost concerns over the five-year period were cited, based on economic trends over many years. (Dow) The DBC proposal increase includes only the anticipated rise in healthcare costs. (Davey-Bates)
- County tries to keep all contracts consistent with employee agreements. (Pinches) The appropriate comparison is not to County employee compensation structure, but to similar regional transportation planning agencies (RTPAs) in rural areas of California, with which Dow & Associates compares favorably for cost. As a private company, the hourly rates include all costs of operating the agency. Dow's rates were scrutinized by Caltrans auditors within the past year and found to meet State standards. Dow has negotiated with his employees a significant decrease in benefits under the new contract. (Dow)
- Discussion of items included in proposed increases and COLA. (Pinches, Losak, Dow, Davey-Bates)
- The proposals call for a significant increase over last year's costs, even considering that the contract is being split into two contracts. (Losak) When staff was combined there was efficiency and economy of scale; costs are expected to increase when split into two operations. In fact there are not many applicants for this work. (Pinches)
- Dozens of hours were spent preparing the Administrative cost proposal. Several important factors considered include fair treatment of long-term key employees doing this specialized work. There has been little discussion in this negotiation of what the agency and its staff have been doing. Dow has not claimed reimbursement for tens of thousands of dollars of costs incurred and was entitled to claim over the years of his contract. Counsel's need to protect the public interest is respected; however there should be a basis for negotiation beyond stating the cost is too high. (Dow)
- County's cost analysis has basis, including what was paid in the past. Many say Dow & Associates has done a very good job, including Caltrans, but that is not enough reason to pay higher compensation than is prevalent Mendocino or Lake County. Every position in the county is underpaid. Most other COG agencies have employees, not contractors, so it is difficult to compare. The question is what would be fair and reasonable compensation for the services to be provided, based on Mendocino's economy rather than other counties. (Losak)
- DBC company must consider that transportation planning costs have varied widely over the years and now will be fixed under the contract. The proposal compares favorably to costs of five years ago. (Davey-Bates)
- Using just the past year as a comparison may not be valid, as much has changed. There will definitely be lost efficiencies under the split contracts. (Dow)

Next steps:

- Discussion of schedule, recognizing time is of the essence. The matter goes next to the full board. (Grim, Pinches, Losak)
- Some doubts remain that Dow can come to terms with the negotiating team. His proposal expires September 10, after 90 days. Another concern is status of his Lake County contract, as the company's overall staffing levels need to be determined in the short time remaining before the current contract expires September 30. (Dow)
- Concern for a gap in service. The matter must be concluded with MCOG's board on September 15, no later. (Pinches)
- The Brown Act calls for closed session, which would allow for negotiation during the meeting, by reporting between closed and open sessions that day. (Losak)

- Discussion of what would happen if no agreement is reached. Would the RFP be re-advertised? County has never had a vendor withdraw when a proposal expired; it is the proposer's option. (Dow, Rau, Losak)

Remaining agenda items were briefly noted. No action was taken.

4. Consideration of Draft Contracts for Professional Services and Direction to Staff.

- a. Administrative and Fiscal Services
- b. Transportation Planning Services

Recommendation:

There was no recommendation. This item will go to MCOG's Board of Directors on September 15, 2014.

5. Possible Recommendations to MCOG Board of Directors for Award of Contracts as Identified in Executive Committee Agenda No. 4 (above). No action was taken.

Recommendation:

No recommendation was made.

6. Miscellaneous / Members' Concerns. None.

7. Adjournment. The meeting was adjourned at 1:35 p.m.

Submitted by Janet Orth, Deputy Director for Administration



Mendocino Council of Governments

Agenda # 5
Consent
MCOG Meeting
9/15/2014

STAFF REPORT

TITLE: Amendment of Resolution Approving Mendocino Transit Authority's Grant Application for FTA Section 5311(f) Intercity Bus Program Funds – “Expansion of Route 65 Service”

SUBMITTED BY: Janet Orth, Deputy Director for Administration **DATE:** 9/8/2014

BACKGROUND:

At MCOG’s regular meeting of May 5, 2014, approval was made by resolution to program \$300,000 for MTA’s grant proposal. The grant has been awarded in the amount of \$330,000. We are requesting amendment of the resolution to program the increased amount.

Caltrans annually makes available the Federal Transit Administration (FTA) Section 5311(f) funds. According to the program guidelines, *"The... Intercity Bus Program in California is designed to address the 'intercity bus transportation needs of the entire state' by supporting projects that provide transportation between non-urbanized and urbanized areas that result in connections of greater regional, statewide, and national significance."*

The application requires certification, by resolution, that the Regional Transportation Planning Agency approves the programming of Section 5311(f) funds for the proposed project.

MTA applied for funds to expand its Route 65 service for an additional round trip between Ukiah and Santa Rosa at \$180,000 for Operating Assistance and \$120,000 for a Bus Purchase, for a total request of \$300,000. Caltrans awarded funds in the amount of \$180,000 for operating and \$150,000 for the bus purchase and related equipment. The additional funds include “toll credits” to cover MTA’s required local match. According to Dan Baxter, MTA General Manager, the entire budgeted cost of the expanded service with new bus is expected to be fully covered.

MCOG and the Transit Productivity Committee had encouraged MTA to pursue grant funding of this project as a high priority Unmet Transit Need on the FY 2014/15 list.

MCOG is responsible to ensure the project is consistent with the Regional Transportation Plan. Also MCOG staff will need to coordinate the process of including the projects in the Federal State Transportation Improvement Program (FSTIP); note that staff was so authorized at the May meeting.

ACTION REQUIRED:

Approve the increased programming of FTA Section 5311(f) funds for MTA’s project as proposed by Caltrans.

ALTERNATIVES:

- 1) Decline approval; without MCOG’s programming of these federal funds, MTA’s application cannot be approved. – *not recommended*
- 2) Postpone a decision; this action could be taken at the September 29 meeting and still be timely.

RECOMMENDATION:

Approve by amended resolution the increased programming of grant funds for the identified project and authorize the Executive Director to sign the required certifications and assurances.

MENDOCINO COUNCIL OF GOVERNMENTS

BOARD of DIRECTORS

RESOLUTION No. M2014-03R

APPROVING THE PROGRAMMING OF FTA SECTION 5311(f)
INTERCITY BUS PROGRAM FUNDS FOR
MENDOCINO TRANSIT AUTHORITY PROJECT:
“EXPANSION OF ROUTE 65 SERVICE”

WHEREAS,

- The Mendocino Council of Governments (MCOG) is the designated Regional Transportation Planning Agency for Mendocino County; and
- Mendocino Transit Authority (MTA) ~~will apply for~~ *has been awarded* funding from the Federal Transit Administration (FTA) Section 5311(f) Intercity Bus Program, Federal Fiscal Year 2014; and
- This funding ~~request~~ is for an operations and capital project to expand MTA’s Route 65 service for an additional round trip between Ukiah in Mendocino County and Santa Rosa in Sonoma County at \$180,000 for Operating Assistance and ~~\$120,000~~ *\$150,000* for Bus Purchase, for a total ~~request~~ *award* of ~~\$300,000~~ *\$330,000*; and
- MTA is an eligible applicant for these funds in the region and is able to meet the requirements of the Section 5311(f) program; and
- The program application requires certification that MCOG, as the transportation planning agency, has approved, by resolution, the programming of funds for this project;

NOW, THEREFORE, BE IT RESOLVED THAT:

MCOG approves the programming of FTA Section 5311(f) funds for this MTA service expansion project in Federal Fiscal Year 2014.

ADOPTION OF THIS AMENDED RESOLUTION was moved by Director _____, seconded by Director _____, and approved on this 15th day of September, 2014, by the following roll call vote:

AYES:

NOES:

ABSTAINING:

ABSENT:

WHEREUPON, the Chairman declared the resolution adopted, AND SO ORDERED.

ATTEST: Phillip J. Dow, Executive Director

Dan Gjerde, Vice Chair



MENDOCINO COUNCIL OF GOVERNMENTS

Agenda # 8-9
Regular Calendar
MCOG Meeting
9/15/2014

STAFF REPORT

TITLE: Professional Services Contracts for Administrative/Fiscal and Transportation Planning

SUBMITTED BY: Janet Orth, Deputy Director for Administration **DATE:** 9/8/2014

BACKGROUND:

Pursuant to MCOG's two Requests for Proposals (RFPs) issued March 14, 2014 by Mendocino County General Services Agency for 1) Administrative and Fiscal Services and 2) Planning Services, this agenda item is to allow "discussion and possible action to adopt" professional services contracts. County staff is currently in negotiations with the two successful vendors from the RFP process.

For your information, attached is the negotiating team's memorandum to MCOG's Executive Committee for the meeting of September 4, providing a progress update.

ACTION REQUIRED:

Refer to County Counsel as the lead in this process.

ALTERNATIVES:

Not applicable.

RECOMMENDATION:

None; County staff is coordinating the recruitment process.



MENDOCINO COUNTY *MEMORANDUM*

Date: September 2, 2014

To: Mendocino Council of Governments Executive Committee

From: Douglas L. Losak, Acting County Counsel/MCOG Counsel
David E. Grim, Deputy CEO
Janelle Rau, GSA Central Services Division Manager

Subject: Review of Request for Proposal Process and Discussion and Possible Direction Regarding Contracts for Professional Services Provided to Mendocino Council of Governments (MCOG)

The following report provides an update on the status of the Request for Proposals (RFP) process to obtain administrative and planning services for the Mendocino Council of Governments (MCOG), for discussion and possible direction at MCOG's September 4, 2014 Executive Committee meeting.

At its November 4, 2013 meeting, MCOG considered an agenda item regarding an RFP for comprehensive staffing services starting in 2014/15. MCOG Chair Gjerde and Vice Chair Pinches had previously discussed with the County Executive Office staff the County's potential role in helping to facilitate the process. Because Dow & Associates indicated their intention to submit a proposal to provide services, it was understood that there was a conflict of interest for them to be involved in administering the RFP process.

County Executive Office staff assisted Chair Gjerde in defining an updated draft scope of services and revised contract language in anticipation of an RFP issuance. MCOG Board members also discussed the composition of the RFP review panel and expressed reticence in appointing County administration staff as the ultimate decision maker(s) in who was awarded the contract.

On December 2, 2013, MCOG took action to split the procurement for professional services into two separate RFPs: one specific to administrative services and the other specific to planning services. It was also decided that no MCOG Board member would participate in the proposal review panel; however, the MCOG Board would retain its authority to make the final selection and contract award.

On February 3, 2014, MCOG approved both the preliminary scope of services to be used in the RFPs and the County General Services Agency's (GSA) role in administering the RFPs. On March 3, 2014, a timeline for the process was established, which anticipated that final Board approval of the recommendations would occur on July 21, 2014. It was also agreed that the length of the contract would be five (5) years.

On March 14, 2014, the GSA issued two RFPs relative to the provision of support services for MCOG: RFP No. 18-14 – Administrative and Fiscal Staffing Services, and RFP No. 19-14 – Planning Services for Fiscal Year 2014-15 through Fiscal Year 2018-19. The submission deadline for both RFPs was June 12, 2014. At its May 5, 2014 meeting, MCOG approved an extension of the current contract with Dow & Associates through September 30, 2014.

In coordination with the County Executive Office, GSA convened a meeting of the evaluation panel on August 8, 2014, which consisted of representatives from the City of Ukiah, City of Willits, City of Fort Bragg and County of Mendocino (Departments of Transportation and Planning and Building Services). Following the evaluation panel's discussion and review of their rankings of each proposal, the proposers were invited to conduct presentations and answer questions from the panelists. The evaluation panelists concluded their review and submitted their findings to the GSA which recommended proceeding with the contract negotiation process. The summary of those findings were transmitted to the County's Purchasing Agent and County Counsel (also serving as counsel to MCOG) for confirmation.

Based upon the recommendations of the panelists, on August 8, 2014, the firms Dow & Associates and Davey-Bates were informed that they were the successful vendors in the RFP process. It is understood, however, that the MCOG Board will make final selection and award of contract(s).

Staff is currently engaging in negotiations with the successful vendors; therefore, while it is not possible at this time to present draft contracts or to discuss in detail the particulars of the negotiations, a verbal update will be given regarding the status of the contracts. Additionally, any direction provided by the Executive Committee will be incorporated into the process in anticipation of final contracts being considered and potentially approved by the full MCOG Board at its special meeting on September 15, 2014.

Respectfully,

/DL/DG/JR