



*The COMET Meeting Minutes are prepared and presented in summary form, audio recordings of the meetings are on file at The COMET and are part of the approved minutes. If you would like to hear the recording from the meeting, please contact Paige Jernigan at [cometadmin@thecometsc.gov](mailto:cometadmin@thecometsc.gov).*

*Per SC Code of laws, Title 30, Chapter 4, Section 30-4-80 - - Per SC Code of Laws, Title 30, Chapter 4, Section 3D-4-BD All public bodies shall notify persons or organizations, local news media, or such other news media as may request notification of the times, dates, places, and agenda of all public meetings, whether scheduled, rescheduled, or called, and the efforts made to comply with this requirement must be noted in the minutes of the meetings, The COMET complied with the notification of this meeting on Wednesday, October 11, 2019 at 3:15 p.m.*

**Central Midlands Regional Transit Authority  
WORKING GROUP TRANSIT OPERATOR RFP SUBCOMMITTEE MEETING  
Wednesday, October 16, 2019 -11:30 A.M.  
3613 Lucius Road, Columbia, SC 29201 – Small Conference Room**

**Members Present:**

John V. Furgess, Sr.  
Lill Mood  
Dr. Robert Morris  
Andy Smith

**Guests Present:**

Leo Auger, Auger Consulting  
Pamela A. Baker, Burr, Foreman, McNair Law Firm  
Frannie Heizer, Burr, Foreman, McNair Law Firm  
Ron Scott, Haynsworth Sinkler Boyd

*\*Indicates participation by phone.*

**Absent:**

Derrick Huggins

**The COMET Staff Present**

John Andoh, Executive Director/CEO  
LeRoy Deschamps, Director of Administration & Operations/COO  
Paige Jernigan, Administrative & Customer Service Specialist  
Dr. Arlene Prince, Director of Regulatory Compliance & Civil Rights Officer

**1. CALL TO ORDER**

Mr. Furgess called the meeting to order at 11: 44 a.m. in Mr. Huggins absence.

**2. ADOPTION OF AGENDA**

**Motion:**



A motion was made Ms. Mood and seconded by Dr. Morris to adopt the agenda.

**Approved:** Furgess, Mood, Morris, Smith

**Absent:** Huggins

**Motion passed.**

**3. APPROVAL OF MINUTES FROM AUGUST 28, 2019**

**4. APPROVAL OF MINUTES FROM SEPTEMBER 16, 2019 MEETING**

**5. APPROVAL OF MINUTES FROM SEPTEMBER 30, 2019 WORKING GROUP MEETING**

**Motion:**

A motion was made by Mr. Smith and seconded by Ms. Mood to approve the minutes.

Discussion: On the minutes from September 16, 2019 meeting, Dr. Morris mentioned that on Page 16 the number should be corrected to \$42, 892.31 as the comma was in the wrong place. Mr. Smith added that his statement on Page 16 should read "Mr. Smith stated that we should establish a policy and stress that one goal of the Disadvantaged Business Enterprise program is for individual Disadvantaged Business Enterprise to grow, perhaps to the point where they could no longer be counted as Disadvantaged Business Enterprise because of revenue and net worth thresholds (which would require a reassessment of the COMET's overall DBE goal)."

Mr. Smith withdrew his motion. Mr. Andoh stated that we will revise the minutes, resend the revised packet to the Committee, and add to next month's packet for approval.

**6. DISCUSSION & ACTION ITEMS**

**A. Review of the Request for Information Meeting and Process.**

Mr. Auger stated that the day was successful and began a site visit of both the Lucius Road facility and The Comet Central facility. The meeting lasted about six (6) hours and we reviewed the previous Request For Proposal and contract seeking means of improvement to the benefit of The COMET and the future provider. All the attendees participated in one-on-one meetings with The Comet staff. Via Transportation was via conference call. Mr. Smith asked if Via Transportation were paratransit. Mr. Auger stated that Via is limited, not fully paratransit.

Mr. Auger stated that the providers of both fixed and paratransit were invited for input. He continued that four (4) of the national firms and two DBE providers attended: MV Transportation, RATP Dev, National Express Transit, Keolis Transit Services, Transport Care Service (TCS), and My City. Mr. Auger explained that items discussed included to but were not limited to: pricing based on fixed cost and variable cost, liquidated damages and incentives, staffing qualification, DBE levels, division of responsibilities between The COMET and the private operator, and innovations in transit services. Ms. Mood noted that Transdev did not participate in the one on one or the



Request for Information meeting.

Mr. Auger mentioned that the more we can put in fixed cost, the better off we are. He added this will limit disagreements. Fixed cost contracts are our best contracts due to the outcome.

The attendees were asked to review the pricing sheet and provide feedback by October 14, 2019. The sheet detailed fixed cost, variable cost and startup cost which is separated but not considered in evaluation. Mr. Auger added that a descriptive technology section needs to be added; what's on the bus and who owns and maintains the bus. Discussion continued regarding bus mechanics and the bidder's capability to use innovative ways to gain the contract. Mr. Andoh clarified that the minimum will be industry standards. If the plan presented is below industry standards, explanation is expected.

Mr. Furgess asked if all the participants in the Request For Proposal were familiar with industry standards if the Board could set the minimum. Mr. Auger agreed and Attorney Baker stated that the minimum will be industry standards. Mr. Andoh mentioned that we want to make sure we are not too rigorous with specificity of the standards as this could affect cost.

Mr. Auger reviewed the assets provided by The COMET.

- 81 Buses, Fareboxes, Technology Equipment
- 5 Support vehicles
- Telephone equipment
- The facility
- Shop equipment
- COMET Central, Bus stops, amenities for passengers
- Equipment until retired – printers, fax machines, copiers, radios, etc.

Mr. Auger added that the following assets could be provided by The COMET: more support vehicles, computers, office equipment, paratransit software. Ms. Mood mentioned the difficulty in getting information from the contractor regarding software. Mr. Auger mentioned that this data will be ours.

Mr. Auger added that the bidders were not impressed with our current contractor's overall time performance and felt that 92% goal is too high. Dr. Morris asked Mr. Auger what the national average is of on time performance. Mr. Auger stated that its usually between 80% – 90%. Mr. Andoh stated that he feels that the lack of technology staff for Transdev, the reporting that we have been receiving is inaccurate due to Clever not being set up correctly.

Mr. Andoh referenced Capital Metro and the incentives and penalties for their contracts. Dr.



Morris asked about the penalties for coming in under 78.49%. Mr. Andoh explained that the penalty would be .5% of total monthly income. Mr. Smith asked what if it was significantly lower (example 50%). Ms. Baker mentioned a possible multiplier when dips below for a motivational tool. Mr. Andoh stated that the focus must be obtainable and achievable.

Mr. Andoh referenced a chargeable complaint, for example, a passenger being passed up. He added

that action should be taken and tracked by employee and they should be retrained if offense is continuous. Mr. Furgess asked if it would be advantageous for us to hire our own customer service representatives during the hours of 6:00 am to 6:00 pm. Mr. Andoh agreed that it would as the contractor would be responsible for the correction and we would be the oversight. Mr. Auger added that this could be contracted out.

Mr. Auger discussed staffing qualifications and the focus needs to be on leadership skills. He added that we should not be too rigid or set on years of experience. Dr. Morris commented that we need to be mindful of being too vague on years of experience. Mr. Furgess requested clarification on the termination clause in the new contract. He added that currently we are using liquidated damages and not exercising the option of termination. Attorney Baker stated that the termination clause is not an issue to the contractor as they know the difficulty to hire a new contractor quickly once terminated.

The Committee reviewed the Request For Proposal schedule. Mr. Auger mentioned the time in the schedule for the transition period. Attorney Baker suggested a date for the draft Request For Proposal be added. She stated that ideally a week and a half or two weeks would be needed to provide a legally sound Request For Proposal. She added that she is in a three-week trial ending on November 22, 2019 and would need that amount of time for completion. Ms. Mood stated that this would need to occur in between October 23, 2019– December 4, 2019.

Mr. Furgess mentioned it should be presented to the Board and then to the legal team. Mr. Smith reminded that at the upcoming Board meeting would be the basic talking points on October 23, 2019. It was agreed by the Committee to develop the RFP in cooperation with legal. The Committee will meet two times in November (before legal and after legal) and be prepared at the December 4, 2019 Board meeting for presentation for release. Mr. Furgess asked when will Staff give the first draft? It was decided that November 13<sup>th</sup> or 14<sup>th</sup> 2019 draft to the Committee for review then to legal staff by November 25, 2019.

#### B. Disadvantaged Business Enterprise/Minority Women Business Enterprise Program Proposal

Mr. Auger affirmed that some of the attendees stated that 25% is not too high while others suggested that 25% it was. All attendees agreed that if the Disadvantaged Business Enterprise



levels remain at 25% and it is being accomplished now, they felt it could be done in the new contract. All were asked to review the Disadvantaged Business Enterprise item list, both by The COMET and the Prime and provide feedback by October 14, 2019. Mr. Furgess asked why we would lower to the 25% Disadvantaged Business Enterprise goal when the attendees didn't think the goal was unattainable. Mr. Auger stated that we will be taking on the Disadvantaged Business Enterprise functions under The COMET Disadvantaged Business Enterprise.

Mr. Furgess asked about putting in the preference for local Disadvantaged Business Enterprise firms. Attorney Baker stated that preference for local Disadvantaged Business Enterprise could not be funded by the federal funds. So, we can't state a local preference unless it is The COMET's Disadvantaged Business Enterprise.

Mr. Smith reminded the Committee of the goal to help the Disadvantaged Business Enterprise grow out of the threshold and specifically link it to a policy. He continued that the policy should have three (3) goals: federal, contractor and agency (umbrella) to ensure The COMET Authority commitment to the Disadvantaged Business Enterprise. Mr. Auger added that there are some benefits of leaving some of the Disadvantaged Business Enterprise with the Prime, for example, uniform, IT management, etc. Mr. Andoh stated items that are directly beneficial to the contractor.

Dr. Morris asked if we are bringing over these duties to The COMET and we aren't hiring additional staff, then someone must not be working to full capacity. Mr. Andoh mentioned the letter pertaining to the Disadvantaged Business Enterprise part time compliance officer that The COMET is paying \$3,000 dollars per year and they have not had this employee since 2015. The Human Resource Analyst has been completing this task.

Mr. Furgess expressed concern regarding public perception and the Penny if we reduce our Disadvantage Business Enterprise requirement. Mr. Andoh stressed the percentage is cumulative number. Mr. Smith reiterated his earlier suggested policy with the three (3) goals. He added that security, facility and bus stop shelter maintenance have been the main cause of concern in the past and in house, we could have more control. Mr. Andoh added the Disadvantaged Business Enterprise given to the contractor are direct correlation to service.

Mr. Andoh explained that we are proposing a special separate COMET Disadvantaged Business Enterprise. He added that there is a ceiling for Disadvantaged Business Enterprise but not for the local. The Disadvantaged Business Enterprise goal must be tied to the use of Federal Funds allocated to the service being provided. The Minority Women Owned Business Enterprise goal does not.

Dr. Morris asked if the federal Disadvantaged Business Enterprise is 5.7% does this not impact the



25.9%. Mr. Andoh stated that what we will have for the Prime and The COMET is going to equal 25.9% and added it should be more. We will be awarding new work as opposed to continuing. Dr. Prince added that any new contracts in the next three years, will only be counted one time. Mr. Smith added that the federal dollars cumulative should be 5.7% each year.

Mr. Smith mentioned that the Federal Transit Authority thinks we are engaging in constant change. Dr. Prince and Mr. Andoh agreed. Mr. Andoh added that Disadvantaged Business Enterprise is only

used when using federal dollars. He added that Dr. Prince is recommended calling the local an Local

Business Enterprise. Dr. Morris asked why we want to change the 25.9%. Mr. Auger reminded that we have been paying overhead and margin twice. By removing some of the percentage towards The COMET Disadvantaged Business Enterprise goal in the prime contract, we avoid paying that profit and overhead to the contractor. However, cumulatively the number will be 25% or higher. As result, the contract DBE rate would be brought down to a reasonable goal.

Ms. Mood asked Attorney Heizer what has gotten Richland County in trouble in terms of the Penny.

The Penny is used to pay for all these services but Department Of Revenue guidelines is a competitive process. If there was a bid for local landscaping services, and the lower price is the choice, that is ok. Attorney Baker added it must be a competitive process.

Mr. Furgess urged that we need to be ready for presentation at the next Board meeting. Mr. Andoh asked Dr. Prince to present her proposal.

Dr. Prince stated that The COMET utilizes the Disadvantaged Business Enterprise Program for the utilization of minority and women-owned businesses. The Disadvantaged Business Enterprise program is implemented in accordance with the United States Department of Transportation's (USDOT) regulations. It provides a vehicle for increasing the participation by minority and women in state and local procurement opportunities. United States Department Of Transportation regulations require state and local transportation agencies that receive United States Department Of Transportation financial assistance, to establish goals for the participation of DBEs.

The creation of an Local Business Enterprise program for minority and women owned businesses would allow The COMET to apply other procedures that do not involve federal funding in the award and tracking of local dollars made available for contracting opportunities to Minority and Women-Owned businesses.



The Transit Operations Request For Proposals Ad-Hoc Committee discussed this at the October 16, 2019 meeting and recommended that staff develop a program, policy and Local Business Enterprise goal that would take into consideration all contracted opportunities divided against the overall operations budget, plus eligible capital projects that can be contracted to a Local Business Enterprise. A contracted opportunity could be counted by the Local Business Enterprise Program and if Federal funds are used to the Disadvantaged Business Enterprises program for Federal Transportation Administration purposes. The Ad-Hoc Committee will vote on a recommendation on October 23, 2019.

She explained the certification criteria for Local Business Enterprise.

- Located in The COMET service areas (Richland and Lexington counties) at least one year prior to application submission
- Independently owned and operated for-profit
- Not a subsidiary of another business
- Not a broker
- Must be certified PRIOR to bid openings
- Be in good standing with State of South Carolina
- Have a business license
- Certification valid for 5 years from issue date
- At least 51% percent owned by one or more citizens of United States who are determined to be economically disadvantaged.
- 51% of all classes of voting stock of corporation and/or partnership interest must be owned by individual(s) determined to be socially and economically disadvantaged
- Involved in daily management and operations of the business
- Be certified through the South Carolina Unified Certification Program and meet the requirements above

She described the Small, Local and Minority Business Enterprise Programs.

#### Richland County Certification Criteria

(Small Local Business Enterprise -SLBE):

- Located in Richland County at least one year prior to application submission
- Independently owned and operated for profit
- Not a subsidiary of another business
- Not a broker



- Not dominant in its field of operation
- Maximum employees permitted (50 full time)

#### Emerging Small Local Business Enterprise (ESLBE)

- Less than 5 years old
- Maximum employees permitted (5 full time)
- Other requirements as SLBE

#### City of Columbia

##### Local Business Enterprise (LBE)

“Local is based on Columbia-Newberry Combined Statistical Area:”

- Calhoun, Fairfield, Kershaw, Lexington, Newberry, Orangeburg, Richland, Saluda
- Any procurement valued between \$5 thousand and between \$25 thousand
- Must be certified prior to bid openings
- Be independently owned and operated
- Be in good standing with State of South Carolina
- Have a business license
- Have operated for at least one year within the seven local counties
- Have 50% of employees residing in one of the seven local counties
- Certification valid for four years from issue date

#### Subcontractor Outreach Program (SOP)

- Subcontractors over \$200 thousand

#### Columbia DBE Program

- Certified business
- Active office in the Columbia – Orangeburg Newberry combined
- Socially and economically disadvantaged business

#### SCDOT (Unified Certification Program – UCP

##### Disadvantaged Business Enterprise (DBE)

- Firms must be independent
- Be an existing for-profit business
- Be at least 51% owned by a minority or woman
- Be both socially and economically disadvantaged as defined by the U.S. DOT
- Be managed and have daily business operations controlled by one or more of the socially and economically disadvantaged individuals who own the business.





#### State DBE Program

- Minority Women-Owned Business
- Must be pre-qualified as prime contractor
- Other requirement of DBE program

#### SC Division of Small and Minority Business Contracting and Certification

##### Minority Business Enterprise

- Must be in business for a year
- At least 51% owned by one or more citizens of US who are determined to be economically disadvantaged.
- If corporation, 51% of all classes of voting stock of corporation must be owned by individuals determined to be socially and economically disadvantaged
- If partnership, 51% of partnership interest must be owned and management of daily business operations controlled by individuals determined to be socially and economically disadvantaged.
- Involved in daily management and operations of the business

##### Local Business Enterprise (LBE), The Proposal for The COMET

- Located in The COMET service areas (Richland and Lexington counties) at least one year prior to application submission
- Independently owned and operated for profit
- Not a subsidiary of another business
- Not a broker
- Must be certified prior to bid openings
- Be in good standing with State of South Carolina
- Have a business license
- Certification valid for five years from issue date
- At least 51% percent owned by one or more citizens of United States who are determined to be economically disadvantaged
- Involved in daily management of operations of the business
- Be certified through South Carolina Unified Certification Program (used to be called the Governor's Office) and meet the requirements above

After traveling around the state, Dr. Prince stated that the complaint was too many certification processes. To streamline the process, the South Carolina Department Of Transportation entered a Memorandum of Understanding (MOU) with the Governor's Office so they would automatically be added to the SCDOT list.



Dr. Prince added that there would be one staff to oversee the Local Business Enterprise. Mr. Andoh stated that the staff would help in contracts as well. Attorney Heizer suggested that the Local Business Enterprise certify through either Department Of Transportation or the Governor's Office be added to the certification criteria section. Attorney Heizer continued, that The Governor's office will accept South Carolina Department Of Transportation but the South Carolina Department Of Transportation will not accept the Governor's office. Dr. Morris asked if the Disadvantaged Business Enterprise acronym is fading out? Dr. Prince replied no. Mr. Andoh reminded Disadvantaged Business Enterprise is only for federal.

Mr. Smith asked if the Disadvantaged Business Enterprise language in our current contract should no longer be in our new Prime contract. Mr. Andoh stated we will have to put both, Disadvantaged Business Enterprise and Local Business Enterprise in the new contract. Dr. Prince agreed and stated that we will have to track both if included in the contract. Dr. Prince stated that the contract

goal is calculated differently from the overall goal. Mr. Smith stated that it will be The COMET's responsibility as the contractor will not know the federal dollar amount.

Mr. Furgess stated that we need to have our policy goal percentage ready for the October 23, 2019 Board meeting for The COMET. He added that we know it will not be less than 25%. Mr. Smith stated 25% of what? He added The COMET's Disadvantaged Business Enterprise baseline goal should be close to what Transdev has now. He added 25.9% over all contractual services, not over the total budget so we must be careful in crafting the overall policy. Mr. Andoh added that it needs to be a doable goal.

Mr. Smith stated that during the procurement process we need to have a rubric where there is a percentage of the point structure stated in the contract. So essentially, there will be a bonus for being socially and economically disadvantaged. Mr. Andoh stated that at the next Board meeting we could draft a policy with the framework for presentation. Mr. Furgess urged that the Prime needs to have a good percentage goal.

Mr. Andoh asked if we want to start at 25% that is what we started at in 2014? Or do we want to do the current 25.9%. Ms. Mood stated the concern is to not do less than what we are doing overall. She added that we are looking at the 25.9% with the Prime and The COMET. Attorney Baker stated we know that the 25.9% will be met.

Dr. Prince stated that Transdev did not follow through with things on Disadvantaged Business Enterprise. Mr. Furgess asked about 30% - 35% as a baseline. He suggested to look at the Disadvantaged Business Enterprise components that we currently must determine a number. Attorney Baker said we need to be careful on our percentage as we want it to be attainable. She added we want to see that number grow. Mr. Andoh summarized that the Committee will develop



a Local Business Enterprise Policy, program framework, then determine appropriate goal with benchmarks on how we are going to measure success.

C. Request for Proposals Process and Timeline

November 13, 2019 – Draft Request For Proposal sent to the Request For Information Committee and Legal counsel for review

November 25, 2019 – Review complete (Request For Information Committee meeting)

D. Next Meeting Date

Ad-Hoc Committee meeting before the October 23, 2019 Board Meeting.

**7. ADJOURN**

A motion was my Mr. Furgess and seconded by Dr. Morris to adjourn.  
The meeting ended at 3:43 p.m.

**CENTRAL MIDLANDS REGIONAL TRANSIT AUTHORITY**

Adopted this \_\_\_\_\_, 2019, Agenda Item \_\_\_\_\_

Prepared by:

\_\_\_\_\_  
Paige Jernigan, Administrative & Customer Service Specialist

Approved by:

  
\_\_\_\_\_  
Andy Smith, Secretary

