

# **Southeast Crescent Regional Commission: Bylaws**

Building sustainable communities and strengthening economic growth across the Southeast Crescent Region.

AUGUST 2022



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## **1. Authority (40 U.S.C. §15301)**

The Southeast Crescent Regional Commission (the “Commission”) was created by Public Law 110-246, the Food, Conservation, and Energy Act of 2008 (as amended, the “Act”). Pursuant to 40 U.S.C. §15304(a)(4), the Commission hereby establishes these Bylaws to govern certain policies and procedures of the Commission.

The Commission’s authority rests with eight representatives of governments (the “Members”): a Federal Cochairperson and the Governors of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Virginia.

## **2. A Federal-State Partnership**

In creating the Commission, Congress developed roles for both the Federal government and the State governments in the formulation of programs and policies. It is recognized that the combined talents, resources, and insights of the Federal and State governments are required to make maximum use of the programs and funds authorized under the Act.

In the interest of public integrity and transparency in operations, the Commission will adhere to Federal Agency standards where practicable and as deemed necessary by legal counsel.

## **3. The Federal Member (40 U.S.C. §15301)**

The Federal Government is represented on the Commission by a Federal Cochairperson who is appointed by the President, by and with the advice and consent of the United States Senate.

## **4. The State Members (40 U.S.C. §15301)**

The States of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Virginia shall be represented on the Commission by their respective Governors (the “State Members”).

### **4.1 Duties. Each State Member shall:**

- 4.1.1 Submit to the Commission a current Statewide or regional economic and infrastructure development plan for the area of the Commission footprint represented by such State Member.

Each plan shall maximize, to the extent practicable, public participation, and as such, shall be made in consultation with local development districts, local units of government, and local colleges and universities and take into consideration the goals, objectives, priorities and recommendations of those entities.

- 4.1.2 In connection with an application to the Commission for a grant or other assistance to a project within such State, ensure that the following conditions are met by each applicant:
  - 4.1.2.1 that the applicant describes with specificity the ways in which its project complies with the applicable State economic and infrastructure development plan;
  - 4.1.2.2 that the applicant provides adequate assurances that its project will be properly administered, operated and maintained;
  - 4.1.2.3 that there are reasonable assurances that the project will not be used to assist a person or entity to relocate from one area to another; and
  - 4.1.2.4 that the applicant provides reasonable assurance that the project makes maximum use of all available federal and non-federal funds.
- 4.1.3 In the process of developing recommendations for assistance, consider, to the extent practicable, the following criteria:
  - 4.1.3.1 that the projects have a positive and enduring role in a region's overall development;
  - 4.1.3.2 that the projects help raise the per capita income and lower poverty in a region;
  - 4.1.3.3 that the projects help lower regional unemployment; that the projects help lower regional outmigration rates;
  - 4.1.3.4 that the applicant has sufficient financial resources available to carry out the project;
  - 4.1.3.5 that the projects are adequately financed to maximize the probability of successful economic development;
  - 4.1.3.6 the importance of a project in relation to the other projects that may be in competition for the same funds;
  - 4.1.3.7 that the projects improve, on a continuing rather than a temporary basis, the opportunities for employment, the average level of income or the economic development of a region; and

4.1.3.8 that the applicant provides detailed outcome measurements by which its grant expenditures and the results of the expenditures may be evaluated.

4.1.4 Adhere to the conflicts of interest provisions within 40 U.S.C. §15306.

#### 4.2 Alternate State Members

Each State Member may appoint an alternate (the “Alternate State Member”) from among the members of the Governor’s cabinet or personal staff. An Alternate State Member shall vote in the case of the absence, death, disability, removal or resignation of the State Member. Each State Member desiring to designate an Alternate State Member shall notify in writing the Executive Director of the name of the person appointed by him/her as his/her Alternate State Member and shall certify that the Alternate State Member is a member of the Governor’s cabinet or personal staff.

In the event of any change in an Alternate State Member, the State Member shall notify in writing the Executive Director of the name of the person appointed by him/her as his/her new Alternate State Member and shall certify that such Alternate State Member is a member of the Governor’s cabinet or personal staff.

### **5. The Federal Cochairperson (40 U.S.C. §15301)**

The Commission will be led by the Federal Cochairperson, along with the State Cochairperson.

#### 5.1 The Federal Cochairperson shall:

5.1.1 Preside over Commission meetings, alternately with the State Cochairperson.

5.1.2 Ensure that Commission acts, policies, procedures, conduct, financial affairs, agreements, and funding programs are reflective of and in compliance with applicable Federal laws, regulations and policies, including without limitation, these Bylaws.

5.1.3 Develop legislative and budgetary proposals for the Executive branch, and for presenting the legislative programs and budgetary proposals of the Executive branch to Congress.

5.1.4 Review and approve, in coordination with the State Cochairperson and the Executive Director, the formulation of Commission meeting agendas.

5.1.5 Coordinate with the Office of Inspector General to the extent required by the Act

5.1.6 To the extent practicable, consult with Federal departments and agencies having an interest in matters before the Commission.

5.2 Alternate Federal Cochairperson

If appointed by the President, an Alternate Federal Cochairperson (together with the Alternate State Members, each an “Alternate”), when not actively serving as an Alternate for the Federal Cochairperson, shall perform such functions and duties as are delegated by the Federal Cochairperson.

5.3 Designation of Alternate

To the extent permitted by applicable law, the Federal Cochairperson may designate a Federal employee of the Commission to perform the functions and duties of the office of the Federal Cochairperson temporarily in an acting capacity if both the Federal Cochairperson and the Alternate Federal Cochairperson die, resign, or otherwise are unable to perform the functions and duties of their offices.

**6. The State Cochairperson (40 U.S.C. §15301)**

Along with the Federal Cochairperson, the Commission will be led by a State Cochairperson. The State Cochairperson shall be a State Member.

6.1 The State Cochairperson shall:

6.1.1 Preside over Commission meetings, alternately with the Federal Cochairperson.

6.1.2 Review and approve, in coordination with the Federal Cochairperson and the Executive Director, the formulation of Commission meeting agendas.

6.1.3 Preside over meetings of the State Members.

6.2 Election

Prior to December 31 of each year, the State Members shall elect a State Cochairperson from among the State Members to serve for the next fiscal year starting January 1. To be elected, a State Member must receive the votes of a majority of the State Members.

6.3 Term

The State Cochairperson shall be elected for a term of not less than one year and for no more than two consecutive terms.

6.4 Delegation of Duties

A State Member elected as State Cochairperson may delegate his/her duties as State Cochairperson to his/her Alternate State Member.

**7. Commission Decisions (40 U.S.C. §15302)**

7.1 Voting

All decisions of the Commission shall require the affirmative vote of the Federal Cochairperson and of a majority of State Members from states that are not delinquent as described in 40 U.S.C. Section 15304(c)(3)(C) (“Delinquent States”). The Alternate Federal Cochairperson may vote in the event of the absence, death, disability, removal or resignation of the Federal Cochairperson, and an Alternate State Member may vote in the event of the absence, death, disability, removal or resignation of the State Member for whom he or she is the Alternate.

7.2 Quorum

The presence of the Federal Cochairperson or the Alternate Federal Cochairperson and a majority of the State Members from states that are not Delinquent States must be present, in person, by telephone or by other electronic means (in accordance with Section 11.3 hereof), to constitute a quorum of the Commission.

**8. Committees**

The Commission may, from time to time, establish permanent committees, ad hoc committees or task forces as it deems advisable in order to assist it in carrying out its functions. The Commission shall make available appropriate professional and supporting personnel as required to assist such committees or task forces in performing their functions. Committees and task forces shall report to the Commission regarding their activities and actions in accordance with the direction of the Commission.

8.1 Cochairperson’s Committee

The Commission hereby establishes a Cochairperson’s Committee composed of the Federal Cochairperson, the State Cochairperson, and the immediate past State Cochairperson, if any, each of whom shall have one vote in the

Cochairperson's Committee. In the event of a deadlock on any policy issue, the issue shall be brought before the Commission for a vote.

8.1.1 The Commission hereby delegates to the Cochairperson's Committee the following:

8.1.1.1 Provide a continuing overview of program implementation and administration to ensure conformance with Commission policies;

8.1.1.2 Provide general program and policy advice for the Executive Director;

8.1.1.3 Interpret Commission policy with the advice of counsel;

8.1.1.4 Take such other actions and perform other functions as the Commission may delegate.

## 8.2 States' Committee

State Members shall convene themselves from time to time to discuss and approve Commission issues relevant and exclusive to the States. Unless otherwise specifically required by these Bylaws, the States' Committee may establish and adopt such rules for the functioning of the States' Committee as the State Members shall determine. Their activities may, but not exclusively, include:

8.2.1 To annually choose from among the State Members a State Cochairperson who, in addition to his/her other Commission duties, will convene, create agendas for, and preside over States' Committee meetings.

8.2.2 To develop a consensus among the States on budgets, policies, agreements, and other matters requiring the approval of the State Members.

## 8.3 Nominating Committee

The Commission hereby establishes a Nominating Committee composed of the Federal Cochairperson, the State Cochairperson and two (2) other State Members selected by the States' Committee. The Alternate Federal Cochairperson may represent the Federal Cochairperson on the Nominating Committee and the Alternate State Members may represent their respective State Members on the Nominating Committee. Upon the declaration of a vacancy in the position of Executive Director pursuant to Section 9.1, the Nominating Committee, using procedures it determines to be appropriate,

shall administer the process of seeking applicants for the position of Executive Director and submitting such applicants as it deems appropriate to the Commission for consideration, and may incur, on behalf of the Commission, any costs and expenses it deems appropriate in connection therewith.

## **9. Executive Director (40 U.S.C. §15301(d))**

The Commission shall appoint an Executive Director who shall be responsible for carrying out the administrative functions of the Commission, for the direction of Commission staff and for such other duties as the Commission may assign to the Executive Director from time to time.

### **9.1 Appointment**

Upon the occurrence of a vacancy in the position of Executive Director, the Commission shall, by formal notice, declare the vacancy and establish a deadline for submission of applications for the position.

The Commission shall appoint and employ an Executive Director from among the nominees submitted to the Commission by the Nominating Committee.

Nothing herein shall preclude the Commission from appointing an Executive Director in an acting or temporary capacity.

### **9.2 Compensation**

The Executive Director's compensation shall be set by the Commission based upon the recommendation of the Cochairperson's Committee and may not exceed the maximum rate of basic pay established for the Senior Executive Service under 5 U.S.C. §5382, including any applicable locality-based comparability payment that may be authorized under 5 U.S.C. §5304(h)(2)(C).

The Cochairperson's Committee shall design and implement a performance review process for the Executive Director, to be undertaken at an interval of its choosing, and to recommend compensation adjustments to the Commission as appropriate. Any change in compensation of the Executive Director must be approved by the Commission.

### **9.3 General Duties**

The Executive Director, under the general direction of, and subject to policies and procedures prescribed by the Commission, is responsible for the

administrative, programmatic and fiscal operations of the Commission. The Executive Director shall, in accordance with the Commission's direction:

- 9.3.1 Establish rules and procedures, take action and delegate powers, duties, and responsibilities as he/she deems necessary for efficient administration;
- 9.3.2 In collaboration with legal counsel, and within the boundaries established by 40 U.S.C. Subtitle V, determine where and how the Commission shall adhere to Federal Agency guidelines and/or U.S. Government Agency guidelines.
- 9.3.3 Effectuate and enforce all policies and resolutions adopted by the Commission, including without limitation, the policies referenced in Section 9.4.4 hereof;
- 9.3.4 Perform other such other functions vested in the Commission by 40 U.S.C. Subtitle V as may be delegated or assigned to him/her by the Commission or the Cochairperson's Committee.

#### 9.4 Personnel Management Duties

- 9.4.1 Within the authority granted to him/her by the Commission, assign functions and duties to the Commission staff and modify such functions and duties;
- 9.4.2 Administer and supervise the administration of the Commission staff and prescribe and enforce rules and procedures for efficient management;
- 9.4.3 Establish position qualifications and appoint, employ, remove, and provide for the compensation of the Commission staff;
- 9.4.4 Establish and maintain a system of personnel management in accordance with the principles and requirements set forth in this section and in accordance with the provisions of 40 U.S.C. Subtitle V and other applicable federal and local laws. The Executive Director shall consolidate all personnel policies and procedures into an Employee Handbook, which shall be maintained and kept current and made readily available to Commission staff.

#### 9.5 Ethics Duties

- 9.5.1 Take actions to require that all staff responsible for making decisions or taking actions that have economic impact disclose

financial interests, outside employment, or other potential conflicts of interest affecting such decisions or actions.

9.5.2 File with the Federal Cochairperson a statement of financial interest and other employment, using the confidential financial disclosure form prescribed by the U.S. Office of Government Ethics.

9.5.3 Ensure that Commission staff is fully informed about their ethical duties, including without limitation, the prohibitions and requirements of the Hatch Act found in 5 U.S.C. Chapter 15, "Political Activity of Certain State and Local Employees."

## 9.6 Contracting Duties

9.6.1 Appoint, or otherwise obtain the services of, experts, consultants or other necessary personnel, whether individuals or organizations, for the purpose of providing expert advice, technical or research assistance, or other necessary assistance for the Commission or the State Members;

9.6.2 Negotiate, execute, and administer contracts, leases, and interagency and intergovernmental arrangements.

## 9.7 Reporting and Clerical Duties

9.7.1 Report to the Commission at each meeting on activities of the Commission, including the performance of funding recipients and other communications as directed by the Commission;

9.7.2 Serve as the sole conduit for the submission of staff papers, materials, and reports to the Members; provided that he/she will provide equal access to information to all Members;

9.7.3 Submit, not later than 90 days after the close of each fiscal year, a report of Commission activities during the preceding fiscal year for Commission approval prior to transmission to the President, Congress, and the State Members;

9.7.4 Serve as Secretary to the Commission, ensure the recording and maintaining of minutes of its proceedings, maintain an official list of Members and Alternates, and serve as the official repository of Commission documents;

9.7.5 Upon the request of any Member, make available to the greatest extent practicable, technical assistance and information that will further the purposes of the Commission.

## 9.8 Fiscal Duties

- 9.8.1 Be responsible for proper management of Commission funds;
- 9.8.2 Maintain, in writing, financial management policies and procedures, including, at a minimum, policies and procedures relating to the following: administrative expenses, programmatic expenses, travel costs, capitalization policy, purchasing and procurement, and facility costs;
- 9.8.3 Annually create and submit an operating budget containing administrative and programmatic expenses for consideration and approval by the Commission. The operating budget shall demarcate 50/50 administrative expenses from federal administrative expenses and programmatic expenses;
- 9.8.4 Maintain complete and appropriate records and documentation of all obligations, expenditures, administrative expenses, and other transactions in accordance with current federal standards and requirements;
- 9.8.5 When and as required by General Accounting Office procedures, contract with qualified certified public accountants to make an audit of the financial accounts of the Commission as directed by the Commission.

## 10. Commission Staff

The Commission staff is responsible for day-to-day execution of the activities of the Commission, including the following:

### 10.1 Program Functions

Under the direction of, and as assigned by, the Executive Director, Commission staff functions may include activities such as development and administration of the Commission's programs; policy review and analysis; technical assistance to the States in the development of State plans and the preparation or refinement of program, project and grant proposals; technical assistance to local development districts; and training of personnel engaged in Commission development programs.

## 10.2 Project Oversight and Technical Assistance

Under the direction of, and as assigned by, the Executive Director, members of the staff, working closely with the State Members, shall analyze program, project and grant proposals for conformity to Commission criteria, and ascertain from appropriate sources that such proposals are not incompatible with the applicable requirements of Federal grant programs or the Commission's own rules and policies.

Where appropriate, Commission staff shall provide technical assistance for projects in need of support in connection with reporting requirements, Federal and Commission grant rules and policies and project best practices.

## 10.3 Performance Monitoring and Reports

Under the direction of, and as assigned by, the Executive Director, members of the staff will regularly monitor grant-funded projects for conformity to recipient agreements and requirements, and review unexpended recipient fund balances to identify excess or unneeded funds for de-obligation.

# 11. Meetings, Conduct of Meetings

## 11.1 Public Notice and Access

Commission meetings will be open to the public and all Commission votes will be on the open record. The Executive Director shall ensure that adequate notice is given to the public of all meetings and that public attendance is not unreasonably restricted, all as directed by the Commission from time to time. The Commission may, however, hold closed sessions to consider privileged and confidential matters.

## 11.2 Meetings

The Commission will hold at least one meeting each year with the presence of the Federal Cochairperson (or the Alternate Federal Cochairperson) and at least a majority of the State Members present in person. The Commission may hold as many meetings as necessary to conduct its business. The Executive Director shall, with the concurrence of the Federal Cochairperson and the State Cochairperson, arrange specific times and places for each meeting.

The Federal Cochairperson may authorize any person to attend any meeting of the Commission, and any State Member may authorize any representative of the State represented by such State Member to attend any meeting of the Commission.

Commission action may be taken at such a meeting only if a quorum is participating.

### 11.3 Teleconferencing

Except as set forth in Section 11.2 hereof, upon the agreement of the Federal Cochairperson and the State Cochairperson, meetings of the Commission may be conducted by conference call, teleconferencing, or similar means by which all attendees can speak and hear each other.

### 11.4 Presiding Officer

The Federal Cochairperson and State Cochairperson shall rotate the duties of the presiding officer by turns at Commission meetings.

### 11.5 Agenda

The Executive Director shall prepare a proposed agenda for each meeting after consultation with the Federal Cochairperson and the State Cochairperson. The agenda shall include items deemed appropriate by the Federal Cochairperson and the State Cochairperson and any item requested by a Member or Alternate.

The Executive Director shall transmit the agenda and appropriate information and data concerning agenda items to Members and Alternates at least seven calendar days prior to each meeting, unless otherwise approved by the Federal Cochairperson, and any matter not on the agenda shall not be considered except upon the affirmative vote of the Federal Cochairperson and the State Cochairperson. The Executive Director shall furnish informational copies of the agenda and related materials to other interested persons in order to ensure adequate public notice, in the manner directed by the Commission from time to time, and shall furnish the same to any person upon request of any Member or Alternate.

### 11.6 Order of Business

Unless otherwise provided by the Commission, the order of business at each Commission meeting shall be as follows: roll call by the Secretary; review of real or potential conflicts of interest; review and approval of minutes of previous meetings; adoption of agenda; reports; consideration of policy resolutions; old business; new business; and adjournment.

### 11.7 Rules of Proceedings

The presiding officer at any meeting may move, second, and debate from the chair, and he or she shall not be deprived of any right to vote or of any other right, power or duty of a Member by virtue of occupying the chair.

The Member who has made a motion shall be entitled to the privilege of closing debate. This privilege can be exercised when Members no longer desire recognition to speak on the motion, when a motion for the previous question has passed or upon reaching the limit of debate.

A motion to reconsider may be made only by a Member on the prevailing side, and such a motion may be made only at the meeting at which the action is taken or at the next succeeding meeting of the Commission.

Except as otherwise specifically provided herein, the proceedings of the Commission shall be governed by Robert's Rules of Order.

### 11.8 Recording Votes by the Commission

The vote upon every motion, resolution or action by the Commission shall be entered in the minutes. Any Member may demand a recorded roll call on any vote.

### 11.9 Minutes

The Executive Director shall prepare and distribute to the Members the minutes of each meeting as soon as practicable after the meeting. The minutes of any meeting may be approved without reading if they have been distributed prior to the time of approval.

### 11.10 Certification of Resolutions

As soon as practicable after voting by the Commission, the Executive Director shall, after providing the Federal Cochairperson an opportunity for review, certify resolutions adopted by the Commission and distribute them to the Members.

A copy of each resolution shall be provided for each Member prior to consideration at any meeting.

### 11.11 Meetings of Alternate State Members

Upon the direction of the Federal Cochairperson and the State Cochairperson, the Commission shall hold a meeting of at least a majority of the Alternate State Members at such time as directed.

## **12. Hearings (40 U.S.C. §15304(a))**

The Commission may conduct public hearings as it deems appropriate for carrying out its functions.

### **12.1 Hearing Procedures**

For each hearing, the Executive Director shall prepare a notice that shall state the date, time, place and business of the hearing and shall be mailed or otherwise distributed by the Executive Director, at least seven calendar days before the hearing, to each Member, all persons who have made written request of the Executive Director for notice of Commission hearings, relevant media services, and any other person, group, organization, public bodies or agencies which the Executive Director or any Member deems appropriate.

### **12.2 Public Access to Documents**

Prior to such hearings there shall be made available to the public at the Commission offices and on the Commission's website such budgets, plans, summaries, maps, findings, statements, orders or other documents to explain, detail, amplify, describe or otherwise indicate the action that the Commission is considering and with respect to which the hearing is being held.

### **12.3 Witnesses**

The Commission may invite the general public and/or specific persons, organizations, agencies or other bodies to appear and testify at such hearings. Members and Alternates may question witnesses under policies and guidelines established by the Commission.

### **12.4 Oaths**

Oaths for the purpose of conducting Commission hearings may be administered as directed by the Commission.

## **13. Fiscal Matters**

### **13.1 The Fiscal Year**

The Commission's fiscal year shall be from October 1 to September 30.

### 13.2 Budget Preparation

Not later than one year and two months preceding the beginning of each fiscal year, the Executive Director shall prepare and submit to the Cochairperson's Committee for review an operating budget containing administrative and programmatic expenses for such fiscal year. The operating budget shall demarcate the respective shares payable from Federal and State sources.

### 13.3 Budget Approval

Following the recommendation for approval by the Cochairperson's Committee, the Members shall meet, discuss, and approve the budget in the manner set forth in Section 7.1 hereof.

### 13.4 Breakdown of Responsibility

The programmatic expenses of the Commission shall be paid by the Federal Government.

The administrative expenses of the Commission shall be paid by the Federal Government, in an amount equal to 50 percent of the administrative expenses, and by the State Members, in an amount equal to 50 percent of the administrative expenses (the "States' Contribution").

### 13.5 Cap on Expenses

Except with respect to the fiscal year ending on September 30, 2022, no more than 10% of Federal appropriations for the Commission in any single fiscal year may be used for Commission administrative expenses. The effect of this cap includes any administrative expenses approved for the Commission as well as any administrative expenses approved for the Office of the Federal Cochairperson. The Executive Director will be responsible for providing current and projected administrative expense reports to the Members on a regular basis.

### 13.6 State Share

The State Members have the responsibility to unanimously determine the share of the States' Contribution to be paid by each State (the "State Share"). For each fiscal year, each State's State Share shall be determined on the basis of the Commission's approved budget and a method of apportionment of the States' Contribution to be determined by unanimous vote of the State Members. The Federal Cochairperson shall not participate or vote in any decision regarding the State Shares.

13.7 State Delinquency

During any period in which a State is more than one year delinquent in payment of its State Share, it shall be considered a Delinquent State. The Commission shall not provide assistance to any project in a Delinquent State and a Delinquent State shall not participate or vote in any action by the Commission.

**14. Re-allocation of Grant Funds**

The following procedures shall apply to the re-allocation of unused, recovered, or de-obligated programmatic funds that have been previously obligated for a project within a particular State but are no longer needed for such project.

14.1 Determination

Upon the recommendation by the Executive Director, the Federal Cochairperson and the State Member(s) from the particular State(s) in which the funds have been obligated, shall determine whether unliquidated funds are deemed unneeded or whether the recipient is in default under the applicable agreement.

14.2 Re-allocation

After funds have been de-obligated, those funds shall be set aside for subsequently scheduled grant rounds in the same State in which they were originally obligated.

Historical and Revision Notes

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**Revisions**

Revised Chapter/Section/Subsection	Source (Meeting Minutes)	Effective Date