

**FARGO-MOORHEAD
METROPOLITAN COUNCIL OF GOVERNMENTS**

REQUEST FOR PROPOSALS (RFP)

PROJECT NO.

Regional Freight Plan

May, 2016

APPROVED:



**William A. Christian
Metro COG, Executive Director**

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I GENERAL INFORMATION

Agency Overview. The Fargo-Moorhead Metropolitan Council of Governments (Metro COG) serves as the Council of Governments (COG) and Metropolitan Planning Organization (MPO) for the greater Fargo, North Dakota – Moorhead, Minnesota metropolitan area. As the designated MPO for the Fargo-Moorhead Metropolitan Area, Metro COG is responsible under federal law for maintaining a continuous, comprehensive, and coordinated transportation planning process.

Metro COG is responsible, in cooperation with the North Dakota and Minnesota Departments of Transportation (NDDOT and MnDOT, respectively) and our local planning partners, for carrying out the metropolitan transportation planning process and other planning issues of a regional nature. Metro COG represents eleven jurisdictions and parts of two counties that comprise the Metro COG region in these efforts.

Metro COG is seeking requests for proposals from qualified consultants for the following project:

Regional Freight Plan

All applicants must be prequalified with the North Dakota Department of Transportation. All applicants meeting the deadline for submittal will receive consideration. Selection criteria will follow a qualifications-based review process to analyze proposals from responding consultants. The most qualified candidates will be invited to present an oral interview. Upon completion of technical ranking, oral interviews and possible discussion with candidate consultants, Metro COG will enter into negotiations with the top ranked firm.

The consultant will submit with their response to this RFP a **sealed cost proposal**. The cost proposal of the top ranked firm will be opened during contract negotiations. Those firms not selected for direct negotiations will have their unopened cost proposals returned. The Client reserves the right to reject any or all cost proposals submitted.

This project will be funded, in part with federal transportation funds and has a not-to-exceed budget of \$160,000 dollars. The North Dakota Department of Transportation will determine the eligibility of federal funds for the project. The project will be initiated in August of 2016 and is required to be completed on or before August 31, 2017. All invoices for the project are to be received by Metro COG by September 30, 2017.

Interested firms can request a full copy of the RFP by telephoning 701.232.3242, or by e-mail: metrocof@fmmetrocog.org. Copies will be posted on the North Dakota Department of Transportation QBS website (<https://www.dot.nd.gov>) and is also available for download in .pdf format at www.fmmetrocog.org.

Fax versions will be not accepted as substitutes for the hard copies. Once submitted, the proposals will become the property of Metro COG.

This document can be made available in alternative formats for persons with disabilities by calling **Nakhaly Swearingen, Executive Secretary at 701.232.3242.**

II PURPOSE OF REQUEST.

The Fargo-Moorhead Metropolitan Council of Governments (Metro COG) (referred herein as the Client) is requesting a technical proposal from consultant engineering firms (referred herein as the Consultant) concerning their qualifications, experience and availability to perform specific tasks related to the development of a Regional Freight Plan.

III PROJECT BACKGROUND AND OBJECTIVE.

The Moving Ahead for Progress in the 21st Century Act (MAP-21) made a number of changes to improve the condition and performance of the national freight network and support investment in freight-related surface transportation projects. This effort has carried over to the Fixing America's Surface Transportation Act (FAST) of 2015. Locally, MPOs like Metro COG are encouraged to develop freight plans that complement State freight plans, but reflect the needs and objectives of the region. Where state plans look at a statewide system, the proposed Regional Freight Plan should look at factors affecting freight movement through, and within the region to inform the Metro COG long- and short-range transportation planning efforts. The first and last mile of freight movement as well as freight movement through the region are important in determining the need for investing in the local infrastructure to facilitate efficient and effective freight movement.

It is envisioned that the proposed regional freight plan will guide freight investments in the Metro COG region in a manner that supports goals for safety, social equity, economic productivity, and sustainable and livable communities. The goals, objectives and performance measures generated by the plan will provide the basis for freight project selection, funding and monitoring freight movement as it relates to the Metro COG area. Such a plan will be leveraged to meet MAP-21 / FAST requirements. The Scope of Work of this project shall likely include the tasks and subtasks listed in section IV of this RFP.

IV SCOPE OF WORK AND PERFORMANCE TASKS.

The Client needs to develop an understanding of the industrial and retail bases in the Metro COG region that use publicly funded freight facilities. Where in the region are our industries and major retail facilities located? What is the network they use? What are the chokepoints that cause friction in the network? These are questions that should be answered to improve our knowledge of the regional freight system.

This plan will identify a regional network for freight mobility, consistent with the statewide freight networks in North Dakota and Minnesota. This regional network will be used to identify potential improvements that the MPO can recommend for improving the movement of goods throughout the region. Data will need to be collected both to identify the primary freight network, and then to monitor its performance into the future.

Knowledge and views from outside the typical planning centered groups will be vital to improving our understanding of the region's industrial and retail location, as well as to gain a better understanding of logistic decision making. These views will also help the MPO to find common ground to identify infrastructure improvements that will ease transportation frictions in the system. Stakeholder input will lead to a better understanding of the freight network, and will also inform recommendations for projects that will improve freight flows in the region.

This RFP provides for the tasks necessary to assist the Client in the development of a Regional Freight Plan. Outlined below is the scope of work that will guide its development. The Client has included the following scope of work to provide interested consultants insight into project intent, context, coordination, responsibilities, and other elements to help facilitate proposal development.

At minimum, the consultant shall be expected to establish detailed analysis, recommendations and/or deliverables for the following tasks:

- Task 0 – Project management
- Task 1 – Freight Stakeholders Committee
- Task 2 – Freight Advisory Training Program
- Task 3 – Identifying Quantitative Data Sources
- Task 4 – Looking at the Metro COG's place in the National Freight System
- Task 5 – Collecting Stakeholder Input
- Task 6 – Compilation of Freight Profile
- Task 7 – Identification of Key Issues
- Task 8 – Development of Regional Freight Model
- Task 9 – Freight Plan Recommendations/Strategic Framework
- Task 10 – Performance Measures Matrix

The Client will finalize the scope of work with the selected consultant prior to contract.

Task 0. Project Management

This task involves activities required to manage the project including staff, equipment and documentation. It also includes the preparation of progress reports, documenting travel and expense receipts, and preparing and submitting invoices. It is imperative to consider the public and keep it informed of the planning activities and outcomes using strategies that includes use of the internet and social media. Maintaining a project website or providing information to Metro COG for posting on its website will be required. This task also includes monthly progress meeting with the Client, the preparation of meeting agendas, and taking and reporting meeting minutes.

Task 1 – Freight Stakeholders Committee

In coordination with the Client, the Consultant will identify local freight stakeholders interested in participating on a regional freight stakeholders' committee. The Consultant will also provide guidance in establishing the committee and the mission statement for the committee. The committee will review, study and make recommendations on freight issues, based on the plans procedures and performance measures of the freight plan to the Metro COG Transportation Technical Committee and Policy Board.

Task 2: Freight Advisory Training Program

The Consultant will prepare, organize, and conduct a freight training session that will provide a basic overview of freight planning at the metropolitan level. This training will be offered to Metro COG, county, municipal, and state departments of transportation staff as identified by Metro COG in consultation with the Consultant. The training will help prepare regional stakeholders and attendees to better understand the need for the upcoming Regional Freight Plan, and will serve to educate them on the key components that go into the development of a regional freight plan. The training will also be used to inform attendees of North Dakota Department of Transportation (NDDOT) and Minnesota Department of Transportation (MnDOT) statewide freight planning efforts, and additional considerations concerning freight as identified in the recently promulgated federal Fixing America's Surface Transportation (FAST) Act legislation. The training will provide examples and case studies of successful freight planning programs and will identify key local issues and freight characteristics that will need to be addressed in the Regional Freight Plan. The training session will consist of a program focusing on both education and input from the private sector.

Task 3: Identifying Quantitative Data Sources

The consultant will identify and document the sources of all data required to complete the freight profile (to be completed in Task 6). Primary or secondary sources of data may be used. Primary sources are individuals or organizations who are directly involved in the transportation of freight, and data they provide will be directly related to their operations. Secondary sources are individuals, groups or agencies that compile, analyze and disseminate data from primary sources. Regardless of the data source, the data used must be:

- **Accurate:** the data must describe the relevant information as it actually occurs in the real world, with a minimum of omissions or errors.
- **Timely:** the data must reflect the most recent time period as is possible. Data described as "current" should not describe a time period prior to January 1, 2012. Ideally, the data will also provide historic information to provide a frame of reference.
- **Repeatable:** Metro COG staff should be able to access new versions of the data in the future in order to update the profile. Data should only be used if its source is clearly documented and Metro COG staff are able to access new versions in the future.

Task 4: Looking at the Metro COG's place in the National Freight System

The greater Fargo – Moorhead metropolitan area exists within the national economy. Based on readily available data, the Consultant will provide a high level analysis of the greater Fargo-Moorhead metropolitan area’s competitive position in the national and regional economies. Emphasis will be given to competitive advantages upon which initiatives can be brought, and on the identification of deficiencies where MPO action can boost the region’s competitiveness.

Task 5: Collecting Stakeholder Input

The Consultant will identify and contact relevant freight stakeholders for all transportation modes, and will incorporate their input into the freight profile. The Consultant will conduct personal interview with a representative group of freight forwarders and brokers, 3rd party logistics organizations, and motor carriers. Stakeholder input will be used to create a narrative description that will supplement the quantitative data collected. Stakeholder input will also be sought at each step throughout this planning process.

Task 6: Compilation of Freight Profile

Building upon previous tasks, the Consultant will compile a freight profile that will include the following sections:

- An overall introduction of the regional freight transportation system, including a brief history, major developments, and current status.
- A description of major facilities by mode, including airports, rail lines and terminals, highways, pipelines, and distribution/warehousing centers.
- A summary and detailed analysis, by mode, of
 - Freight volumes
 - Major commodities
 - Economic impact
 - Direction of freight flows (import vs. export)
 - Local consumption of imported goods vs. throughput
- A summary, analysis, and description of the role of third party logistics (3PL) providers, freight forwarders and brokers in the regional freight transportation system.
- An overview of the key issues that the regional freight transportation system is anticipated to face in the short (1-5 years), mid (5-10 years, and long term (10+ years).
- Recommendations and procedures for Metro COG staff to replicate the freight profile in the future years, including detailed data citations, analysis methods, and stakeholder contact information.
- A performance measure matrix.
- A project ranking methodology for ranking projects among high/medium/low categories.

The Consultant will provide three (3) hard copies and one electronic copy of the draft report for Metro COG review and comment before finalizing the document.

Task 7: Identification of Key Issues

Using data collected along with stakeholder input, the Consultant will develop a narrative describing key issues that relate to the regional freight system. The narrative will address the following:

- Defining characteristics
- Major infrastructure assets
- Trends affecting or expected to affect the regional freight industry
- Challenges and major concerns
- Opportunities for growth

Task 8: Development of Regional Freight Model

This task will not require a traditional gravity based travel demand model to forecast/predict freight movement at the Traffic Analysis Zone (TAZ) level. However, an off-model (or post-model) estimate of truck delays and VMT could be developed by applying truck percentages to travel demand model forecasts of all vehicle traffic volumes. The proposal should outline an approach to an off-model analysis.

Task 9: Freight Plan Recommendations/Strategic Framework

The critical deliverable resulting from findings in previous tasks of the project is a staged, prioritized list of freight infrastructure, process, and policy needs for use by the MPO. The list shall include recommendations for policies and projects (infrastructure, safety improvements, etc.) for inclusion within regional planning processes such as the Metro COG Long Range Transportation Plan (LRTP) and the Transportation Improvement Program (TIP). Metro COG is currently updating its LRTP to the year 2045

A Draft/Final Regional Freight Plan will be developed that includes a detailed discussion of activities performed during the project, outcomes resulting from the project's tasks and activities, and a thorough analysis of project findings. The Plan document should include recommendations and strategies for short and long term regional priorities to improve freight mobility in the region.

Task 10: Performance Measures Matrix

The Consultant will develop a targeted, quantitative set of regional freight performance measures and metrics that closely follow preliminary guidance resulting from the FAST Act/MAP-21, and NDDOT and MnDOT efforts. Based on information collected and analyzed from previous tasks, it is expected that the consultant will identify specific quantitative/metric-gathering processes and assignments that regional partners, public and private, can undertake in the future to ensure that freight performance data collected within the region is responsive to both federal/state requirements and regional economic development goals.

V IMPLEMENTATION SCHEDULE.

1) **Consultant Selection**

Advertise for Consultant Proposals	May, 2016
Due Date for Proposal Submittals (by 4:30pm)	June 15, 2016
Review Proposals/Identify Finalists	Late June, 2016
Interview Finalists/Contract Negotiations	Mid July, 2016
Metro COG Board Approval and Contract Execution	August, 2016
Contract Negotiations	August, 2016
Notice to Proceed	One day following a signed contract.

2) **Project Development (Major Milestones)**

- August, 2016 - Begin Project Development and Planning
- April 30, 2017 – Final Draft Comprehensive Plan
- August 2017 – Review by Study Review Committee and oversight agencies
- September 15, 2017 – Presentation of the Metro COG Policy Board.

VI EVALUATION AND SELECTION PROCESS.

- 1) **Selection Committee.** Metro COG has established a selection committee to select a consultant. The committee consists of local business, manufacturers, local city/county engineers, North Dakota Department of Transportation, Minnesota Department of Transportation and Metro COG staff.

The consultant selection process will be administered under the following criteria:

- 10% - The firm's past experience with similar types of activities
- 25% - Key staff's experience related to the development of such plans
- 20% - Specific qualifications of the consultant's Project Manager that will be on the project.
- 20% - Understanding of project scope and local / regional issues.
- 20% - Project approach.
- 5% - Current workload.

The selection committee, at the discretion of Metro COG and under the guidance of NDDOT policy, will entertain formal oral presentations for the top candidates to provide additional input into the evaluation process. The oral presentations will be followed by a question and answer period during which the committee may question the prospective consultants about their proposed approaches.

A consultant will be selected on or before August 15, 2016 based on an evaluation of

the proposals submitted, the recommendation of the Selection Committee and approval by the Client.

The Client reserves the right to reject any or all proposals or to waive minor irregularities in said proposal, and reserves the right to negotiate minor deviations to the proposal with the successful consultant. The Client reserves the right to award a contract to the firm or individual that presents the proposal, which, in the sole judgement of the Client, best accomplishes the desired results.

The RFP does not commit the Client to award a contract. The Client is not responsible for any expenses incurred by a respondent for preparing a response to this RFP, nor any activities conducted prior to contract award. The Client reserves the right to withdraw this RFP at any time without prior notice.

All proposals, whether selected or rejected, shall become the property of the Client.

VII PROPOSAL CONTENT.

The purpose of the proposal is to demonstrate the qualifications, competence, and capacity of firms seeking to provide comprehensive services specified herein for the client, in conformity with the requirements of the RFP. The proposal should demonstrate qualifications of the firm and its staff to undertake this project. It should also specify the proposed approach that best meets the RFP requirements. The proposal must address each of the service specifications under the Scope of Services.

The Client is asking qualified consultants to supply the following information. Please include all requested information in the proposal to the fullest extent practical.

1. **Contact Information.** Name, telephone number, email address, mailing address and other contact information for the consultant's Project Manager.
2. **Introduction and Executive Summary.** This section shall document the firm name, business address (including telephone, FAX, email address(es), year established, type of ownership and parent company (if any), project manager name and qualifications, and any major facts, features, recommendations or conclusions that may differentiate this proposal from others, if any.
3. **Work Plan and Project Methodology.** Proposals shall include the following, at minimum:
 - a. A detailed list of tasks and subtasks to be completed, including a description of how they will be completed. A detailed work plan identifying the major tasks to be accomplished relative to the requested study tasks and expected product as outlined in this RFP; a detailed approach for completing the plan and a summary of the proposed methodology to establish consensus on recommendations within the final product;
 - b. Milestones for the development of the project and completion of individual tasks should be submitted with the proposal.
 - c. A timeline for completion of the requested services, including all public participation opportunities and stakeholder meetings.

- d. List of projects with similar size, scope, type, and complexity that the proposed project team has successfully completed in the past.
 - e. List of the proposed principal(s) who will be responsible for the work, proposed Project Manager and project team members (with resumes).
 - f. A breakout of time for each member identified as a participant in the development of the project.
 - g. A list of any subcontracted agencies, the tasks they will be assigned, the percent of work to be performed, and the staff that will be assigned.
 - h. List of client references for similar projects described within the RFP.
 - i. Required Disadvantaged Business Enterprise (DBE) Firms participation documentation, if applicable.
 - j. Ability of firm to meet required time schedules.
4. **Signature.** Proposals shall be signed in ink by an authorized member of the firm/project team.
5. **Attachments.** Review, complete, and submit the completed versions of the following RFP Attachments with the proposal:

Exhibit A - Exhibit A – Cost Proposal Form (as identified in IX 1))
Exhibit B – Debarment of Suspension Certification
Exhibit C – Certification of Restriction on Lobbying

VIII Submittal Information

Hard copies of technical and cost proposals should be shipped to ensure timely delivery to the contact as defined below:

William Christian
Executive Director
Fargo-Moorhead Metropolitan Council of Governments
Case Plaza, Suite 232
One 2nd Street North
Fargo, ND 58102-4807
christian@fmmetrocog.org

All proposals received by **4:30pm** June 15, 2016 at the Metro COG office will be given equal consideration. Minority, women-owned and disadvantaged business enterprises are encouraged to participate. Respondents must submit seven (7) hard copies and one Adobe Acrobat (.pdf) copy of the proposal. The full length of each proposal should not exceed twenty (20) double sided pages for a total of forty (40) pages; including any supporting material, charts or tables.

The consultant may ask for clarifications of the RFP by submitting written questions to the Metro COG Project Manager identified above. Questions regarding this RFP must be submitted no later than June 3, 2016. No response will be given to verbal questions. Metro COG reserves the right to decline a response to any question if, in Metro COG's

assessment, the information cannot be obtained and shared with all potential organizations in a timely manner. A summary of the questions submitted, including responses deemed relevant and appropriate by Metro COG, will be provided on or about June 10, 2016 to all firms that receive the RFP.

IX GENERAL RFP REQUIREMENTS.

- 1) **Sealed Cost Proposal.** All proposals must be clearly identified and marked with the appropriate project name inclusive of a separately sealed cost proposal per the requirements of this RFP. Cost proposals shall be based on an hourly “not to exceed” amount and shall follow the general format as provided within Exhibit A of this RFP. The Client may decide, in its sole discretion, to negotiate a price for the project after the selection committee completes its final ranking. Negotiation will begin with the consultant identified as the most qualified per requirements of this RFP, as determined in the evaluation/selection process. If the Client is unable to negotiate a contract for services negotiations will be terminated and negotiations will begin with the next most qualified consultant. This process will continue until a satisfactory contract has been negotiated.
- 2) **Consultant Annual Audit Information for Indirect Cost.** Consulting firms proposing to do work for the Client must have a current audit rate no older than 15 months from the close of the firm’s Fiscal Year. Documentation of this audit rate must be provided with the sealed cost proposal. Firms that do not meet this requirement will not qualify to propose or contract for Metro COG projects until the requirement is met. Firms that have submitted all the necessary information to Metro COG and are waiting for the completion of the audit will be qualified to submit proposals for work. Information submitted by a firm that is incomplete will not qualify. Firms that do not have a current cognizant Federal Acquisition Regulations (FARs) audit of indirect cost rates must provide this audit prior to the interview.
- 3) **Debarment of Suspension Certification and Certification of Restriction on Lobbying.** Respondents must attach signed copies of Exhibit B – Debarment of Suspension Certification and Exhibit C – Certification of Restriction on Lobbying within the sealed cost proposal.
- 4) **Respondent Qualifications.** Respondents must submit evidence that they have relevant past experience and have previously delivered services similar to the requested services within this RFP. Each respondent may also be required to show that similar work has been performed in a satisfactory manner and that no claims of any kind are pending against such work. No proposal will be accepted from a respondent whom is engaged in any work that would impair his or her ability to perform or finance this work.

- 5) **Disadvantaged Business Enterprise.** Pursuant to Department of Transportation policy and 49 CFR Part 23, Metro COG supports the participation of DBE/MBE businesses in the performance of contracts financed with federal funds under this RFP. Consultants shall make an effort to involve DBE/MBE businesses in this project. If the consultant is a DBE/MBE, a statement indicating that the business is certified DBE/MBE in North Dakota or Minnesota shall be included within the proposal. If the consultant intends to utilize a DBE/MBE to complete a portion of this work, a statement of the subcontractor's certification shall be included. The percent of the total proposed cost to be completed by the DBE/MBE shall be shown within the proposal. Respondents should substantiate (within proposal) efforts made to include DBE/MBE businesses.

- 6) **North Dakota Department of Transportation Consultant Administration Services Procedure Manual.** Applicants to this Request for Proposal are required to follow procedures contained in the *NDDOT Consultant Administration Services Procedure Manual*, which includes prequalification of consultants. Copies of the Manual may be found on the Metro COG website www.fmmetrocog.org or the NDDOT website at www.dot.nd.gov.

X CONTRACTUAL INFORMATION.

- 1) The Client reserves the right to reject any or all proposals or to award the contract to the next most qualified firm if the successful firm does not execute a contract within forty-five (45) days after the award of the proposal. The Client will not pay for any information contained in proposals obtained from participating firms.
- 2) The Client reserves the right to request clarification on any information submitted and additionally reserves the right to request additional information of one (1) or more applicants.
- 3) Any proposal may be withdrawn up until the proposal submission deadline. Any proposals not withdrawn shall constitute an irrevocable offer for services set forth within the RFP for a period of ninety (90) days or until one or more of the proposals have been approved by the Client – whichever comes first.
- 4) If, through any cause, the firm shall fail to fulfill in a timely and proper manner the obligations agreed to, the Client shall have the right to terminate its contract by specifying the date of termination in a written notice to the firm at least ninety (90) working days before the termination date. In this event, the firm shall be entitled to just and equitable compensation for any satisfactory work completed.
- 5) Any agreement or contract resulting from the acceptance of a proposal shall be on forms either supplied by or approved by Metro COG and shall contain,

as a minimum, applicable provisions of the Request for Proposals. The Client reserves the right to reject any agreement that does not conform to the Request for Proposal and any Metro COG requirements for agreements and contracts.

- 6) The firm shall not assign any interest in the contract and shall not transfer any interest in the same without prior written consent of The Client.
- 7) Metro COG relies upon the Contractor to provide services in accordance with a contract and the performance standards set for each work assignment. The Contractor agrees that time is of the essence, and that contractual commitments shall be met.

XI PAYMENTS

The selected consultant will submit invoices for work completed to Metro COG. Payments will be made to the consultant by Metro COG in accordance with the contract after all required services, and items identified in Task 0, have been completed to the satisfaction of Metro COG.

XII FEDERAL AND STATE FUNDS

The services requested within this RFP will be partially funded with funds from the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA). As such, the services requested by this RFP will be subject to federal and state requirements and regulations.

The services performed under any resulting agreement shall comply with all applicable federal, state, and local laws and regulations. In addition, this contract will be subject to the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and cost eligibility/requirements of 2 CFR 200.

XIII TITLE VI ASSURANCES.

Prospective Consultants should be aware of the following contractual (“contractor”) requirements regarding compliance with Title VI should they be selected pursuant to this RFP:

- 1) **Compliance with Regulations.** The Contractor shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations).
- 2) **Nondiscrimination.** The Contractor, with regard to the work performed by it, shall not discriminate on the grounds of race, color, national origin, sex, age, disability/handicap, or income status**, in the selection and retention of subcontractors, including procurements of materials and leases of equipment.

The Contractor shall not participate, either directly or indirectly, in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

- 3) **Solicitations for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations, either by competitive bidding or negotiation, made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations to Metro COG and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, disability/handicap, or income status**.
- 4) **Information and Reports.** The Contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by Metro COG or the North Dakota Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to Metro COG, or the North Dakota Department of Transportation, as appropriate, and shall set forth what efforts it has made to obtain the information.
- 5) **Sanctions for Noncompliance.** In the event of the Contractor's noncompliance with the nondiscrimination provisions as outlined herein, Metro COG and the North Dakota Department of Transportation shall impose such sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:
 - a) Withholding of payments to the Contractor under the contract until the Contractor complies; or
 - b) Cancellation, termination, or suspension of the contract, in whole or in part.

Incorporation of Title VI Provisions. The Contractor shall include the provisions of Section XIII, paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

The Contractor shall take such action with respect to any subcontract or procurement as Metro COG or the U.S. Department of Transportation, Federal Highway Administration, may direct as a means of enforcing such provisions, including sanctions for noncompliance provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation by a subcontractor or supplier as a result of such

direction, the Contractor may request Metro COG enter into such litigation to protect the interests of Metro COG; and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

** The Act governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability/handicap, 29 U.S.C. 790; and low income, E.O. 12898.

XIV TERMINATION PROVISIONS.

The Client reserves the right to cancel any contract for cause upon written notice to the Contractor. Cause for cancellation will be documented failure(s) of the Contractor to provide services in the quantity or quality required. Notice of such cancellation will be given with sufficient time to allow for the orderly withdrawal of the Contractor without additional harm to the participants or Metro COG.

The Client may cancel or reduce the amount of service to be rendered if there is, in the opinion of the Client, a significant increase in local costs; or if there is insufficient state or federal funding available for the service, thereby terminating the contract or reducing the compensation to be paid under the contract. In such event, The Client will notify the Contractor in writing ninety (90) days in advance of the date such actions are to be implemented.

In the event of any termination, the Client shall pay the agreed rate only for services delivered up to the date of termination. The Client has no obligation to the Contractor, of any kind, after the date of termination. Contractor shall deliver all records, equipment and materials to the Client within 24 hours of the date of termination.

XV LIMITATION ON CONSULTANT

All reports and pertinent data or materials are the sole property of the Client and may not be used, reproduced or released in any form without the explicit, written permission of the Client.

Consultant should expect to have access only to the public reports and public files of local governmental agencies and the Client in preparing the proposal or reports. No compilation, tabulation or analysis of data, definition of opinion, etc., should be anticipated by the consultant from the agencies, unless volunteered by a responsible official in those agencies.

XVI CONFLICT OF INTEREST

Metro COG reserves the right at any time to preclude offering a work assignment to a Contractor should a real, apparent or potential conflict of interests exists as determined by the Client. No consultant, subcontractor or member of any firm proposed to be employed in the preparation of this proposal shall not have a past, ongoing or potential involvement which could be deemed a conflict of interest under North Dakota Century Code or other law. During the term of this Agreement, the consultant shall not accept

any employment or engage in any consulting work that would create a conflict of interest with Metro COG or in any way compromise the services to be performed under this agreement. The consultant shall immediately notify the Client of any and all potential violations of this paragraph upon becoming aware of the potential violation.

XVII INSURANCE

The successful firm or individual shall provide evidence of insurance as stated in the contract prior to execution of the contract.

Exhibit A – Cost Proposal Form

Cost Proposal Form – Include completed cost form (see below) in a separate sealed envelope – labeled “**Sealed Cost Form – Vendor Name**” and submit with concurrently with the technical proposal as part of the overall RFP response. The cost estimate should be based on a not to exceed basis and may be further negotiated by Metro COG up identification of the most qualified Contractor. Changes in the final contract amount and contract extensions are not anticipated.

**REQUIRED BUDGET FORMAT
 Summary of Estimated Project Cost**

1.	Direct Labor	Hours	x	Rate	=	Project Cost	Total
	Name, Title, Function	0.00	x	0.00	=	0.00	0.00
			x		=	0.00	0.00
			x		=	0.00	0.00
				Subtotal	=	0.00	0.00
2.	Overhead/Indirect Cost (expressed as indirect rate x direct labor)					0.00	0.00
3.	Subcontractor Costs					0.00	0.00
4.	Materials and Supplies Costs					0.00	0.00
5.	Travel Costs					0.00	0.00
6.	Fixed Fee					0.00	0.00
7.	Miscellaneous Costs					0.00	0.00
Total Cost					=	0.00	0.00

Exhibit B - Debarment of Suspension Certification

Background and Applicability

In conjunction with the Office of Management and Budget and other affected Federal agencies, DOT published an update to 49 CFR Part 29 on November 26, 2003. This government-wide regulation implements Executive Order 12549, Debarment and Suspension, Executive Order 12689, Debarment and Suspension, and 31 U.S.C. 6101 note (Section 2455, Public Law 103-255, 108 Stat. 3327).

The provisions of Part 29 apply to all grantee contracts and subcontracts at any level expected to equal or exceed \$25,000 as well as any contract or subcontract (at any level) for federally-required auditing services (49 CFR 29.220(b)). This represents a change from prior practice in that the dollar threshold for application of these rules has been lowered from \$100,000 to \$25,000. These are contracts and subcontracts referred to in the regulation as "covered transactions."

Grantees, contractors, and subcontractors (at any level) that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) they propose to contract or subcontract with is not excluded or disqualified. They do this by (a) Checking the Excluded Parties List System, (b) Collecting a certification from that person, or (c) Adding a clause or condition to the contract or subcontract. This represents a change from prior practice in that certification is still acceptable but is no longer required (49 CFR 29.300).

Grantees, contractors, and subcontractors who enter into covered transactions also must require the entities they contract with to comply with 49 CFR 29, subpart C and include this requirement in their own subsequent covered transactions (i.e., the requirement flows down to subcontracts at all levels).

Instructions for Certification: By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

Suspension and Debarment

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined in 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the recipient. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the recipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this order. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Contractor

Signature of Authorized Official _____

Date ___ / ___ / ___

Name & Title of Contractor's Authorized Official

Exhibit C - Certification of Restriction on Lobbying

I, _____ hereby certify on
(Name and Title of Grantee Official)

behalf of _____ that:
(Name of Bidder / Company Name)

- No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- If any funds other than Federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S. Code 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Section 3801, et seq., are applicable thereto.

Name of Bidder / Company Name

Type or print name

Signature of authorized representative _____

Date ___ / ___ / ___

(Title of authorized official)