

**FARGO-MOORHEAD  
METROPOLITAN COUNCIL OF GOVERNMENTS**

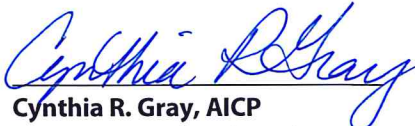
**REQUEST FOR PROPOSALS (RFP)**

**PROJECT NO. 2018-220**

***MATBUS Transit Authority Study***

***October 23, 2018  
Rereleased December 7, 2018***

**APPROVED:**



**Cynthia R. Gray, AICP  
Metro COG, Executive Director**

## REQUEST FOR PROPOSALS (RFP)

The Fargo-Moorhead Metropolitan Council of Governments (Metro COG) is seeking proposals from qualified consultants for the following:

### ***MATBUS Transit Authority Study***

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 consulting 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. Metro COG reserves the right to reject any or all cost proposals submitted. This project will be funded in part with federal transportation funds, state, and local funds. The study has a not-to-exceed budget of **\$200,000**.

Interested firms may request a hard copy of this RFP by telephoning 701.232.3242, or by email at [leach@fmmetrocog.org](mailto:leach@fmmetrocog.org). Copies will be posted on the North Dakota Department of Transportation QBS website ([www.dot.nd.gov](http://www.dot.nd.gov)) and will also be available for download in PDF format at [www.fmmetrocog.org](http://www.fmmetrocog.org).

All applicants must be prequalified with NDDOT. If not prequalified with the NDDOT, applicants will be required to submit a completed Standard Form 330 (Exhibit D) with their submittal of information.

All interested parties should submit a letter of interest to Metro COG by **4:30 pm on Friday, December 21, 2018**. This letter should detail the firm's interest in conducting the study, as well as a listing of any subconsultant that will be utilized as part of the consultant team. All proposals received by **4:30 pm on Thursday, January 3, 2019** at Metro COG's office will be given equal consideration. Minority, women-owned and disadvantaged business enterprises are encouraged to participate. Respondents must submit six (8) hard copies and one (1) PDF copy of the proposal. The full length of each proposal should not exceed fifteen (15) double-sided pages for a total of thirty (30) pages; including any supporting material, charts, or tables.

Hard copies of technical and/or cost proposals should be delivered to the contact below:

Michael Maddox, AICP  
Fargo-Moorhead Metropolitan Council of Governments  
Case Plaza, Suite 232  
One 2<sup>nd</sup> Street North  
Fargo, ND 58102  
[maddox@fmmetrocog.org](mailto:maddox@fmmetrocog.org)  
701-232-3242 ext. 104

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

**Note** – This document can be made available in alternative formats for persons with disabilities by calling Savanna Leach, Executive Secretary at 701.232.3242 or email at [leach@fmmetrocog.org](mailto:leach@fmmetrocog.org).

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## **I. 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 local planning partners, for carrying out the metropolitan transportation planning process and other planning issues of a regional nature. Metro COG represents eleven cities and portions of two counties that comprise the Metro COG region in these efforts.

## **II. Purpose of Request**

The intent of this RFP is to obtain professional consultant services to study the feasibility, financial implications, and possible governance structures that would be necessary in order to evaluate whether MATBUS should form a transit authority. The study would be a collaborative effort between Fargo and Moorhead (and possibly other regional jurisdictions) to explore funding options for MATBUS operations after the FM Area becomes a Transportation Management Area (TMA – urban population over 200,000). The consultant would be an objective third party expert who would educate city leadership on the costs/benefits of various funding options, gain consensus among the jurisdictions involved, and walk MATBUS through the process of implementing the recommendations of the plan.

## **III. Background Information**

With the 2020 Census, the Fargo Moorhead Region will become a Transportation Management Area (TMA), which is a designation given to regions over 200,000 population. When the TMA designation is bestowed, MATBUS will only be able to use a percentage of FTA 5307 funds for operating expenses. Systems that have 75 or fewer fixed-route buses during peak hour service may receive operating assistance in an amount not to exceed 75% of the share of the apportionment that is attributable to such systems within the UZA as measured by vehicle revenue hours. Additional funding sources of a local nature must be found to replace the funds currently used for operations which will no longer be able to be used after TMA status is designated.

### History

MATBUS is comprised of two entities, the City of Fargo, ND and the City of Moorhead, MN, who have come together to cooperatively provide transit service within the region. Even though MATBUS operates as a joint entity, transit service is still embedded within each individual city government. A Metro Area Transit (MAT) Coordinating Board was created in order to make technical recommendations to both the Fargo City Commission and the Moorhead City Council,

where decisions are ultimately made.

As transit services expands into other surrounding municipalities, such as Dilworth and West Fargo, a different form of governance and additional funding may be necessary.

The idea of setting up a transit authority is not a new idea. In 1999, MATBUS completed a transit authority study. However, since that time MATBUS has expanded dramatically. With new leadership and new challenges presented by the formation of a TMA, we are looking to update the study.

MATBUS's growth has been stymied by the lack of funding for both route expansion, bus replacement, and personnel additions. By analyzing MATBUS's ability to activate alternative funding sources to both fund operations and to fund ways to maintain the current system, MATBUS hopes to find additional funding sources that would make it possible to expand operations in the future. It is anticipated that a different organizational structure would be needed to activate these alternative funding sources, and if so, MATBUS and its local partners need to know more about the correlation between organizational structures and funding opportunities.

System changes desired in the future and MATBUS's goals are inscribed within the Transit Development Plan (TDP), which is updated every five years. MATBUS is also currently conducting a study of its facilities, the end result of which will delineate needed facility upgrades. The MATBUS Facility Analysis and Development Strategy will plan various transit facilities 20 years into the future. This document assumes some operational and system goals that MATBUS envisions within that timeframe. The consultant will be provided with this information in order to formulate a future financial outlook.

#### **IV. Project Objectives**

The objective of the MATBUS Transit Authority Study is to:

1. Educate elected and municipal leadership on MATBUS's capital and operating needs, both current and future, and identify how a change in funding will affect municipal budgets to maintain the current services.
2. Identify additional funding opportunities that could fund operating shortfalls and allow for the future expansion of MATBUS, both transit service and organizationally.
3. Correlate organizational structure with funding opportunities.
4. Provide a risk based assessment of those funding opportunities, i.e. what are the benefits and shortfalls of implementing the various alternative funding sources.
5. Prepare an implementation strategy for the desired course of action, which should include all necessary documents needed set forth the recommendations. This would include all legal organizational documents or necessary funding implementation efforts. Collaborate/negotiate with agencies involved to reach consensus or at a minimum to gain understanding of the issues.

The consultant will work toward reaching consensus among participating agencies, clearly delineate MATBUS's financial shortfalls, provide an analysis of available methods of meeting its future financial obligations, explore various governance structures, and help MATBUS to implement the recommendations of the analysis. The consultant should address and balance the needs of all jurisdictions involved while recommending alternatives that would make it possible to advance transit service in the region.

## **V. Scope of Work and Performance Tasks**

Metro COG is seeking a consultant that can not only provide the typical qualifications necessary in the development of the study, but also has the ability to demonstrate pro-activeness, vision, innovation, and collaboration in examining and proposing study alternatives. The consultant should have particular experience and expertise in working with and planning for transit agencies, municipal finance, and the ability to set up a legal structure for both the financial elements and any proposed changes to the legal structure of MATBUS.

Outlined below is the scope of work, developed by Metro COG in consultation with MATBUS, the City of Fargo and the City of Moorhead, that will guide development of the MATBUS Transit Authority Study. Metro COG has included the following scope of work to provide interested consultants insight into study intent, context, coordination, responsibilities, and other elements to help facilitate proposal development. This outline is not necessarily all-inclusive and the consultant may include in the proposal any additional tasks deemed necessary to successfully complete the study. Metro COG would like the consultant to develop a necessary program that it feels would best achieve the goal of the study.

### **Focus Areas**

Metro COG would like the consultant to specifically address the points below in their proposal as well as address the scope of work the consultant feels would be necessary to successfully complete the project objectives. These points should be addressed in narrative format, and should include specific case studies, and/or work examples that pertain to the subject area.

1. The consultant should specifically address any work that they have done with preparing a transit agency to become an Authority, and/or working with a transit provider when the local MPO is transitioning to a Transportation Management Area (TMA). This should include how the consultant will approach the precedent study component. Any other applicable experience that is of a similar nature would be welcomed as well.
2. The consultant should demonstrate how it will go about analyzing the financial component of the project. This section should specifically highlight the team's expertise in municipal finance.
3. The consultant should state how it will build consensus amongst the agencies involved and handle opposing viewpoints. The consultant will need to act as arbiter/3<sup>rd</sup> party expert/collaborator in order to address the issues of each jurisdiction.

4. The approach to the financial analysis should be laid out in a manner that helps the selection committee understand how the consultant will research funding sources, analyze applicability to solve the aforementioned funding issues, determine current and future MATBUS needs, and how it will do an assessment of the differences and risks (e.g. elasticity) involved with each funding option.
5. The consultant should demonstrate specific expertise in setting up governance structures, especially as it pertains to transit or other regional agencies. This should specifically focus on the knowledge each firm has in researching state statutes and legislative requirements.

**Task 1: Project Management.** This task involves activities required to manage the study including staff, equipment, and documentation. It also includes the preparation of monthly progress reports, documenting travel and expense receipts, and preparing and submitting invoices. This task also includes bi-weekly progress meetings with Metro COG, the preparation of meeting agendas, and completion of all meeting summaries (i.e. action items agreed to during the meeting), which may be provided in the form of an email following the bi-weekly progress meetings.

**Task 2: Public Participation:** This study process must be collaborative in nature and be able to educate study participants and not leave anyone behind in the process. It is expected that there be extensive meetings both one-on-one and in a group format to gauge concerns and forge agreement on a path forward. This may include meetings with city leadership, technical staff, and elected officials.

**Presentations.** The consultant should plan to make a presentation to each of the following committees at least once during the process. However, please include how many presentations you feel would be necessary both during the process and presenting the final plan.

- MAT Coordinating Board
- Metro COG TTC
- Metro COG Policy Board
- Fargo City Commission
- Moorhead City Council
- Other agencies as the consultant may see fit. (City of West Fargo, City of Dilworth, etc.)

**Study Review Committee.** Metro COG will determine the composition of the Study Review Committee. This will likely include management from the City of Fargo and City of Moorhead, as MATBUS is embedded within these municipal government entities currently.

The consultant should specifically state in the proposal how many SRC meetings it feels are necessary to complete the project. The consultant should keep in mind the high level



of coordination that needs to occur in order to try to gain consensus amongst the agencies.

**Stakeholder meetings.** The consultant will work with the SRC to identify stakeholders with whom coordination should occur. Stakeholders on this project are assumed to be other municipal or other agencies that they contract with for service. The consultant should purpose how many stakeholder meetings will occur as well as when they should occur in the process.

**Public Meetings.** After completion of draft alternatives, two public meetings will be held - one in Fargo and One in Moorhead - to present the implications of additional funding through a mill levy, if that is the alternative from the funding analysis that is ultimately recommended.

**Task 3: Transit Financials.** The consultant will identify all sources of funding currently utilized to provide transit service in the FM Region. The consultant will then analyze and provide information on how this will change when this region receives TMA designation. This will include:

- Determine applicable FTA and state funding rules that will apply to MATBUS.
- Operating and Capital Expenses (current and Future)
- How much additional revenue the City of Moorhead and City of Fargo will need to generate in order to sustain and/or expand transit services.
- The consultant should include a case study analysis of how other transit agencies have reacted in metro areas that have recently crossed the TMA threshold, especially focused on changes in the operating structure of the agency and how it finances transit system operations.

**Task 4: Funding Mechanisms** – The consultant will work with the SRC to develop a list of funding mechanisms that could be used to generate operating revenue for MATBUS. The consultant should:

- Document all funding sources available to fill the gap (including but not limited to Taxing Authority and Sales Tax), such analysis which should include:
  - Funding source elasticity
  - Risk
  - Limitations
  - Mechanisms needed to enact funding
  - Geographic area applied
- An analysis should be done to consider what would the possible ramifications if differing methods were used in by the City of Fargo in North Dakota and the City of Moorhead in Minnesota, and how it would impact MATBUS as an agency that provides service in both states.
- Governance Structure
  - The consultant should consider the timing of when such additional funding sources would be necessary and when transition should occur.

- The consultant should analyze the formal structure of the agency, the body to which MATBUS is attached (if any), and the decision-making body that runs the entity.
- It should also determine how the leadership within the organization should function if combined.

**Task 5: Implementation.** Based on the identified funding source recommended in the previous tasks, and governance structure selected, the consultant shall provide MATBUS with clear documentation of how to legally enact the plan’s recommendations. This should include all necessary agreements, articles of association, legislative actions (in either state), and/or ballot referendums needed and training and/or a thorough explanation of how to accomplish it. It should also define each agency’s rolls and responsibilities. It should address MATBUS’s leadership, facilities, and assets including professional and contractual staff.

**Task 6: Report.** The consultant will develop a final report that includes an executive summary (the executive summary should include a pamphlet with key information that can be used as talking points) which relays all pertinent information to the public in an easy-to-follow format as well as a full report summarizing the study process, project objective, relevant data collected, written and graphic description of alternatives, identification and comparison of potential impacts, written and graphic description of alternatives that are recommended to be dropped from further consideration, written and graphic description of alternatives that are recommended to move forward into the environmental documentation process at such time as any part of the project moves forward, phasing strategies, and planning level cost estimates. All stakeholder and public comments received should be included in the appendix of the final report.

**Task 8: Deliverables.** The consultant will be responsible for providing ten (10) bound hard copies and a reproducible original of the study in PDF format. All meeting summaries and technical analyses will be included in the appendix of the study.

## VI. Implementation Schedule

### 1) Consultant Selection.

Advertise for Consultant Proposals	12/7/2018
Letter of Intent (by 4:30 pm)	12/21/2018
Due Date for Proposal Submittals (by 4:30 pm)	1/03/2018
Review Proposals/Identify Finalists	1/04/2018
Interview Finalists	(week of) 1/7/2019
Contract Negotiations	TBD
Metro COG Policy Board Approval/Consultant Notice	1/17/2019

### 2) Project Development (Major Milestones).

Notice to Proceed	Upon Contract Execution
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Project Start-Up/Mobilization	Immediately Upon Execution
Draft Study Completed	TBD
Final Documents Completed/Project Closeout	TBD
Final Invoices Received	TBD

The project schedule is flexible, but, as shown below, the criteria will be more favorably reviewed to consultant teams who demonstrate that a draft report and recommendations can be completed prior to start of the 2020 budget preparation process for the Cities of Fargo and Moorhead, which would typically occur in early summer, 2019.

## VII. Evaluation and Selection Process

**Selection Committee.** Metro COG will establish a selection committee to determine which consultant, by its determination, has the best skills and approach to complete the project. Metro COG will not disclose the membership of the selection committee prior to consultant interviews.

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

- 30% The consultant team's past experience with similar projects, including the consultant's ability, familiarity, and involvement in handling similar types of activities. This includes the composition and expertise of the consultant's team, with special emphasis placed on how the expertise of the team fits into the specific topic areas of the plan.
- 30% The consultant's project understanding, proposed project approach and methodology, project work plan, and project management techniques.
- 20% The consultant's record of past performance on similar projects, including quality of work, ability to meet deadlines, current workload, and ability to control costs.
- 20% Current workload and the availability of key personnel and other resources to perform the work within the specified timeframe. Proposals that demonstrate the ability to provide a draft report and project recommendations prior to the 2020 budget preparation of the Cities of Fargo and Moorhead (early summer, 2019) will score most heavily on this criteria.

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. Oral presentations will be followed by a question and answer period during which the selection committee may question the prospective consultants about their proposed approaches.

A consultant will be selected at the January 2019 TTC and Policy Board meetings based on an evaluation of the proposals submitted, the recommendation of the selection committee, and approval by Metro COG's Policy Board.

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

This RFP does not commit Metro COG to award a contract, to pay any costs incurred in the preparation of a response to this request, or to procure or contract for any services or supplies. Metro COG reserves the right to withdraw this RFP at any time without prior notice.

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

## VIII. Proposal Content and Format

The purpose of the proposal is to demonstrate the qualifications, competence, and capacity of the consultant seeking to provide comprehensive services specified herein for Metro COG, the City of Fargo, and the City of Moorhead, 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 Work and Performance Tasks.

At minimum, proposals shall include the following information:

- 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, email address(es), year established, type of ownership and parent company (if any), project manager name and qualifications, and any major features that may differentiate this proposal from others, if any.
- 3) **Work Plan and Project Approach Methodology.** Proposals shall include the following, at minimum:
  - a. 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 timeline for completion of the requested services, including all public involvement opportunities and stakeholder meetings, identifying milestones for development of the project and completion of individual tasks.
  - b. List of projects of similar size, scope, type, and complexity that the proposed project team has successfully completed in the past.
  - c. List of the proposed principal(s) who will be responsible for the work, proposed project manager and project team members (with resumes).
  - d. A breakout of hours for each member of the team by major task area, and an overall indication of the level of effort (percentage of overall project team hours) allocated to each task. Note that specific budget information is to be submitted in

- a sealed cost proposal as described below in Section VIII. General Proposal Requirements
- e. 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.
  - f. List of client references for similar projects described within the RFP.
  - g. Required Disadvantaged Business Enterprise (DBE) and/or Minority Business Enterprise (MBE) Firms participation documentation, if applicable.
  - h. Ability of firm to meet required time schedules based on current and known future workload of the staff assigned to the project.
  - i. Narrative response to the "Focus Area" questions.
- 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 – Cost Proposal Form  
Exhibit B – Debarment of Suspension Certification  
Exhibit C – Certification of Restriction on Lobbying  
Exhibit D – Standard Form 330 (if required – see page 2).

## IX. Submittal Information

Hard copies of technical and/or cost proposals should be delivered to the contact below:

Michael Maddox, AICP  
Fargo-Moorhead Metropolitan Council of Governments  
Case Plaza, Suite 232  
One 2<sup>nd</sup> Street North  
Fargo, ND 58102-4807  
maddox@fmmetrocog.org

The consultant must submit a letter of intent detailing the firm's interest in the project as well as any subconsultants that will be utilized to Metro COG by **4:30 pm on Friday, December 21, 2018**. All proposals received by **4:30 pm on Thursday, January 3, 2019** at the Metro COG office will be given equal consideration. Minority, women-owned and disadvantaged business enterprises are encouraged to participate. Respondents must submit six (8) hard copies and one (1) PDF copy of the proposal. The full length of each proposal should not exceed fifteen (15) double-sided pages for a total of thirty (30) pages; including any supporting material, charts or tables.

Metro COG will welcome questions that seek to clarify the intent of the information contained within the RFP. Consultants must submit these questions in writing no later than Wednesday, December 21, 2018. All questions and answers will be posted on Metro COG's website. 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 firms in a timely manner, or if the

question would unduly give a firm advantage over another. A summary of the preproposal meeting will be posted on Metro COG's website before proposals are due.

## **X. General RFP Requirements**

- 1) **Sealed Cost Proposal.** All proposals must be clearly identified and marked with the appropriate project name, with 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. Metro COG 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 Metro COG is unable to negotiate a contract for services, negotiations will be terminated and negotiations will begin with the next most qualified consultant. This process shall continue until a satisfactory contract has been negotiated.
- 2) **Consultant Annual Audit Information for Indirect Cost.** Consulting firms proposing to do work for Metro COG must have a current audit rate no older than fifteen (15) months from the close of the firms 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. **This document must be attached with the sealed cost proposal.**
- 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, as well as Exhibit D – Standard Form 330 (if required).
- 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/her ability to perform or finance this work.
- 5) **Disadvantaged Business Enterprise.** Pursuant to U.S. Department of Transportation policy and 49 CFR Part 26, 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) **U.S. Department of Transportation Policy Statement on Bicycle and Pedestrian Accommodations.** Consultants are advised to review and consider the *U.S. Department of Transportation Policy Statement on Bicycle and Pedestrian Accommodation* issued in March of 2010 when developing written proposals.
- 7) **North Dakota Department of Transportation Consultant Administration Services Procedure Manual.** Consultants are advised to follow procedures contained in the *North Dakota Department of Transportation Consultant Administration Services Procedure Manual*, which includes pre-qualifications of consultants. Copies of the manual may be found on Metro COG's website at [www.fmmetrocog.org](http://www.fmmetrocog.org) or the NDDOT website at [www.dot.nd.gov](http://www.dot.nd.gov).

## **XI. Additional Information**

A list of additional reference documents and information may be made available for consultants upon request.

## **XII. Contractual Information**

- 1) Metro COG reserves the right to reject any or all proposals or to award the contract to the next most qualified consulting firm if the successful firm does not execute a contract within forty-five (45) days after the award of the proposal. Metro COG shall not pay for any information contained in proposals obtained from participating firms.
- 2) Metro COG 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 Metro COG Policy Board.
- 4) If, through any cause, the consultant shall fail to fulfill in a timely and proper manner the obligations agreed to, Metro COG 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 RFP. Metro COG reserves the right to reject any agreement that does not conform to the RFP and any Metro COG requirements for agreements and contracts.
- 6) The consultant shall not assign any interest in the contract and shall not transfer any interest in the same without prior written consent of Metro COG.

### **XIII. Payments**

The selected consultant shall submit invoices for work completed to Metro COG. Payments shall be made to the consultant by Metro COG in accordance with the contract after all required services, as well as items identified in the scope of work and performance tasks, have been completed to the satisfaction of Metro COG.

### **XIV. 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 relevant requirements of 2 CFR 200.

### **XV. Title VI Assurances**

Prospective consultants should be aware of the following contractual requirements regarding compliance with Title VI should they be selected pursuant to this RFP:

- 1) **Compliance with Regulations.** The consultant shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation, 49 CFR Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations).
- 2) **Nondiscrimination.** The consultant, 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 consultant 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 consultant 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 consultant 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 consultant 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 NDDOT to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a consultant is in the exclusive possession of another who fails or refuses to furnish this information, the consultant shall so certify to Metro COG, or NDDOT, as appropriate, and shall set forth what efforts it has made to obtain the information.

- 5) **Sanctions for Noncompliance.** In the event of the consultant's noncompliance with the nondiscrimination provisions as outlined herein, Metro COG and NDDOT shall impose such sanctions as it or FHWA may determine to be appropriate, including but not limited to:
  - a) Withholding of payments to the consultant under the contract until the consultant complies, and/or;
  - b) Cancellation, termination, or suspensions of the contract, in part or in whole.
- 6) **Incorporation of Title VI Provisions.** The consultant 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 consultant shall take such action with respect to any subcontract or procurement as Metro COG, the U.S. Department of Transportation, or FHWA may direct as a means of enforcing such provisions, including sanctions for noncompliance provided, however, that in the event a consultant becomes involved in, or is threatened with, litigation by a subcontractor or supplier as a result of such direction, the consultant may request Metro COG enter into such litigation to protect the interests of Metro COG; and, in addition, the consultant 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 USC 324; age, 42 USC 6101; disability/handicap, 29 USC 790; and low income, EO 12898.

## **XVI. Termination Provisions**

Metro COG reserves the right to cancel any contract for cause upon written notice to the consultant. Cause for cancellation will be documented failure(s) of the consultant 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 consultant without additional harm to the participants or Metro COG.

Metro COG may cancel or reduce the amount of service to be rendered if there is, in the opinion of Metro COG, 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, Metro COG will notify the consultant in writing ninety (90) days in advance of the date such actions are to be implemented.

In the event of any termination, Metro COG shall pay the agreed rate only for services delivered up to the date of termination. Metro COG has no obligation to the consultant, of any kind, after the date of termination. The consultant shall deliver all records, equipment, and materials to Metro COG within twenty-four (24) hours of the date of termination.

**XVII. Limitation on Consultant**

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

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

**XVIII. Conflict of Interest**

No consultant, subcontractor, or member of any firm proposed to be employed in the preparation of this proposal shall 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 Metro COG of any and all potential violations of this paragraph upon becoming aware of the potential violation.

**XIX. Insurance**

The consultant shall provide evidence of insurance as stated in the contract prior to execution of the contract.

**XX. Risk Management**

The consultant agrees to defend, indemnify, and hold harmless Metro COG and the State of North Dakota, its agencies, officers and employees, from and against claims based on the vicarious liability of Metro COG and the State or its agents, but not against claims based on Metro COG's and the State's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by consultant to Metro COG and the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for Metro COG and the State is necessary. The consultant also agrees to defend, indemnify, and hold Metro COG and the State harmless for all costs, expenses and attorneys' fees incurred if Metro COG or the State prevails in an action against the consultant in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of the contract.

The consultant shall secure and keep in force during the term of the contract, from insurance

companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota, the following insurance coverage:

- 1) Commercial general liability and automobile liability insurance - minimum limits of liability required are \$250,000 per person and \$1,000,000 per occurrence.
- 2) Workforce Safety insurance meeting all statutory limits.
- 3) Metro COG and the State of North Dakota, its agencies, officers, and employees shall be endorsed as an additional insured on the commercial general liability and automobile liability policies.
- 4) Said endorsements shall contain a "Waiver of Subrogation" in favor of Metro COG and the State of North Dakota.
- 5) The policies and endorsements may not be canceled or modified without thirty (30) days prior written notice to Metro COG and the State Risk Management Department.

The consultant shall furnish a certificate of insurance evidencing the requirements in 1, 3, and 4, above to Metro COG prior to commencement of this agreement.

Metro COG and the State reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time. Any attorney who represents the State under this contract must first qualify as and be appointed by the North Dakota Attorney

General as a Special Assistant Attorney General as required under North Dakota Century Code Section 54-12-08.

When a portion of the work under the agreement is sublet, the consultant shall obtain insurance protection (as outlined above) to provide liability coverage to protect the consultant, Metro COG, and the State as a result of work undertaken by the subconsultant. In addition, the consultant shall ensure that any and all parties performing work under the agreement are covered by public liability insurance as outlined above. All subconsultants performing work under the agreement are required to maintain the same scope of insurance required of the consultant. The consultant shall be held responsible for ensuring compliance with those requirements by all subconsultants.

Consultant's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by Metro COG or the State of North Dakota. Any insurance, self-insurance or self-retention maintained by Metro COG or the State shall be excess of the consultant's insurance and shall not contribute with it. The insolvency or bankruptcy of the insured consultant shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured consultant from meeting the retention limit under the policy. Any deductible amount or other obligations under the policy(ies) shall be the sole responsibility of the consultant. This insurance may be in a policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. Metro COG and the State will be indemnified,

saved, and held harmless to the full extent of any coverage actually secured by the consultant in excess of the minimum requirements set forth above.

**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	
				<b>Subtotal</b>	=	0.00	0.00	
2.	<b>Overhead/Indirect Cost (expressed as indirect rate x direct labor)</b>						0.00	0.00
3.	<b>Subcontractor Costs</b>						0.00	0.00
4.	<b>Materials and Supplies Costs</b>						0.00	0.00
5.	<b>Travel Costs</b>						0.00	0.00
6.	<b>Fixed Fee</b>						0.00	0.00
7.	<b>Miscellaneous Costs</b>						0.00	0.00
<b>Total Cost</b>					=	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)

**Exhibit D – Standard Form 330  
 ARCHITECT- ENGINEER QUALIFICATIONS**

**PART 1- CONTRACT-SPECIFIC QUALIFICATIONS**

**A. CONTRACT INFORMATION**

1. TITLE AND LOCATION *(City and State)* \_\_\_\_\_

2. PUBLIC NOTICE DATE \_\_\_\_\_ 3. SOLICITATION OR PROJECT NUMBER \_\_\_\_\_

**B. ARCHITECT-ENGINEER POINT OF CONTACT**

4. NAME AND TITLE \_\_\_\_\_

5. NAME OF FIRM \_\_\_\_\_

6. TELEPHONE NUMBER \_\_\_\_\_ 7. FAX NUMBER \_\_\_\_\_ 8. E-MAIL ADDRESS \_\_\_\_\_

**C. PROPOSED TEAM**

*(Complete this section for the prime contractor and all key subcontractors.)*

	<i>(Check)</i>				9. FIRM NAME	10. ADDRESS	11. ROLE IN THIS CONTRACT
	PRIME	J-V	SUBCON-	TRACTOR			
a.					<input type="checkbox"/> CHECK IF BRANCH OFFICE		
b.					<input type="checkbox"/> CHECK IF BRANCH OFFICE		
c.					<input type="checkbox"/> CHECK IF BRANCH OFFICE		
d.					<input type="checkbox"/> CHECK IF BRANCH OFFICE		
e.					<input type="checkbox"/> CHECK IF BRANCH OFFICE		
f.					<input type="checkbox"/> CHECK IF BRANCH OFFICE		

**D. ORGANIZATIONAL CHART OF PROPOSED TEAM**

*(Attached)*



**E. RESUMES OF KEY PERSONNEL PROPOSED FOR THIS CONTRACT**

*(Complete one Section E for each key person.)*

12. NAME	13. ROLE IN THIS CONTRACT	14. YEARS EXPERIENCE
		a. TOTAL      b. WITH CURRENT FIRM
15. FIRM NAME AND LOCATION <i>(City and State)</i>		
16. EDUCATION <i>(Degree and Specialization)</i>		17. CURRENT PROFESSIONAL REGISTRATION <i>(State and Discipline)</i>
18. OTHER PROFESSIONAL QUALIFICATIONS <i>(Publications, Organizations, Training, Awards, etc.)</i>		

**19 RELEVANT PROJECTS**

(1) TITLE AND LOCATION <i>(City and state)</i>	(2) YEAR COMPLETED
	PROFESSIONAL SERVICES   CONSTRUCTION <i>(If applicable)</i>
<b>a.</b> (3) BRIEF DESCRIPTION <i>(Brief scope size, cost, etc.)</i> AND SPECIFIC ROLE <span style="float: right;"><input type="checkbox"/> Check if project performed with current firm</span>	
(1) TITLE AND LOCATION <i>(City and state)</i>	(2) YEAR COMPLETED
	PROFESSIONAL SERVICES   CONSTRUCTION <i>(If applicable)</i>
<b>b.</b> (3) BRIEF DESCRIPTION <i>(Brief scope size, cost, etc.)</i> AND SPECIFIC ROLE <span style="float: right;"><input type="checkbox"/> Check if project performed with current firm</span>	
(1) TITLE AND LOCATION <i>(City and state)</i>	(2) YEAR COMPLETED
	PROFESSIONAL SERVICES   CONSTRUCTION <i>(If applicable)</i>
<b>c.</b> (3) BRIEF DESCRIPTION <i>(Brief scope size, cost, etc.)</i> AND SPECIFIC ROLE <span style="float: right;"><input type="checkbox"/> Check if project performed with current firm</span>	
(1) TITLE AND LOCATION <i>(City and state)</i>	(2) YEAR COMPLETED
	PROFESSIONAL SERVICES   CONSTRUCTION <i>(If applicable)</i>
<b>d.</b> (3) BRIEF DESCRIPTION <i>(Brief scope size, cost, etc.)</i> AND SPECIFIC ROLE <span style="float: right;"><input type="checkbox"/> Check if project performed with current firm</span>	
(1) TITLE AND LOCATION <i>(City and state)</i>	(2) YEAR COMPLETED
	PROFESSIONAL SERVICES   CONSTRUCTION <i>(If applicable)</i>
<b>e.</b> (3) BRIEF DESCRIPTION <i>(Brief scope size, cost, etc.)</i> AND SPECIFIC ROLE <span style="float: right;"><input type="checkbox"/> Check if project performed with current firm</span>	

**G. KEY PERSONNEL PARTICIPATION IN EXAMPLE PROJECTS**

26. NAMES OF KEY PERSONNEL (From Section E, Block 12)	27. ROLE IN THIS CONTRACT (From Section E, Block 13)	28. EXAMPLE PROJECTS LISTED IN SECTION F (Fill in "Example Projects Key" section below before completing table. Place "X" under project key number for participation in same or similar role.)									
		1	2	3	4	5	6	7	8	9	10

**29. EXAMPLE PROJECTS KEY**

NUMBER	TITLE OF EXAMPLE PROJECT (From Section F)	NUMBER	TITLE OF EXAMPLE PROJECT (From Section F)
1		6	
2		7	
3		8	
4		9	
5		10	

**H. ADDITIONAL INFORMATION**

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30. PROVIDE ANY ADDITIONAL INFORMATION REQUESTED BY THE AGENCY. ATTACH ADDITIONAL SHEETS AS NEEDED.

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**I. AUTHORIZED REPRESENTATIVE**  
*The foregoing is a statement of facts.*

31. SIGNATURE

32. DATE

33. NAME AND TITLE

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