

FARGO-MOORHEAD
METROPOLITAN COUNCIL OF GOVERNMENTS

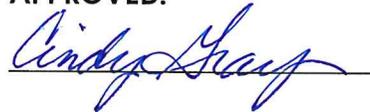
REQUEST FOR PROPOSALS (RFP)

PROJECT NO. 2022-1004

*Housing Needs and Market Analysis
for the Cass County, ND and Clay County, MN MSA*

January 21, 2022

APPROVED:



Cindy Gray
Metro COG, Executive Director

REQUEST FOR PROPOSALS (RFP)

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

Housing Needs and Market Analysis for the Cass County, ND and Clay County, MN MSA

Qualifications based selection criteria will be used to analyze proposals from responding consultants. The most qualified candidates may be invited to present a virtually hosted interview. Upon completion of technical ranking and interviews, Metro COG will enter into negotiations with the top ranked firm. **Sealed cost proposals shall be submitted with the 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 submittals. This project will be funded, in part with federal transportation funds and has a not-to-exceed budget of **\$150,000**.

Interested firms can request a full copy of the RFP by telephoning 701.532.5100, or by e-mail: metrocog@fmmetrocog.org. The RFP will also be posted at www.fmmetrocog.org.

All proposals received by **4:30 pm (Central Time) on Monday, February 21~~22~~, 2022** at Metro COG's office will be given equal consideration. Proposals received after 4:30 pm (Central Time) on February 21~~22~~, 2022 will not be considered. Respondents must submit a PDF of the proposal, and **one (1) sealed hard copy of the cost proposal (see Exhibit A)**.

The digital version (PDF) of the proposal may be emailed. The consultant must verify that the email was received with the PDF attachment prior to 4:30 pm on the due date. Sealed cost proposals shall be shipped to ensure timely delivery to the contact identified below:

Cindy Gray, Executive Director
Fargo-Moorhead Metropolitan Council of Governments
One 2nd Street North, Suite 232
Fargo, ND 58102
gray@fmmetrocog.org
701-532-5103

Fax versions will not be accepted as substitutes for the proposals or the sealed cost proposal. Once submitted, the proposals will become property of Metro COG.

Questions must be directed to Cindy Gray (phone number and email shown above).

Note: This document can be made available in alternative formats for persons with disabilities by contacting Savanna Leach, Office Manager at 701.532.5100 or leach@fmmetrocog.org.

TABLE OF CONTENTS

I. Agency Overview 4

II. Background Information 4

III. Project Purpose 6

IV. Scope of Work and Performance Tasks 6

V. Implementation Schedule 13

VI. Evaluation and Selection Process 13

VII. Proposal Content 14

VIII. Submittal Information 15

IX. General RFP Requirement 16

X. Contractual Information 17

XI. Payments 18

XII. Federal and State Funds 18

XIII. Title VI Assurances 18

XIV. Termination Provisions 20

XV. Limitation on Consultant 20

XVI. Conflict of Interest 20

XVII. Insurance 21

XVIII. Risk Management 21

Exhibit A – Cost Proposal Form

Exhibit B – Federal Clauses

Note: Throughout this RFP, Metro COG may be referred to as 'Client' and the consulting firm may be referred to as 'Consultant', 'Contractor', or 'Firm'.

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. Member jurisdictions include the North Dakota cities of Fargo, Horace and West Fargo and the Minnesota cities of Dilworth and Moorhead, as well as Cass County, ND and Clay County, MN.

II BACKGROUND INFORMATION

The Greater Fargo-Moorhead metropolitan statistical area (MSA) population has grown nearly 18 percent since 2010, from approximately 209,000 to over 246,000. The 2020 MSA population exceeded the 2020 projections that were made in 2010 by approximately 5,000. The 2035 population projection developed in the Fargo-Moorhead 2016 Demographic Forecast ranges from 309,000 to 317,000. The 2045 projection is 330,000 to 342,000. These projected growth levels, combined with the initiation of the FM Diversion, the recent groundbreaking on the Career Workforce Academy, and the continued growth of the metropolitan area as a medical, agricultural, educational, technical, cultural, and transportation hub of the region have resulted in concerns about the housing market and the extent to which the region is currently meeting the needs of its current and future workforce, as well as the needs of other sectors of the population, and the changes that may need to be implemented in the future to meet the housing needs of this growing metropolitan area.

In 2015, a study entitled the Regional Workforce Study – Greater Fargo/Moorhead Region was completed. One of the recommendations of the study was to “increase access to and the supply of affordable housing”. The study found that access to affordable housing for low-income workers is low in the region. Opportunities for first-time home buyers seem to have become even more limited in the years since the study was done, making workforce attraction and retention a concern.

Recently, the Greater Fargo Moorhead Economic Development Corporation (GFMEDC) and the Fargo Moorhead West Fargo Chamber of Commerce collaborated to hold a retreat of leaders throughout the metropolitan area. A dominant area of concern identified by this group was housing, as it relates to workforce retention, attraction, and sustainability. The EDC and the Chamber have collaborated with local businesses and governments to form Fueling our Future (<https://fuelingourfuture.net/>), which is described as “A consensus regional agenda, bringing together resources to focus on large-scale solutions that create lasting regional impact, led by business and community leaders.”.

City planning departments have been asked to respond to the housing situation as part of their work with developers and agencies on housing subdivisions and programs;

however, they are currently experiencing a severe lack of up-to-date data to inform and guide policy-makers, housing agencies, developers, and non-profits involved in housing. Concerns vary between jurisdictions, with some communities having higher than average rental rates, and others wanting more rental housing opportunities. City leaders struggle to balance concerns about small single-family residential lots with constant demands for more affordable owner-occupied housing opportunities. Past studies have looked at metropolitan area cities individually, and at different degrees of depth, providing an “apples to oranges” comparison of data throughout the region.

Older areas of the community, some of which have by default become the more affordable areas, are considered by many to be more desirable because of their character and mature trees, as compared to newer areas. Regardless, maintenance and condition are concerns in some cases, and in other cases, these houses have been purchased as investments and are being used as rental property, particularly in close proximity to area universities and colleges. In the past, City leaders have implemented programs to rehabilitate older homes to restore their status as single-family dwellings versus apartment units. Some programs to maintain older homes, reduce their use as multiple family dwellings, and ensure their sustainability are intact, while others have come to an end, and data is needed to determine where and how to target housing programs in older neighborhoods.

There are several anecdotal observations and experiences; such as:

- First-time home buyers are in competition with empty nesters for homes in the same price range
- Elderly people in the metro area have experienced rent increases in subsidized housing units, resulting in on-going affordability concerns.
- Housing options for service workers or attainable housing for families is scarce.
- A variety of housing choices for an array of price points is not available so households are choosing housing that is not preferred.
- There are not enough housing options for in-migration populations to allow the metro area to be a community of choice in comparison to peer cities, and not enough choices to satisfy prospective members of a workforce needed to support a well-rounded economy.
- Seniors or empty nesters do not have age-appropriate attractive housing choices at attainable price points to allow for downsizing.
- Demand (i.e. desire) for housing, particularly owner occupied, frequently does not match the vision or expectation of prospective home owners.

Both the public and leaders within the community wish to avoid meeting short-term needs in a manner that becomes undesirable, unsustainable, and blighted in the future.

Differences exist between Minnesota and North Dakota relative to the development of some types of housing, and study partners are interested in identifying differences that are barriers, and in continuing to work on removing barriers that are already known to them. The same is true for zoning regulations within the region. The City of Moorhead, for

example, has worked hard to find ways to compensate for differences in taxation between Minnesota and North Dakota, and wants to ensure these differences acknowledged and considered within the study. This will ensure that the study identifies opportunities and barriers for all study partners, and helps individual communities identify community-specific strategies.

III Project Purpose

The purpose of this study is to collect data and document the housing needs and demands of the region in conjunction with a market analysis for both the very near-term and out to the year 2032 (ten-year forecast). In addition to data analysis, the scope of the study includes providing case study examples that demonstrate how to successfully implement the type of housing that is needed and desired. Case study examples should be those that are not currently in use within the MSA, aimed at ways to meet identified needs. Local leaders, planning departments, and community development officials are concerned that steps taken to meet today's needs and demands contribute to the long-term sustainability and quality of our housing market, rather than becoming blighted and unsustainable at some point in the future.

The study area will include the Cass County, ND and Clay County, MN MSA, with primary focus on the cities of Dilworth, Fargo, Horace, Moorhead and West Fargo. In addition, consideration will be given to communities in the surrounding areas within Cass and Clay County, including Barnesville, Glyndon, Hawley, and Sabin, MN and Argusville, Casselton, Harwood, Kindred, and Mapleton, ND and several other smaller cities in both counties which are currently showing evidence of attracting new housing. Local leaders are interested in how the housing and demographic inputs impact the housing market as a whole, and to what extent policies and laws are affecting housing development.

If feasible, a housing data collection and metric system will also be created to track housing trends in our future.

IV SCOPE OF WORK AND PERFORMANCE TASKS

Below are tasks the Consultant is expected to complete as part of this project:

Task 1 – Project Management and Coordination

The Consultant will be required to manage the study and coordinate with any subconsultants, as well as be responsible for all documentation and equipment needs. The Consultant will identify a project manager from their team to act as the direct point of contact for Metro COG's project manager.

The Consultant should expect monthly (or, at times, bi-weekly) progress meetings with Metro COG to discuss the status of the project, seek any guidance, clarification, or information, and discuss any issues or concerns regarding the project. The Consultant should expect additional meetings with Metro COG on an as-needed basis. It's

anticipated that these meetings will usually be virtual web-based meetings.

Additionally, the Consultant should expect to prepare monthly progress reports, submit adequate documentation of any and all travel and expense receipts, and prepare and submit invoices on a monthly basis. When submitting progress reports, the Consultant and subconsultant(s), if applicable, will be required to outline the following:

- Performed work during the reporting period
- Upcoming tasks
- Upcoming milestones
- Status of scope and schedule
- Any issues to be aware of

All invoices, travel and expense receipts, and progress reports, are due to Metro COG's project manager no later than the 2nd Thursday of each month to ensure invoices are processed in a timely fashion.

Task 2 – Data Collection

Data necessary to conduct the analysis shall be collected and documented as part of the study. These data components will be used to establish existing conditions, and will be critical to the identification of issues and both short term and longer-term needs.

Consultants should identify the data necessary to a) conduct the needs analysis, and b) respond to the questions and concerns as described in Task 4, as part of their proposal.

Data collected should include information about the existing housing program and incentives within the metropolitan area, and their level of effectiveness.

If feasible, data collection should be able to be geo-coded and illustrated in maps to further illustrate where growth and change is occurring. Ideally, common census units should be used to understand factors graphically with maps.

At the conclusion of this study, data collections and assemblies should be shareable with the client for future use in GIS or other data management software as coordinated with the Client.

Task 3 – Public and Stakeholder Input

The Consultant will propose an approach to stakeholder engagement, which shall ultimately be placed in a public outreach and communication plan, to be reviewed and approved by the Study Review Committee (SRC). The consultant should propose how the team would handle both virtual and in-person meetings, and virtual opportunities should be available even after in-person meetings are deemed more acceptable from a public health standpoint.

SRC membership is expected to include representation from the Cities of Fargo, West Fargo, Horace, Moorhead, Dilworth, the Home Builders Association of Fargo-Moorhead, and Metro COG.

Focus groups related to the housing, development, mortgage/finance, and real estate industries should be recommended by the consultant team with input from local SRC members. The study participants are also interested in the experiences of recent home buyers and those currently searching for a home to buy.

The consultant should explain the extent to which input from the general public is also important to this project, and consultants need to present an approach to gathering input from the public. The consultant should include in their scope of work a plan to gather input and experiences from recent home buyers or prospective home buyers (currently searching) representing different price points within the metropolitan market.

The consultant should also include in their scope of work a plan to seek input and experiences from households on the lowest spectrum of the market, such as those who are fully dependent upon social security, or those for whom housing costs exceed thresholds considered ideal from an affordability perspective. Seniors living in subsidized housing, where rent increases have affected affordability, are also a group of interest.

Metro COG maintains an up-to-date list of local media outlets that can be used for press releases regarding public input opportunities. Public notices and social media boosts shall be paid for out of the project budget. If direct mailings are needed to large numbers of recipients, Metro COG will work with the consultant and local partners to determine the best approach to paying for printing and postage.

Website options for the project could consist of either a project website, or content provided for a housing study page within Metro COG's website. Proposals should explain your team's recommended approach.

Task 4 – Metro-Wide Analysis of Existing Conditions

Based on the data collected as part of Task 2 and the input collected as part of Task 3, the consultant shall conduct an analysis of the existing conditions and those of the recent past by analyzing the data with respect to the housing supply and demand of the metropolitan area.

In addition to documenting the housing needs of our metropolitan area, our study partners are interested in documenting how many housing units, by type and price point, are gained or lost due to the following on a yearly basis:

- New construction,
- Restored from damage (rehabilitated),
- Converted from nonresidential (i.e. existing building reconfigured to housing),

- Conversion of owner-occupied to rental or vice versa
- Conversion of single-family housing to multiple family, or vice versa
- Lost to demolition/disaster,
- Damaged or condemned,
- Existing residential building converted to nonresidential, and
- Other actions that have resulted in significant changes to the overall housing supply

Questions that need to be answered by the analysis include:

- Are there unmet housing needs in the metro area? If so, what are those needs and what are the characteristics of the population groups experiencing those needs?
- How much housing does our metro area need, both in the short term, and throughout the remainder of the decade, and what are the characteristics of the housing units that are needed? Based on population trends, how is that need likely to evolve?
- What is the demand for housing at various price points? What are the primary drivers of demand and how much is driven locally vs. from in-migration from other markets? Does this differ across housing type or price point?
- What housing types are needed to fulfill the gaps in our housing supply?
- With respect to all of the above, what geographic areas, product types or price segments have the greatest imbalance between supply and demand?
- Are there significant numbers of households that are "over housed", and is that due to a lack of other housing choices that meet their needs? What is the relationship between this and other segments of the population that is seeking housing alternatives?
- Are segments of the population with different demographics and different financial situations competing for the same types of homes (e.g. first-time home buyers and empty nesters who are scaling down)? If so, what are these groups, and how do their needs compare?
- What other data is needed for our metro jurisdictions to successfully apply for housing-related grant applications, and can that be provided with this study?
- How does the local housing market compare to peer markets? Are there relative strengths and/or weaknesses?

The study must also provide:

- An analysis of the balance between rental and owner-occupied housing stock, housing type, and related housing information by jurisdiction and, to the extent feasible, census geographies within the jurisdictions.
- Availability of housing stock for first time home buyers
 - Types and features of housing and neighborhoods desired by first time home buyers
- Availability of housing stock for empty nesters and seniors
 - Types and features of housing and neighborhoods desired by empty nesters and seniors
- Condition of existing housing stock within various price ranges
- Perceived or real issues that impact the desirability of existing housing stock at various price points
- Along with a summary of the housing programs and incentives that exist in the community, how effective are these programs at meeting the needs of different segments of the population?
- A summary of housing needs and issues identified in recently completed plans (e.g. Comprehensive Plans of the metro area cities and counties, and Fargo's Core Neighborhoods Plan)
- A summary of housing trends in the country that may arrive in the region or that policy makers should be aware of

In addition to the above, there are areas of concern that local study partners would like to pursue as part of the data collection and stakeholder engagement tasks. They are described below:

- Which community markets have the greatest shortfall in new housing development relative to demand, and the reasons for those disparities (e.g. market factors, regulatory constraints, neighborhood context, etc.)?
- Which inputs to housing construction – land, materials, labor or capital – contribute most to tight inventory and house and rent pricing in this metro area and/or in surrounding communities within our metropolitan planning area (Cass County ND communities of Kindred, Mapleton, Casselton, Harwood, and Argusville; Clay County, MN communities of Sabin, Glyndon, Barnesville and Hawley)?

The findings of Task 4 shall be provided in a document that uses graphics, maps, and text to explain the findings of the analysis. Infographics are preferred as a way to illustrate and summarize key findings, but more detailed data and written material is also important for users who need to delve into the details of the data used to complete the analysis.

Task 5 – Strategy for Meeting Short Term Needs

At this time, several developments and projects have been initiated that have the potential to change the housing demand in the metropolitan area. A few examples of the economic activity within the area include:

- **Amazon** – Amazon is developing a 1,000,000 square foot fulfillment center in Fargo and is in the process of filling 500 full-time jobs. Two large industrial subdivisions and another large warehouse distribution center have been proposed for development in the months during which Amazon's site has been under construction.
- **ND State College of Science Career Innovation Center** – NDSCS is in the process of building this career academy in Fargo. When completed, the academy is expected to create over 100 jobs and help fulfill jobs needed within the region.
- **FM Diversion** – construction on the FM Diversion has already begun, but the workforce needed to complete the project within the anticipated seven-year time frame is expected to require hundreds of employees (approximately 800 at any given time), resulting in spin-off effects to the economy both locally and regionally. [Home - Metro Flood Diversion Authority \(fmdiversion.gov\)](http://fmdiversion.gov)

These are just a small sampling of some of the significant projects that have the potential to change the demand for housing in the metropolitan area within the very short term. Leaders within the metro community need to gain an understanding of what this growth in employment will translate to in terms of housing needs. How do our communities address these needs, demands, and expectations and still meet the on-going needs of other elements of the workforce?

Task 6 – Strategy Beyond the Short Term

As part of this task, the metro area is interested in answering the following questions:

1. Looking beyond the next two to three years, approximately how many homes will be needed, and at what price points?
2. To meet the projected needs, what can individual jurisdictions within this metro area do to change their policies or regulations to better meet the needs of the workforce at all levels? This may include addressing housing options for households who are not currently in the workforce due to retirement or other reasons. What best practices are being used by other communities?

3. What scenarios need to take place for the metro area to successfully meet the needs of the community as a whole to ensure long term sustainability, rather than short term workforce needs?
4. Based on stakeholder and public input, what neighborhood and housing features should be emphasized in the housing supply?

Along with answering the questions posed above, the analysis should provide case studies where cities or other entities have successfully completed projects or created an environment that utilizes best practices that help fulfill the need and demand for workforce housing or other types of housing that indirectly help meet the needs for workforce housing. The case studies should also demonstrate how housing needs were met while also balancing competing community goals, such as good urban design. The case studies should describe the project, the needs that were met, and the strategy used in making the development or redevelopment possible.

Task 7 – Development of Draft and Final Report

Proposals should discuss the consultant team's approach to the development of the draft and final report. To a large degree, the SRC is most interested in receiving data in a format that can be broken down into a fine-grained level that will help them understand the housing situation in small areas within their community, with the understanding that the final report will consist of a document that is less granular, and presents information and recommendations in a format that can be understood and digested by the public and policy-makers.

Detailed data collection and analyses should be presented in appendices. Spreadsheets and other data products shall be provided throughout the process for review and use by SRC members.

Along with the draft and final report, the scope of work shall include Executive Summaries for each of the participating jurisdictions of Cass County, Clay County, and the Cities of Dilworth, Fargo, Horace, Moorhead and West Fargo. The Executive Summaries shall highlight the most significant characteristics of each jurisdiction and how they compare to the MSA as a whole.

Task 8 – Adoption Process

After presenting the findings of the analysis and the final draft of the study to the SRC, the consultant is expected to assist Metro COG staff and local planning staff by providing presentation materials and tools that can be used to inform local Planning Commissions and other boards and committees about the findings of the study. In addition, consultants are requested to include the following in their scope of work:

- a. Presentation to the Study Review Committee and Metro COG Policy Board.
- b. Presentation at a minimum of one local event, such as Eggs and Issues (sponsored

by the Fargo Moorhead West Fargo Chamber of Commerce) or an event of the Home Builders Association of Fargo Moorhead.

- c. Joint presentations to local Planning Commissions and elected officials regarding study findings as needed (minimum 4).

V IMPLEMENTATION SCHEDULE

1) Consultant Selection

Advertise for Consultant Proposals	1/21/2022
Due Date for Proposal Submittals (by 4:30pm)	2/ 21 22/2022
Review Proposals/Identify Finalists	2/22/2022 – 2/28/2022
Interview Finalists	between 3/7/2022 and 3/11/2022
Consultant Notice	3/14/2022
Contract Negotiations	3/18/2022
Signed Contract	Immediately after contract negotiations
Notice to Proceed	Immediately after signed contract

2) Project Development

Project completion is desired within six months to one year after entering into contract. Proposals must include a schedule which shows completion timeframes for project milestones and for the final product.

VI EVALUATION AND SELECTION PROCESS

Selection Committee. The Client will establish a selection committee to select a Consultant. The committee will likely consist of Metro COG staff as well as staff from local jurisdictions.

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

- 20% - Understanding of project objectives
- 20% - Proposed approach, work plan, and management techniques
- 20% - Experience with similar projects and familiarity with the regional issues
- 20% - Expertise of the technical and professional staff assigned to the project
- 20% - Current workload and ability to meet timeline

The Selection Committee, at the discretion of the Client and under the guidance of NDDOT policy, will entertain virtual presentations for the top candidates to provide additional information for the evaluation process. The 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 based on an evaluation of the proposals submitted, the recommendation of the Selection Committee and approval by the Metro COG Policy Board.

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, to pay any costs incurred in the preparation of the contract in response to this request or to procure or contract for services or supplies. 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 the Consultant 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 Work and Performance Tasks.

The Client is asking the Consultant 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 Consultant 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 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 work plan identifying the major tasks to be accomplished relative to the requested study tasks and expected product as outlined in this RFP;

- b) A timeline for completion of the requested services, identifying milestones for development of the project and completion of individual tasks.
- c) List of projects with similar size, scope, type, and complexity that the proposed project team has successfully completed in the past.
- d) List of the proposed principal(s) who will be responsible for the work, proposed Project Manager and project team members (with resumes).
- e) 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 IX. General Proposal Requirements.
- f) 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.
- g) List of client references for similar projects described within the RFP.
- h) Required Disadvantaged Business Enterprise (DBE) and/or Minority Business Enterprise (MBE) Firms participation documentation, if applicable.
- i) Ability of firm to meet required time schedules based on current and known future workload of the staff assigned to the project.
- j) The nature of the counting equipment proposed and details of the reliability and proven capability of the equipment to gather accurate, reliable data.

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 (as identified in VIII 1)

Exhibit B – Federal Clauses

VIII Submittal Information

PDFs of technical proposals should be emailed to gray@fmmetrocog.org and a hard copy of the cost proposal in a sealed envelope should be shipped to ensure timely delivery to the contact as defined below:

Cindy Gray, AICP
Executive Director
Fargo-Moorhead Metropolitan Council of Governments
Case Plaza, Suite 232
One 2nd Street North
Fargo, ND 58102-4807
gray@fmmetrocog.org

Proposals shall be received by **4:30 pm (Central Time) on Monday, February 21~~22~~, 2022** at the Metro COG office. Minority, women-owned and disadvantaged business enterprises are encouraged to participate. The full length of each proposal should not exceed thirty (30) pages; including any supporting material, charts or tables.

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. 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 will 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 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. **This documentation should be attached with the sealed cost proposal.**
- 3) Debarment of Suspension Certification and Certification of Restriction on Lobbying.** See Exhibit B, Federal Clauses.
- 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 Subconsultant'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) **US DOT Policy Statement on Bicycle and Pedestrian Accommodations.** Consultants are advised to review and consider the *US DOT 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.** 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 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, 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 the Client 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 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.

XI PAYMENTS

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

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 relevant 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 Consultant 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 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 Subconsultants, 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 Subconsultant or supplier shall be notified by the Consultant of the Consultant'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 the North Dakota Department of Transportation 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 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 Consultant's noncompliance with the nondiscrimination provisions as outlined herein, the Client and the North Dakota Department of Transportation shall impose such sanctions as it or the Federal Highway Administration / Federal Transit Administration may determine to be appropriate, including but not limited to:
 - 6) Withholding of payments to the Consultant under the contract until the Consultant complies; or
 - 7) Cancellation, termination, or suspension of the contract, in whole or in part.
- 8) **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 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 Consultant becomes involved in, or is threatened with, litigation by a Subconsultant 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 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 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 the Client.

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 Consultant 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 Consultant, of any kind, after the date of termination. Consultant 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 its state and federal planning partners and may not be used, reproduced or released in any form without the explicit, written permission of the Client.

The 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

No Consultant, Subconsultant, 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 the Client 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 Consultant shall provide evidence of insurance as stated in the contract prior to execution of the contract.

XVIII RISK MANAGEMENT

The Consultant agrees to defend, indemnify, and hold harmless the Client and the state of North Dakota, its agencies, officers and employees (State), from and against claims based on the vicarious liability of the Client and the State or its agents, but not against claims based on the Client'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 the Client and the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Client and the State is necessary. Consultant also agrees to defend, indemnify, and hold the Client and the State harmless for all costs, expenses and attorneys' fees incurred if the Client or the State prevails in an action against Consultant in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this Agreement.

The Consultant shall secure and keep in force during the term of this agreement, 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. The Client and the State of North Dakota, its agencies, officers, and employees (State) 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 the Client 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 the undersigned Client and the State Risk Management Department.

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

The Client 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 N.D.C.C. 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, the Client 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 the Client or State. Any insurance, self-insurance or self-retention maintained by the Client 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. The Client 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 upon identification of the most qualified Consultant. 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.	Subconsultant 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

Federal Clauses

Federal Clauses

Equal Employment Opportunity Clause – 41 CFR 60-1.4(a) and 2 CFR Part 200 Appendix II (C)

41 CFR 60-1.4(a)

- (a) *Government contracts.* Except as otherwise provided, each contracting agency shall include the following equal opportunity clause contained in section 202 of the order in each of its Government contracts (and modifications thereof if not included in the original contract):during the performance of this contract, the contractor agrees as follows:
- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
 - (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
 - (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the secretary of labor.
 - (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the secretary of labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the secretary of labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
 - (6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the secretary of labor, or as otherwise provided by law.

- (7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the secretary of labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the secretary of labor as a means of enforcing such provisions including sanctions for noncompliance: *provided, however*, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the united states to enter into such litigation to protect the interests of the United States.

2 CFR Part 200 Appendix II (C)

- (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

Sanctions and Penalties for Breach of Contract – 2 CFR Part 200 Appendix II (A)

- (A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Termination for Cause and Convenience – 2 CFR Part 200 Appendix II (B)

- (B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

Rights to Inventions Made Under a Contract or Agreement – 2 CFR Part 200 Appendix II (F)

- (F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and

Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

Debarment and Suspension - 2 CFR Part 200 Appendix II (I)

- (I) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), “Debarment and Suspension.” The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Byrd Anti-Lobbying Amendment - 2 CFR Part 200 Appendix II (J)

- (J) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.