

**FARGO-MOORHEAD
METROPOLITAN COUNCIL OF GOVERNMENTS**

REQUEST FOR PROPOSALS (RFP)

PROJECT NO. 2024-212

**2026-2030
*Transit Development Plan***

May, 2024

APPROVED:



**Ben Griffith
Metro COG, Executive Director**

METROCOG
FM REGIONAL TRANSPORTATION PLANNING ORGANIZATION

REQUEST FOR PROPOSALS (RFP)

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

2026-2030 Transit Development Plan

Qualifications based selection criteria will be used to analyze proposals from responding consultants. The most qualified candidates may be invited to present an in-person, virtual, or hybrid interview. Upon completion of interviews and technical rankings, Metro COG will enter into negotiations with the top ranked firm. **Sealed cost proposals shall be submitted with the RFP.** 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 **\$200,000.**

Interested firms can request a full copy of the RFP by telephoning 701.532.5100, or by e-mail: metrocog@fmmetrocog.org. Copies will be posted on the North Dakota Department of Transportation QBS website (<https://www.dot.nd.gov>) and are also available for download in .pdf format at www.fmmetrocog.org.

All applicants must be prequalified with the North Dakota Department of Transportation (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 proposals received by **4:30 pm (Central Time) on Wednesday, June 12, 2024** will be given equal consideration. Proposals received after 4:30 pm (Central Time) on Wednesday, June 12, 2024 will not be considered. Respondents must submit six (6) print copies and one (1) PDF copy of the proposal and one (1) sealed hard copy of the cost proposal. The full length of each proposal shall not exceed thirty (30) pages; including any supporting material, charts, or tables.

Hard copies of technical and cost proposals shall be shipped or hand-delivered to ensure timely delivery to the contact defined below:

Chelsea Levorsen
Assistant Transportation Planner
Fargo-Moorhead Metropolitan Council of Governments
Case Plaza, Suite 232 - One 2nd Street North - Fargo, ND 58102
Levorsen@fmmetrocog.org
701-532-5102

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

Note: The document can be made available in alternative formats for persons with disabilities by contacting Metro Cog at 701.532.5100.

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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. As the designated MPO for the Fargo-Moorhead Metropolitan Area, Metro COG is responsible under federal law for maintaining a continuous, comprehensive, and coordinated transportation planning process.

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

II PURPOSE OF REQUEST

As part of the regional transportation planning process, the Fargo-Moorhead Metropolitan Council of Governments (Metro COG), in coordination with Metro Area Transit (MATBUS), is seeking proposals from qualified consultant teams with expertise in developing a Federal Transit Administration (FTA) compliant, five-year Transit Development Plan (TDP). As the designated Metropolitan Planning Organization (MPO) for the Fargo-Moorhead Metropolitan Area, Metro COG is responsible under federal law for maintaining a continuous, comprehensive, and coordinated transportation planning process. A component to this process is the development of the TDP which is intended to identify strategies and recommendations to improve transit service in the FM Area. It is essential that the TDP be updated to provide adequate guidance to make operational adjustments, address capital needs, note changes in fixed-route and paratransit operations, and reevaluate local, state, and federal funding level changes that have occurred over the subsequent five-year planning period. It is also necessary to provide adequate guidance in the development and execution of coordinated transit services in the Fargo-Moorhead Metropolitan Area.

III BACKGROUND INFORMATION

Transit service in the FM Region is currently operated jointly, through agreements, by two separate municipal departments with the Cities of Fargo, North Dakota and Moorhead, Minnesota, under the Metro Area Transit (MATBUS) banner. In 2023, MATBUS gave a total of 1,256,514 rides, servicing Dilworth, Moorhead, Fargo, and West Fargo. Within those Cities, MATBUS services the following five (5) Colleges: North Dakota State University (NDSU) main and downtown campuses, Concordia College, Minnesota State University-Moorhead (MSUM), Minnesota State Community and Technical College (M | State), and North Dakota State College of Science (NDSCS).

In addition to fixed-route service, MATBUS also provides paratransit for ADA-eligible residents who are unable to access fixed route services. FTA regulation requires paratransit services be made available for individuals within $\frac{3}{4}$ miles of fixed-route services. Currently, paratransit service is available for \$3 per ride for individuals who qualify, located within the Fargo-Moorhead urbanized area. MATBUS has been considering changing its paratransit policy to include a premium fare associated with rides outside of the $\frac{3}{4}$ mile perimeter.

Future goals of MATBUS include increasing ridership, attract and retain drivers, a new Southwest transit hub and the Dilworth Walmart Hub, improving shelter accessibility, updating its policy on the placement of shelters and other stop amenities, and implementing recommendations of the Transit Reorganization Study.

After the Covid 19 Pandemic, MATBUS saw a decrease in ridership. Since 2021, ridership has slowly been increasing, but it is still significantly below pre-Covid ridership. MATBUS staff have implemented a series of marketing strategies to attract new riders, including how-to tutorials, LinkFM partnership events, and community partnership events, such as Midwest Kid Fest, Stuff the Bus, and College Orientation in order to increase ridership.

The agency has struggled to hire and retain bus drivers. Due to a lack of bus drivers, MATBUS has had to make a number of route and service adjustments, including decreasing hours of operation from 11:15 PM to 10:15 PM Monday through Saturday as well as the continuation of suspended Sunday Service. Other changes include the reduction of mileage on routes 15, 18, 20, and 32, the suspension of route 36, and the replacement of Tapride with On-Demand Service. In order to attract and retain drivers, MATBUS has implemented a driver pay increase and a pay differential for night and weekend shifts.

In the past, Moorhead and Fargo have completed several planning studies evaluating the concept of a more consolidated transit operation. In 2023, Metro COG transitioned from a Metropolitan Planning Organization (MPO) to a Transportation Management Area (TMA) and key MATBUS staff from both Fargo and Moorhead announced their upcoming retirements. This led to the creation of the MATBUS Reorganizations Study, to accelerate the consolidation of MATBUS operations. Currently, MATBUS is in the process of implementing recommendations from the study, including; restructuring its governance

structure, reorganizing staff structure, designating fund allocations, and finalizing a revised joint-powers agreement. In the near future, MATBUS will need to develop policy related to the recommendations of the Reorganization Study, including; in-house driver acquisition and training and revenue generation.

Currently, on-demand / micro-transit service is offered to the Fargo Industrial Park and at the NDSU Main Campus during evening hours. There has been an increase in demand for new service by local developments, jurisdictions and agencies. MATBUS would like to expand its Micro transit reach and create a policy for new service requests. MATBUS is interested in pursuing the integration of micro-transit solutions to supplement its fixed-route service.

The Coordinated Human Service Transportation Plan (CHSTP) is a required component of the TDP. MATBUS coordinates with some of these providers on a regular basis (Valley Senior Services). The CHSTP component of the plan is useful to MATBUS in coordinating service. MATBUS has considered directly providing senior ride service in the past. Moorhead Transit contracts with Valley Senior Services to fill gaps in transit service and to supplement paratransit service in Moorhead and Fargo, however, Fargo Transit does not. Now that MATBUS is a large Urban provider, it receives a direct sub-allocation of FTA 5310 funding. The CHSTP and the TDP should address and coordinate such service and set direction for the use of the dedicated funding source.

Development and adoption of the TDP is recommended by the FTA to establish a transit agency's vision for public transportation, assess needs, and identify a framework for program implementation. The consideration of both long-range and short-range strategies and actions better enables the development of an integrated multimodal transportation system that efficiently operates and addresses transportation demand. As program implementation largely depends on funding, grants, and participation from FTA and/or other state agencies, there is a vital need for a comprehensive TDP to guide operation, maintenance, infrastructure, and capital considerations.

The TDP Update will analyze a wide range of service, capital, institutional/managerial, and financial alternatives. The consultant shall evaluate the existing transit system in place, gauge opportunities for improved transit coordination in the region, identify the most efficient approach to meet the needs of the public, and carefully consider where transit resources should be devoted over the five-year planning period.

The consultant should be aware of previous plans/studies completed by Metro COG, NDDOT, MnDOT, and member jurisdictions that may have an impact to transit. Plans include:

- Metro COG 2045 MTP: MetroGrow
- Metro COG 2050 MTP: Transportation Moving Ahead (completion Fall 2024)
- MATBUS Transit Reorganization Study (completion Spring/Summer 2024)
- MATBUS Transit Authority Study
- MATBUS Transit Facility Study
- MATBUS 2021-2025 Transit Development Plan

IV PROJECT OBJECTIVES

The TDP Update will analyze a wide range of service, capital, institutional/managerial, and financial alternatives. The consultant shall evaluate the existing transit system in place, gauge opportunities for improved transit coordination in the region, identify the most efficient approach to meet the needs of the public, and carefully consider where transit resources should be devoted over the five-year planning period. The objective of the MATBUS 2026-2030 Transit Development Plan is to develop a document that meets federal and state requirements, addresses local challenges in implementing transit service, integrates the transition to a large urban system, coordinates with the transit community, and provides policy framework and vision to base decisions affecting transit for the next five years. In order to accomplish the objective of this planning effort, the consultant must:

1. Evaluate current MATBUS policies regarding providing transit service within the Fargo-Moorhead Region
2. Provide MATBUS staff and leadership with goals, recommendations, and administrative policies to implement throughout the next five years. The consultant shall reference previously completed transit studies, specifically the Reorganizational Study, to make recommendations and develop policy.
3. This document should incorporate the region's transit needs and must be compliant with federal and state expectations. The consultant will be responsible to ensure all newly required documents pertaining to the Metro's new large urban area status are included. The expectation is that the final product will integrate all federally required components such as Performance Measures and the Consolidated Human Services Plan (CHSTP), while addressing local initiatives and concerns as well.
4. Identify gaps and transit needs that preclude the public's access, specifically addressing transit dependent, Title VI, and EJ to essential services including housing, employment, healthcare, school/education, and recreation.
5. Analyze new service strategies and technologies to provide enhanced transit service to the public.
6. Community outreach to assess the current transit service and identify future transit needs.

V SCOPE OF WORK AND PERFORMANCE TASKS

Metro COG is seeking a consultant that can provide the typical qualifications necessary in order to develop a TDP, with necessary elements to satisfy federal regulations, and has the ability to provide a pro-active approach, vision, innovation, collaboration, and sustainability in examining and proposing study recommendations.

Outlined below is a scope of work that will guide development of the MATBUS 2026-2030 Transit Development Plan. Metro COG has included the following scope of work to provide interested consultants insight into project intent, context, coordination, responsibility, and other elements to help facilitate proposal development.

This outline is not necessarily all-inclusive. The consultant may include in the proposal any additional performance tasks that will integrate innovative approaches to successfully complete the project. It is recommended that the consultant gain familiarity with the MATBUS system and the agency's needs.

It is imperative that the consultant apply forward planning and work on tasks simultaneously to ensure completion of the Transit Development Plan in a timely manner. The consultant will be judged on its ability to move the project forward and submit deliverables according to their schedule. Particular deference will be given to firms that can demonstrate their ability to aggressively accomplish tasks, especially completing all the elements planned for 2024. Metro COG would like the consultant to plan to expend the 2024 budget by December 31, 2024.

At a minimum, the consultant will be expected to establish detailed analyses, recommendations, and/or deliverables for the following tasks:

Task 1 – Project Management and Coordination

This task involves activities required to manage the project including staff, equipment and documentation. It also includes the preparation of monthly progress reports, documenting travel and expense receipts, and preparing and submitting invoices for reimbursement. In addition, this task includes progress meetings with Metro COG. It should be assumed that progress meetings will occur every two weeks.

The Consultant will assign a single person to serve through the life of the contract as Consultant Project Manager (PM). The PM must be the person identified in the selected firm's proposal and may not be changed without prior written approval of Metro COG. The PM is responsible for the overall project management necessary to ensure the satisfactory completion of the Transit Development Plan, on-time and on-budget, in accordance with the scope of services. The PM will serve as a single point of contact and will be expected to ensure the Consultant team is properly managed, adequate resources are available, submittals are timely, quality control processes are utilized for maximum benefit, and invoices are submitted in a timely fashion.

The PM will submit monthly invoices with documentation acceptable to Metro COG throughout the life of the contract. Invoices must include the monthly progress report, a breakout of activities by task, employee hours for those tasks, and any supportive documentation for expenses. All invoice submittals, including progress reports, and any supportive materials shall be submitted to the Metro COG project manager no later than the 2nd Thursday of the month. This is to ensure invoices are processed in a timely fashion.

Task 2 – Community Engagement

In compliance with Metro COG's adopted Public Participation Plan (PPP), the consultant will develop and implement an extensive community engagement program that seeks to gain input from community members from all parts of the study area. This effort should particularly focus on transit dependent populations, current ridership, low-income communities, newly-arrived immigrant communities, potential riders, and businesses/organizations that serve these populations. Broad-based community engagement is considered critical to the success of this plan. The consultant should identify Study Review Committee (SRC) members, stakeholders, and other coordinating agencies that should be party to the planning process.

The consultant should propose engagement methods they think would be most successful in the planning effort to solicit direct participation from the above groups. The consultant will facilitate all community engagement activities, and should propose the number, type, and strategy for each community engagement effort. At a minimum, the community engagement program should address the following:

- Identification of stakeholders
- Engagement strategies and activities, tied back to reaching all identified stakeholder groups, including those difficult to reach
- Timeline for community engagement activities and desired type of community feedback at project checkpoints or milestones
- Communication methods for sharing information with the public, stakeholders, and the above populations in the study area
- Strategy for effective and consistent messaging across platforms

It is imperative to consider the public and keep them informed of the planning activities and outcomes using strategies that include the internet and social media. Providing information to Metro COG and other regional jurisdictions for posting on their websites will be required. New and innovative public engagement solutions are highly encouraged. Metro COG promotes an active public engagement mantra, where engagement events are conducted out in the community where gatherings are taking place. Feedback at these events is to be solicited through activities that are easily approachable and fun for the participant.

- **Study Review Committee**

Development of the MATBUS 2026-2030 TDP will be guided by a Study Review Committee (SRC), which will provide oversight and input into the development of

the Plan. MATBUS and Metro COG staff prefer in-person meetings on a regular basis throughout the planning process. The consultant should propose the quantity, timing, and content of these meetings, as well as incorporate enough time and travel to realistically meet these expectations. The consultant will be responsible for coordinating, scheduling, and developing agendas for the SRC meetings. This should be done in coordination with Metro COG's project manager. The consultant will be expected to distribute materials to the SRC in a timely manner, at least one-week before the scheduled meeting. The consultant is also responsible for the recording of meeting minutes, which should be submitted to Metro COG's project manager no later than one-week following the SRC meeting.

- **Public Meetings / Open Houses**

The consultant shall be required to submit its approach on how it will reach out to the community during the planning process. It is expected that each round of community engagement will have a presence in West Fargo, Fargo, Moorhead, and Dilworth. The consultant's approach should address:

- How it will go about these meetings
- Methods it will employ
- Quantity of rounds of public engagement meetings
- Timing of each round in the planning process, and
- Types of engagement techniques the consultant is accustomed to utilizing to accomplish this task.

The consultant will be responsible for fully developing each round of public engagement before it is proposed to Metro COG's project manager. Scheduling and development should occur well in advance of the proposed engagement event to ensure timely project completion.

- **Passenger Survey**

The consultant shall be required to submit an approach to surveying existing and potential riders. The approach shall detail the potential content of the survey, how the survey would be disseminated, and an approach to how the consultant will use the information to develop the TDP. The consultant will be expected to explain how the passenger survey will fit into the project timeline in order to ensure timely deliverables. This approach should include interactive elements, such as maps, that the consultant can bring to bear in order to increase the public's ease of response and allow for more precise input. The Consultant can use MATBUS staff to encourage passenger participation. Consultant staff does not need to be present on the Bus for survey distribution.

- **Stakeholder Engagement**

The consultant will be required to identify and to reach out to agencies in the community that serve transit dependent populations in order to gain insight into transit issues and needs. This input should be directly used to develop elements of the TDP. The consultant should propose methods it will employ to conduct this

outreach along with the number of stakeholder engagement meetings and the timing of such meetings within the project schedule.

Task 3 – Data Collection of Existing Conditions

The consultant shall gather and analyze existing conditions relative to transit service provided by MATBUS. They shall coordinate with Metro COG and MATBUS to consider the roles and responsibilities of how specific data will be collected and if additional data development will be required. This should include (but is not limited to):

Performance Measures

The consultant shall document all federally required performance-based planning and programming approaches required of MATBUS through Federal legislation, as well as develop Key Performance Indicators (KPI) for items such as:

- Marketing efforts
- Staffing levels
- Incidents
- On-time performance standards

The consultant should propose other such focus areas for KPI's it believes will be pertinent to this effort.

- **Public Transit Agency Safety Performance (PTASP) Measures**

The consultant shall work with MATBUS and Metro COG to evaluate safety performance as required by the Bipartisan Infrastructure Law (BIL). The consultant should also propose any innovative approaches to integrating safety and any associated analytic measurement it feels would be pertinent to MATBUS in safely operating the transit system.

- **Transit Asset Management (TAM) Inventory** The consultant shall detail all MATBUS assets including their condition, their useful life, and their replacement schedule and associated costs. This effort shall be compliant to the Federal Transit Asset Management Plan requirements. MATBUS staff will provide the consultant with existing inventory documentation, and such information should be integrated into the TDP. Inventory shall include:

- Fleet
- Facilities
- Any other capital assets (including technology)

Current Routes, Timetables, & Hours of Operation

A listing of existing detours and scheduled construction projects likely to occur in the life of this plan should be included. Future roadway projects will be provided in coordination with state and local engineers and Metro COG Staff. Metro COG

will make ReMIX Routing Software available for use by the consultant for any such routing analyses that would need to be performed. This should include:

- Existing routes
- Known detours that are currently in place or may occur within the life of this plan
- Current frequency on a route-by-route basis
- Hours of service.
- Stop Inventory

Fare Structure

The consultant shall document historic and current fares, as well as conduct a fare recovery analysis. The consultant shall conduct a fare analysis of both fixed-route and paratransit service, including comparisons on similar transit systems, and make suggestions accordingly.

Ridership

The consultant shall analyze ridership trends. MATBUS will supply the consultant with this information. This analysis should result in recommendations of how to attract new ridership as well as maintain existing ridership.

Note: Currently, all boarding data is recorded via fare box, located on each bus. MATBUS currently does not have the ability to track deboarding data. However, new software is in the process of being implemented with automatic passenger counters, with implementation planned for July-August 2024.

Existing Plans Integration

The consultant should review, summarize, and incorporate the recommendations of plans that have occurred and are actively taking place.

Document MATBUS Mission Statement(s), Goals, and Core Values

MATBUS will supply the consultant with any applicable mission statements, goals, policies, and core values that have been developed. The Consultant may have to work with MATBUS to develop these items.

Existing and Future Financials

MATBUS staff will provide the consultant with existing financial documentation, as requested. The consultant will be expected to assist MATBUS with coordinating and updating its 10-year financial plans between Moorhead and Fargo.

Evaluation of Deviated Fixed-Route Transit

The consultant shall include in its proposal an analysis of current MATBUS deviated fixed-route services as well as other micro transit options. This should include:

- Service areas
- Feeder systems
- MATBUS as coordinator of regional micro transit options (electric scooters, bike-share, car-share, etc.)

Task 4 – Goals, Policies, Priorities, and Performance Measures

The consultant shall lead a goal making exercise that sets the stage for how system improvements are considered and implemented over the course of the next five-years. This exercise should include developing policies that directly relate to addressing issues, meeting needs, and filling gaps. These items should directly relate to comments cultivated during Task 2: Community Engagement. This should also include a prioritization of goals and policies that will lead decision-making. The consultant should also evaluate current policies for their effectiveness and should identify policies that limit the achievement of goals that are developed in this task.

The consultant should report on existing Federal Transit Performance Measures, and work with MATBUS on ways to develop, track, and report internal performance measures. This may include the development of tools to aid MATBUS staff in these efforts. This task should culminate in a cohesive mission statement, vision, and goals for MATBUS as one agency.

Task 5 – Route Performance

The consultant must assess the performance of each route separately and offer suggestions as needed. This involves examining and analyzing factors like route ridership, mileage, accessibility, designated stops, and associated costs. Additionally, the consultant should devise a policy for MATBUS staff to consult in case route adjustments (including increases or decreases in service) are necessary due to unforeseen events like major community gatherings or staffing shortages.

Task 6 – Designated Stop Analysis

The consultant will evaluate current designated stops to not only determine where stops should be located, but also a policy that can be applied to the placement of designated stops. This will be done by analyzing stops based on:

- Boardings / deboardings
- Stop spacing
- Route performance
- Other such data

The consultant will also evaluate transit stop signage, ADA accessibility, parking within designated stop areas (as a signage and policy matter), and traffic conflicts. This analysis should also include amenities such as shelters, benches, lighting, and bus/shelter advertising that should be placed at each stop. The consultant can utilize metrics/policies that were developed as part of the MATBUS Transit Facility Analysis for this effort.

Task 7 – Future System Needs

The Consultant will address the needs, issues, and gaps in system service by proposing alterations or additions to transit service and policy.

The Consultant shall reevaluate the previously developed, future transit goals and determine how they align with the current and forecasted system needs. The consultant should also evaluate the potential for future high-capacity routes. This will require reference to previous studies, including the MATBUS Reorganizational Study, to identify needs of patrons as well as MATBUS staff. This may include recommendations of route/service changes, addition of new types of service, such as Bus Rapid Transit or Micro Transit, staff training policy, advertising policy, and/or fare adjustments

The Consultant shall evaluate the need for micro-transit service in the area. If it is determined that micro transit would be beneficial, the consultant will provide route maps and detailed service cost estimates as needed for micro transit implementation.

The Consultant shall review existing criteria and recommendations from the 2018 Facility Study to identify the need for new shelter and bench policies and locations. An analysis of the current stops and shelters would include assuring accessibility and ADA Compliance.

The consultant shall provide recommendations for integrating new technologies for both transit service and internal operations. The consultant should use the knowledge gained from Task 3 and Task 5 to recommend training or technologies that could be utilized to make improvements to transit operations, especially focused on technologies that could be integrated into the rolling stock to assist drivers. This may include the implementation of a Pedestrian Warning System or the use of Bus Simulators.

These new treatments should be derived from operant philosophies developed as part of Task 6: Goals, Policies, Priorities, and Performance Measures. Each recommendation should detail service cost, as well as impacts in regards to personnel, facilities, fleet riders, and any effect on operations in general. Any Fixed-Route or Micro transit proposal shall include a 'proposed route map/plan' deliverable.

Task 8 – Consolidated Human Services Transportation Plan (CHSTP)

The Consolidated Human Services Transportation Plan must be updated every five years in order for participants to be eligible to receive 5310 funding. The consultant should update and integrate the CHSTP into the Transit Development Plan. CHSTP elements include an assessment of available services, an assessment of transportation needs for persons with disabilities and seniors, strategies to address current service needs, and priorities for implementation. The CHSTP must follow FTA guidance and include all requirements associated with the Metro COG becoming a TMA.

Task 9 - Final Plan & Executive Summary

The consultant will deliver a draft MATBUS 2026-2030 TDP to the project team at least one (1) month before the approval process is set to begin in order for staff to provide comment on its contents. The consultant will then develop a final TDP to be brought forward for adoption by the MAT Coordinating Board, City of Fargo, City of Moorhead, and Metro COG. This final TDP shall include all elements as listed above as well as

appendices detailing technical elements that cannot fit into the formal plan, details of each public engagement effort, and all comments received throughout the planning process.

Upon completion of the final plan, the consultant will develop an executive summary that relays all pertinent information in an easy-to-follow format. The summary should be concise and highly graphic, highlighting all major recommendations of the plan, including brief summaries relating to existing conditions, issues identification, community engagement, plan development, and implementation strategies.

The consultant is responsible for a minimum of four (4) presentations. Of the four presentations, and upon direction by the SRC, the consultant may be responsible for a minimum of two (2) personal appearances before the MAT Coordinating Board (mid-project & final approval). The consultant will also be responsible for personal appearances in front of Metro COG's TTC and Policy Board in the final approval stage of the project. The consultant should specifically detail all presentations proposed throughout the planning process within the project proposal. Other presentations may include the Fargo City Commission and/or Moorhead City Council.

Task 10 - Deliverables

The consultant will prepare a full draft of the transportation plan for review and comment by the SRC. This draft is to be provided as an electronic PDF to study review committee members. Comments received from the SRC will be incorporated in the final draft of the plan for public review.

Upon final completion, the consultant will be responsible for providing five (5) 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.

The consultant is expected to provide Metro COG with all data and plan products, including GIS shapefiles, Adobe InDesign files, and a high-resolution document PDF format for printing.

Note: The above scope of work should act as a guide in preparing the proposal. The consultant should add any elements it deems necessary to complete the intent of the planning effort. Upon award, the consultant, Metro COG, and MATBUS will negotiate the final scope of work elements.

VI SCHEDULE

Consultant Selection

Advertise for Consultant Proposals	approximately 05/20/2024
Due Date for Proposal Submittals (by 4:30 p.m.)	06/12/2024
Interview Finalists	06/18/2024
Metro COG Policy Board Approval/Consultant Notice	06/20/2024
Finalize & Sign Contract	Following Board Approval
Notice to Proceed*	After QBS Approval

***Notice to Proceed shall not be issued until the Consultant has provided all materials required for contracting, including, but not limited to, the Proposed Sub-Consultant Request form (SFN 60232) and Prime Consultant Request to Sublet form (SFN 60233) form, if applicable, and the Qualifications Based Selection documentation has been fully compiled by Metro COG and submitted to and approved by the North Dakota Department of Transportation.**

Project Schedule

This plan has \$100,000 allocated for 2024 and \$100,000 allocated for 2025. The Consultant shall propose a project schedule detailing the work to be completed and the anticipated expenses for each year. No 2024 funds will be carried over into 2025. This information should be included in the proposal.

VII EVALUATION AND SELECTION PROCESS

Selection Committee. The Client will establish a selection committee to select a consultant. The committee will likely consist of staff from Metro COG, the City of Fargo, the City of Moorhead, and other applicable stakeholders

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

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

The Selection Committee, at the discretion of the Client and under the guidance of

NDDOT policy, will entertain formal oral presentations for the top candidates to provide additional information for the evaluation process. The oral presentations will be followed by a question-and-answer period during which the committee may question the prospective Consultants about their proposed approaches.

A Consultant will be selected on **June 20, 2024** 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.

VIII 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, FAX, email address(es)), year established, type of ownership and parent company (if any), project manager name and qualifications, and any major facts, features, recommendations or conclusions that may differentiate this proposal from others, if any.
- 3) Work Plan and Project Methodology.** Proposals shall include the following, at

minimum:

- a) A detailed 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, including all public participation opportunities and stakeholder meetings, 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 VIII. 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) 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.
- 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

Exhibit C – SFN 60232: Proposed Sub-Consultant Request

Exhibit D – Debarment of Suspension Certificate and Certification of Restriction on Lobbying

IX Submittal Information

Hard copies and PDF of technical proposals and hard copy of cost proposal should be hand delivered or shipped to ensure timely delivery to the contact as defined below:

Chelsea Levorsen
Assistant Transportation Planner
Fargo-Moorhead Metropolitan Council of Governments
Case Plaza, One 2nd Street North, Suite 232
Fargo, North Dakota 58102
Levorsen@fmmetrocog.org
701-532-5102

Proposals shall be received by **4:30 pm (Central Time) on Wednesday June 12, 2024** at the Metro COG office. Minority, women-owned and disadvantaged business enterprises are encouraged to participate. Respondents must submit six (6) print copies and one (1) PDF copy of the proposal and one (1) sealed hard copy of the cost proposal. The full length of each proposal shall not exceed thirty (30) pages; including any supporting material, charts, or tables.

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. The sealed cost proposal is required to include the following documentation:
 - a. Documentation from the ND Secretary of State detailing the prime consultant is in good standing and is licensed to do business in the State of North Dakota**
 - b. Documentation that the prime consultant is registered with the ND Board of Registration**
 - c. Documentation showing registration with the federal System for Award Management (SAM.gov) that the prime consultant has not been suspended, debarred, voluntarily excluded, or deterred ineligible**

- 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. The submitted Indirect Rate MUST match the Indirect Rate on all invoicing.**
- 3) **Debarment of Suspension Certification and Certification of Restriction on Lobbying.** See Exhibit B, Federal Clauses regarding Debarment of Suspension and Restriction on Lobbying.
- 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.
- 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 NDDOT website www.dot.nd.gov/manuals/environmental/proceduremanual.pdf.

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.
- 7) **The Consultant agrees to not start any work on the project until the Qualifications Based Selection requirements have been satisfied and approved by the NDDOT, and Metro COG has provided the consultant with a notice to proceed.**

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 XII, 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 \$500,000 per person and \$2,000,000 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

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 the nondiscrimination clause.
 - (2) The contract will, in all solicitations or advertisements for employees placed by or no behalf of the contractor, state that all qualified applicants will receive considerations 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 affected and the basis for settlement.

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

- (F) Right 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 of 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.

Exhibit C – SFN 60232: Proposed Sub-Consultant Request

Exhibit D – 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 D – 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)