

**The 607th Policy Board Meeting**  
**Fargo-Moorhead Metropolitan Council of Governments**  
**THURSDAY, October 20, 2022 – 4:00 p.m.**  
**Fargo, North Dakota**

**AGENDA**

1. Call to Order and Introductions
  - a. Introductions Information Item
  - b. Approve Order and Contents of the Overall Agenda Action Item
  - c. Approve Minutes of the September 15, 2022 Board Meeting Action Item
  - d. Approve October 2022 Bills Action Item
2. Consent Agenda Action Item
  - a. September End of Month Report
  - b. Metro COG 3<sup>rd</sup> Quarter Report
3. Regular Agenda
  - a. Public Comment Opportunity Public Input
  - b. Public Participation Plan Update Action Item
  - c. Transportation Management Area Transition Update Information Item
  - d. Solicitation for Accounting Services RFP Action Item
  - e. Solicitation for Auditing Services RFP Action Item
4. Additional Business Information Item
5. Adjourn

REMINDER: The next Metro COG Policy Board Meeting will be held Thursday, November 17, 2022 at 4:00 p.m.

Due to ongoing public health concerns related to COVID-19, Metro COG is encouraging citizens to provide their comments on agenda items via email to [leach@fmmetrocog.org](mailto:leach@fmmetrocog.org). To ensure your comments are received prior to the meeting, please submit them by 8:00 a.m. on the day of the meeting and reference which agenda item your comments address. If you would like to appear via video or audio link for comments or questions on a regular agenda or public hearing item, please provide your e-mail address and contact information to the above e-mail at least one business day before the meeting.

**For Public Participation, please REGISTER with the following link:**

[https://us02web.zoom.us/webinar/register/WN\\_9VzfU8kR6S-vc-M-9Owzw](https://us02web.zoom.us/webinar/register/WN_9VzfU8kR6S-vc-M-9Owzw)

Red Action Items require roll call votes.

Full Agenda packets can be found on the Metro COG Web Site at <http://www.fmmetrocog.org>

NOTE: Given the participation of Fargo City Commissioners at Policy Board meetings, such meetings may constitute open public meetings of the City of Fargo.

Metro COG is committed to ensuring all individuals, regardless of race, color, sex, age, national origin, disability/handicap, sexual orientation, and/or income status have access to Metro COG's programs and services. Meeting facilities will be accessible to mobility impaired individuals. Metro COG will make a good faith effort to accommodate requests for translation services for meeting proceedings and related materials. Please contact Savanna Leach, Metro COG Executive Assistant, at 701-532-5100 at least five days in advance of the meeting if any special accommodations are required for any member of the public to be able to participate in the meeting.

**606th Policy Board Meeting  
Fargo-Moorhead Metropolitan Council of Governments  
Thursday, September 15, 2022 – 4:00 pm**

**Members Present:**

Amanda	George	West Fargo City Commission
John	Gunkelman	Fargo Planning Commission
Chuck	Hendrickson	Moorhead City Council
Steve	Lindaas	Moorhead City Council
Jenny	Mongeau	Clay County Commission
Julie	Nash	Dilworth City Council
Brad	Olson	West Fargo City Commission
Dave	Piepkorn	Fargo City Commission
Arlette	Preston	Fargo City Commission
Mary	Scherling	Cass County Commission
Rocky	Schneider	Fargo Planning Commission
John	Strand	Fargo City Commission
Jeff	Trudeau	Horace City Council
Bob	Walton	NDDOT – Fargo District (ex-officio)

**Members Absent:**

Matthew	Gilbertson	Moorhead City Council
Denise	Kolpack	Fargo City Commission
Maranda	Tasa	Fargo Planning Commission
Shiloh	Wahl	MnDOT – District 4 (ex-officio)

**Others Present:**

Adam	Altenburg	Metro COG
Paul	Bervik	Metro COG
Jaron	Capps	Metro COG
Ari	Del Rosario	Metro COG
Micah	Dickman	Urban SDK
Dan	Farnsworth	Metro COG
Cindy	Gray	Metro COG
Savanna	Leach	Metro COG
Michael	Maddox	Metro COG
Brent	Muscha	Apex Engineering

**1a. MEETING CALLED TO ORDER, WELCOME, AND INTRODUCTIONS, convened**

The meeting was called to order at 4:00 pm, on September 15, 2022 by Chair Piepkorn, noting a quorum was present. Introductions were made.

**1b. Approve Order and Contents of Overall Agenda, approved**

Chair Piepkorn asked for approval for the overall agenda.

**MOTION: Approve the contents of the Overall Agenda of the September 15, 2022 Policy Board Meeting.**

**Mr. Schneider moved, seconded by Mr. Hendrickson**

**MOTION, passed**

**Motion carried unanimously.**

**1c. Past Meeting Minutes, approved**

Chair Piepkorn asked for approval of the Minutes of the August 18, 2022 Meeting.

**MOTION: Approve the August 18, 2022 Policy Board Meeting Minutes.**

**Mr. Lindaas moved, seconded by Mr. Olson**

**MOTION, passed**

**Motion carried unanimously.**

**1d. Monthly Bills, approved**

Chair Piepkorn asked for approval of the September 2022 Bills as listed on Attachment 1d.

**MOTION: Approve the September 2022 Bills List.**

**Mr. Olson moved, seconded by Ms. Nash**

**MOTION, passed**

**Motion carried unanimously.**

**2. CONSENT AGENDA**

Chair Piepkorn asked for approval of Items a-d on the Consent Agenda.

a. August Month End Report

b. 2021-2022 Unified Planning Work Program (UPWP) Amendment #6

**MOTION: Approve Items a-b on the Consent Agenda.**

**Ms. Preston moved, seconded by Mr. Gunkelman**

**MOTION, passed**

**Motion carried unanimously.**

**3. REGULAR AGENDA**

**3a. Public Comment Opportunity**

No public comments were made or received.

**3b. 2022-2025 Transportation Improvement Program (TIP) Amendment #8**

Mr. Del Rosario presented amendment #8 to the 2022-2025 Transportation Improvement Program (TIP). The proposed amendment to the 2022-2025 TIP reflects a modified federally funded project within the Metropolitan Planning Area (MPA).

A public notice was published in The Forum of Fargo-Moorhead on Wednesday, August 31, 2022, which advertised the public meeting, detailed how to request more information, and provided information on how to make public comment regarding the proposed amendment. The public notice advertised that any public comments will be accepted until 12:00 p.m. (noon) on Thursday, September 15, 2022. No written comments were received.

The proposed amendment to the 2022-2025 TIP is as follows:

1. **Modification of Project 9190025:** NDDOT reconstruction of I-94 E from near W Fargo E to W Horace Rd. The project year changed from 2023 to 2022. The total

project cost increased by 31.02% from \$8,200,000 to \$10,743,764 of which Interstate Maintenance (IM) funds increased from \$7,380,000 to \$9,669,388 and state funds increased from \$820,000 to \$1,074,376.

2. **Modification of Project 9190027:** NDDOT reconstruction of I-94 W from near W Fargo E to W Horace Rd. The project year changed from 2023 to 2022. The total project cost increased by 31.02% from \$8,200,000 to \$10,743,764 of which Interstate Maintenance (IM) funds increased from \$7,380,000 to \$9,669,388 and state funds increased from \$820,000 to \$1,074,376.
3. **Modification of Project 9221002:** NDDOT Wrong Way Detection System safety project at I-29 Exit 69. The project year changed from 2022 to 2023.

**MOTION: Approve Amendment #8 to the 2022-2025 Transportation Improvement Program (TIP).**

**Mr. Olson moved, seconded by Mr. Gunkelman.**

**MOTION, passed**

**Motion carried unanimously.**

### **3c. 2023-2026 Transportation Improvement Program (TIP) Adoption**

Mr. Del Rosario presented the final draft 2023-2026 Transportation Improvement Program (TIP). The Final Draft 2023-2026 TIP documents federally funded roadway, transit, and bicycle and pedestrian projects programmed for the years 2023-2026, as well as other regionally significant projects.

Since the initial draft document was released in July, Metro COG updated language throughout the document to reflect minor changes or clarifications and to address comments received by planning partners. Other sections with major updates include the Introduction, Project Locator Map, Detailed Project Listings, Financial Plan and Fiscal Constraint, Overview of Federal Aid Programs, Performance Measures, and Public Involvement sections. Appendix A, public input, and Appendix C, local CIPs, were also updated.

Specific items to highlight since the initial Draft Metro COG 2023-2026 TIP document was released in July:

1. Detailed project listings
2. Financial plan and fiscal constraint
3. Appendix A – public input

**MOTION: Adopt the 2023-2026 Transportation Improvement Program**

**Mr. Olson moved, seconded by Mr. Schneider.**

**MOTION, passed**

**Motion carried unanimously.**

### **3d. 2023-2024 Unified Planning Work Program (UPWP) Adoption**

Ms. Gray presented the final draft 2023-2024 Unified Planning Work Program (UPWP). The 2023 portion of the UPWP is consistent with the budget that was

brought forth in May of this year; however, consistent with follow-up correspondence earlier this summer with local Engineering and Planning staff, an ATAC project, Phase II of the Intersection Data Collection and Reporting, has been included in the work program for a total of \$100,000. The inclusion of this project results in a higher local match for Fargo, West Fargo, and Moorhead, and requires \$1,000 in participation from MnDOT for the inclusion of a MnDOT signal in Moorhead. The local funding splits were based on ATAC's estimated level of effort, which is based on the signal characteristics in each community.

Ms. Gray noted that there are a number of carryover projects from 2022 into 2023. All amounts are estimated at this time, and there is usually a UPWP amendment that is presented around the end of the calendar year to update the carryover estimates.

Ms. Gray said that this UPWP is fairly aggressive in its inclusion of contracted transportation planning studies, especially for 2024. She went over the 2024 contracted transportation planning studies in detail and identified the local match participants for each project, consistent with the materials sent out in the packet.

Ms. Gray pointed out that the 10 Planning Factors from the FAST Act and the Planning Emphasis Areas (PEAs) of the IJA must be documented in the UPWP, and they are documented in both a summary manner and in the description of each UPWP category.

Mr. Piepkorn asked about the 15<sup>th</sup> Avenue N Corridor Study (2024) and if it would make sense to study that all the way across the metro area, especially given the funding received to study the feasibility of raising the 12<sup>th</sup> / 15<sup>th</sup> Avenue N bridge above the floodway. Ms. Gray stated that portions of that corridor on the ND side have been studied in the fairly recent past, and that even in Moorhead, the technical staff indicated their desire to start the project at US Highway 75 rather than going all the way to the river, but stated that this is all open to further discussion during 2023 in the months leading up to the development of an RFP.

If Metro COG's application for an SS4A Safety Action Grant is successful, we will need to work with the member jurisdictions to add the Safety Action Grant to the work program. Metro COG does not expect to learn if the grant was awarded until the end of 2022 or beginning of 2023.

**MOTION: Adopt the 2023-2024 Unified Planning Work Program**  
**Mr. Schneider moved, seconded by Ms. Nash**  
**MOTION, passed**  
**Motion carried unanimously.**

**\*Mr. Schneider left the meeting at 4:57pm**

**3e. Policy Board Bylaws – Updates related to TMA Designation**

Ms. Gray presented updates to the Policy Board Bylaws, which needed revision regarding the upcoming transition into TMA status.

After discussion and consideration, the Executive Committee recommended that MnDOT and NDDOT representation on the Policy Board remain ex-officio. In addition, it was recommended that an additional ex-officio member of the Policy Board consist of a representative of Hector Airport Authority, as opposed to having an airport representative serve as a voting member of the Board.

Ms. Gray said that the revised bylaws have been reviewed by Metro COG attorney, John Shockley.

Ms. Scherling asked why the updated language includes the need for one committee member to be physically present at each meeting even if other members are participating virtually. Ms. Gray explained that this was included as a recommendation of Mr. Shockley. Ms. Scherling stated she was not comfortable mandating this into the bylaws. Ms. Mongeau reminded the committee that during the COVID-19 pandemic, all government bodies were operating under emergency order, and that bylaws can always be updated.

Mr. Piepkorn asked Ms. Gray to follow up with Mr. Shockley on the requirement for a board member to be present at the meeting location.

**MOTION: Approve the Policy Board Bylaws as amended in September 2022  
Ms. Mongeau moved, seconded by Mr. Hendrickson  
MOTION, passed  
Motion carried unanimously.**

**3f. Transportation Management Area (TMA) Funding Memorandum of Understanding (MOU)**

Ms. Gray presented a Memorandum of Understanding (MOU) with NDDOT regarding funding once Metro COG is designated as a Transportation Management Area (TMA).

Metro COG finds the MOU straight-forward and acceptable.

The MOU has been reviewed by Metro COG's attorney, John Shockley. Mr. Shockley indicated that he has no issues with the MOU and recommended that we move forward with approval.

Ms. Gray said that MnDOT has not prepared an MOU for the transition into TMA status.

**MOTION: Approve the TMA funding MOU and authorize the Policy Board Chair and Executive Director to sign the document.  
Mr. Lindaas moved, seconded by Mr. Gunkelman  
MOTION, passed  
Motion carried unanimously.**

**3g. Public Participation Plan**

Ms. Gray said that staff is working on an update of the Metro COG Public Participation Plan (PPP). The PPP is a required document, and was last updated in 2016.

**4. Additional Business**

No additional business.

**5. Adjourn**

The 606th Meeting of the FM Metro COG Policy Board held Thursday, September 18, 2022 was adjourned at 5:16 pm.

**THE NEXT FM METRO COG POLICY BOARD MEETING WILL BE HELD October 20, 2022, 4:00 P.M.**

Respectfully Submitted,

Savanna Leach  
Executive Assistant

**To:** Policy Board Members  
**From:** Cindy Gray, Executive Director  
**Date:** October 14, 2022  
**Re:** **Public Participation Plan Update**

One of the required documents of any Metropolitan Planning Organization (MPO) is a Public Participation Plan (PPP). Metro COG's PPP was last updated in or around 2016. The document is due for an update, and there are several features of the document that Metro COG staff have wished to clarify with respect to public notification timelines, public comment periods, public meeting requirements, etc.

**Attachment 1** is a draft of the updated PPP. Initially, there was an effort to simply update the existing document, but it was determined that a better alternative was to start from scratch, using examples from other MPOs. The PPP of the Des Moines, Iowa MPO uses the same format as many other MPOs, and was determined to be an excellent example from which to draw upon for format and content. Overall, the effort was aimed at:

- paring down the document and eliminating unnecessary material,
- clarifying the timelines and extent of public notice requirements,
- clarifying the requirements for public meetings, and
- clarifying the length of public review and comment periods.

After the initial draft of the document was prepared, Metro COG staff convened and went through each type of project to determine the extent to which we were comfortable with the stated public notice requirements, comment periods, and minimum level of public engagement. Individual project scopes of work may call for greater public engagement requirements than those established in the PPP, but at a minimum, the requirements stated in the PPP must be met.

At their meeting on October 13, 2022, the TTC recommended that the Policy Board approve the initiation of the federally required 45-day review and comment period. This will be kicked off with the publication of a notice in The Forum, as well as through the additional means of providing notice used by Metro COG (email distribution, social media, website and press release). This will allow us to share any public comments with the TTC and Policy Board when we bring the document forward in December for final adoption.

**Requested Action: Approve the initiation of the 45-day public comment and review period for the PPP update.**



# Fargo-Moorhead Metropolitan Council of Governments

## Public Participation Plan

Updated XXX, 2022



## Disclaimer

The preparation of this document was funded in part by the United States Department of Transportation with funding administered through the North Dakota and Minnesota Departments of Transportation, the Federal Highway Administration and the Federal Transit Administration. Additional funding was provided through local contributions from the governments of Fargo, West Fargo, Horace, and Cass County in North Dakota; and Moorhead Dilworth, and Clay County in Minnesota. The United States government and the states of North Dakota and Minnesota assume no liability for the contents or use thereof.

This document does not constitute a standard, specification or regulation. The United States Government, the states of North Dakota and Minnesota, and the Fargo-Moorhead Metropolitan Council of Governments do not endorse products or manufacturers. Trade or manufacturers' names may appear therein only because they are considered essential to the objective of this document.

The contents of this document reflect the views of the authors, who are responsible for the facts and accuracy of the data presented herein. The contents do not necessarily reflect the policies of the state and federal departments of transportation.

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## Introduction

The Fargo-Moorhead Metropolitan Council of Governments (Metro COG) provides a continuous, cooperative, and comprehensive (3-C) transportation planning process for the metropolitan area. As part of a successful 3-C transportation planning process, the MPO solicits public review and comment on the work, projects, and products proposed and created by the MPO.

Metro COG's Public Participation Plan (PPP) intends to promote this effort by defining a process that provides citizens, stakeholder groups, and other interested parties with reasonable opportunities to be involved in the transportation planning process.

Metro COG developed this PPP in consultation with the public and other interested parties. Social media, email blasts, and MPO committee meetings were used to direct the public and interested parties to Metro COG's website where they could provide feedback on the draft PPP. This document includes Metro COG's policies and procedures for carrying out public engagement, scheduling and notifying the public of public meetings and input opportunities, and both documenting and addressing public input in the planning process.

## About the MPO

The Fargo-Moorhead Metropolitan Council of Governments (Metro COG) is both the designated Council of Governments (COG) and Metropolitan Planning Organization (MPO) for the greater Fargo-Moorhead Metropolitan Area.

The Federal Surface Transportation Assistance Act of 1973 requires the formation of an MPO for any urbanized area with a population greater than 50,000. The Act also requires, as a condition for federal transportation financial assistance, that transportation projects be based upon a continuous, comprehensive, and cooperative (3-C) planning process for the Fargo-Moorhead Metropolitan Planning Area (MPA). MPOs help facilitate implementing agencies (including municipal engineering and planning departments, county highway and planning departments, and state departments of transportation) prioritize their transportation investments in a coordinated way consistent with regional needs, as outlined in a long-range metropolitan transportation plan.

Beginning in 2023, it is expected that Metro COG will also be designated as a Transportation Management Area, as established in 23 CFR 450.104, because the population of the UZA exceeded 200,000 in the 2020 Census.

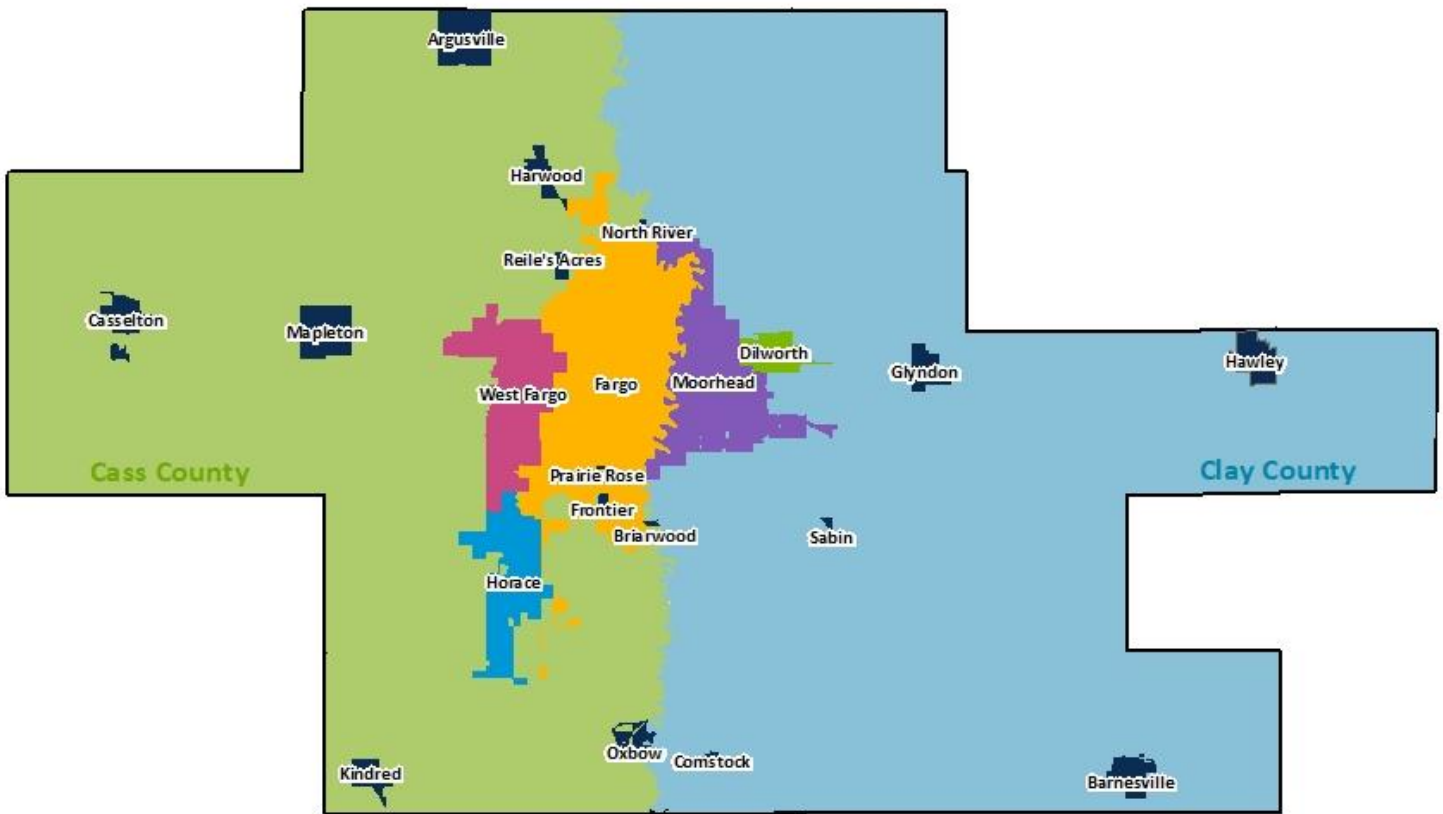
The core of an MPO is the official Adjusted Urban Area Boundary (known as the UZA), which is initially identified and defined by the U.S. Census Bureau as part of the Decennial Census update. The UZA boundary is used to determine the type of transportation funding programs potential projects may be eligible to receive.

In addition to the UZA, the MPO boundary includes any contiguous areas, which may become urbanized within a twenty-year forecast period. Collectively, this area is known as the Metropolitan Planning Area (MPA). Metro COG's MPA boundary was most recently expanded in 2013 and is currently comprised of approximately 1,073 square miles (687,000 acres), across two states, two counties, 14 cities, and 30 townships. The MPA boundary is effectively Metro COG's "study area" or area of influence respective to the metropolitan transportation planning

program. These areas are significant not only as potential future population centers, but also due to their proximity to existing and future transportation assets of regional significance.

**Map 1** provides an overview of these boundaries for the Fargo-Moorhead area, specifically depicting:

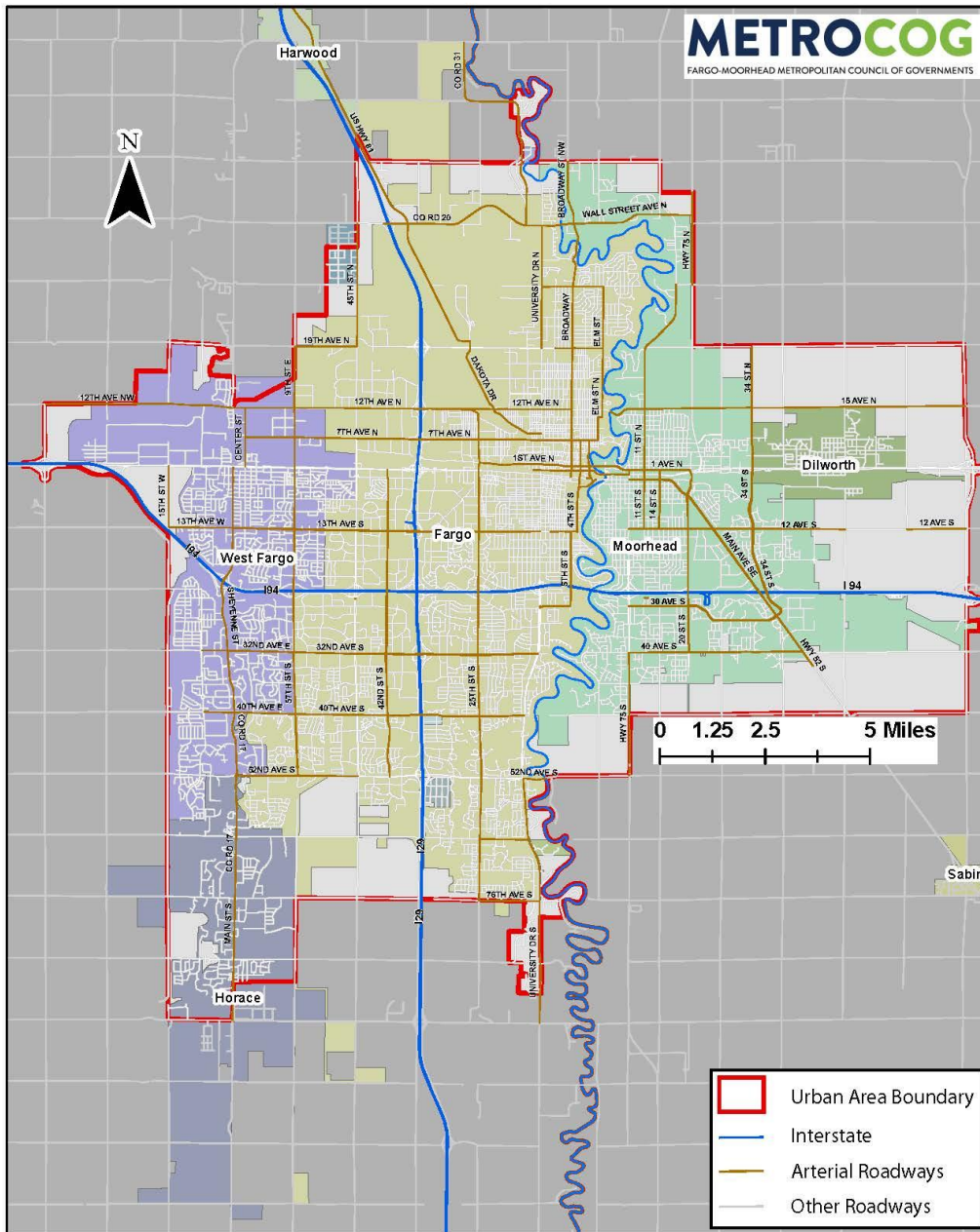
- a) The Metropolitan Planning Area Boundary;
- b) The Adjusted Urbanized Area boundary; and
- c) Cities within the MPA.



**Map 1. Metropolitan Planning Area**

Map 2 is an enlarged map of the Urbanized Area.

## Urbanized Area Boundary



### Map 2. Urbanized Area Boundary

Members of the MPO include the following seven jurisdictions:

Cass County, ND  
 Fargo, ND  
 Horace, ND  
 West Fargo, ND

Clay County, MN  
 Dilworth, MN  
 Moorhead, MN

MATBUS is involved as transportation providers of the Cities of Fargo and Moorhead, with contractual arrangements for providing transit services to West Fargo, ND and Dilworth, MN.

Through collaboration with the North Dakota Department of Transportation (NDDOT), the Minnesota Department of Transportation (MnDOT), the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and several other agencies, the members of the MPO work together to provide a safe and efficient surface transportation system for the metropolitan area.

As the MPO, Metro COG provides a regional forum to facilitate and ensure coordination between the public and local, state, and federal agencies in regard to transportation plans and programs, and other relevant planning issues that are addressed by the agency. Long and short-range multi-modal transportation plans are developed by the MPO, and as a TMA, Metro COG will also be responsible for selecting and approving projects for federal funding based on upon priorities established in adopted plans. As a TMA, Metro COG is also responsible for having a process by which traffic congestion can be managed.

Metro COG consists of three committees that make recommendations and decisions that are critical to the region's transportation system:

- Transportation Technical Committee (TTC) – The TTC makes technical recommendations to the Metro COG Policy Board. Membership of the TTC includes City and County engineers of member jurisdictions, City and County Planners of member jurisdictions, transit administration in both the City of Fargo and the City of Moorhead, and representatives of NDDOT, MnDOT, higher education, freight, economic development, and the Metropolitan Bicycle and Pedestrian Committee, which is a subcommittee of the TTC. The TTC is chaired by the Metro COG Executive Director, who is also a voting member of the TTC.
- Executive Committee – This committee is made up of seven elected officials – one from each of the member jurisdictions. The Policy Board Chair and Vice Chair have the same roles on the Executive Committee. This committee is typically the first line of review for items such as annual budgets, UPWPs and UPWP amendments, personnel decisions, agency policies, and organizational matters.
- Policy Board – The Policy Board acts on the recommendations of the MPO Executive Committee and the TTC. Policy Board members are primarily local elected officials and other officials appointed by the local jurisdictions. In 2022, both NDDOT and MnDOT have an ex officio role on the MPO Policy Board. These members are expected to change from ex officio to regular voting members once the TMA designation is complete. At that time, the MPO Policy Board will also include a representative of public transit operators and a representative of Hector International Airport. Ex officio members will continue to consist of representatives of the associate member jurisdictions located throughout the MPA.

A full-time professional planning staff makes recommendations to the TTC and supports these three committees in addition to a number of Study Review Committees and other working groups. Metro COG staff coordinates and prepares for committee meetings, informs the committees of projects and programs, and develops the final MPO work products and reports.

## Regulations and Requirements

### **Title VI of the Civil Rights Act of 1964**

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, and natural origin in programs and activities that receive federal financial assistance. As President John F. Kennedy said in 1963, "Simple justice requires that public funds, to which all taxpayers of all races [colors, and national origins] contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial [color or national origin] discrimination." According to the US Department of Justice:

If a recipient of federal assistance is found to have discriminated and voluntary compliance cannot be achieved, the federal agency providing the assistance should either initiate fund termination proceedings or refer the matter to the Department of Justice for appropriate legal action. Aggrieved individuals may file administrative complaints with the federal agency that provides funds to a recipient, or the individuals may file suit for appropriate relief in federal court. Title VI itself prohibits intentional discrimination. However most funding agencies have regulations implementing Title VI that prohibit recipient practices that have the effect of discrimination on the basis of race, color, or national origin.

To assist federal agencies that provide financial assistance, the wide variety of recipients that receive such assistance, and the actual and potential beneficiaries of programs receiving federal assistance, the US Department of Justice has published a Title VI Legal Manual. The Title VI Legal Manual sets out Title VI legal principles and standards. Additionally, the Department has published an Investigation Procedures Manual to give practical advice on how to investigate Title VI complaints. Also available on the Federal Coordination and Compliance Website are a host of other materials that may be helpful to those interested in ensuring effective enforcement of Title VI.

### *Executive Order #12898*

The U.S. Environmental Protection Agency (EPA) defines environmental justice as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. EPA has this goal for all communities and persons across this Nation. It will be achieved when everyone enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn, and work."

In February 1994, President Bill Clinton signed Executive Order #12898 – Executive Order on Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. The order is intended to focus federal attention on the "environmental and human health conditions in minority communities and low-income communities with the goal of achieving environmental justice. That order is intended to promote nondiscrimination in federal programs substantially affecting human health and the environment, and to provide minority communities and low-income communities with access to public information on, and an opportunity for public participation in, matters relating to human health or the environment."



## *Open Meetings Law*

Open meeting provisions are found in both the North Dakota Constitution and the North Dakota Century Code:

Unless otherwise provided by law, all meetings of public or governmental bodies, boards, bureaus, commissions or agencies of the state or any political subdivision of the state, or organizations or agencies supported in whole or in part by public funds, or expending public funds, shall be open to the public.

Minnesota also has an open meeting law which is codified in Minnesota Statutes, Chapter 13D. The Minnesota Supreme Court has articulated three purposes of the open meeting law:

- To prohibit actions being taken at a secret meeting where it is impossible for the interested public to become fully informed about a public board's decisions or to detect improper influences
- To assure the public's right to be informed
- To afford the public an opportunity to present its views to the public body

Minnesota's law applies to state and local multimember governmental bodies, including committees and subcommittees and nonprofits created by political subdivisions.

## *Public Records Law*

Open record provisions are found in both the North Dakota Constitution and the North Dakota Century Code:

Unless otherwise provided by law, all records of public or governmental bodies, boards, bureaus, commissions, or agencies of the state or any political subdivision of the state, or organizations or agencies are supported in whole or in part by public funds, or expending public funds, shall be public records, open and accessible for inspection during reasonable office hours.

The Government Data Practices Act, Minnesota Statutes, Chapter 13, is a series of laws meant to guarantee that the public has access to public records of government bodies at all levels. This includes all data collected, created, received, maintained, or disseminated by any government entity regardless of its physical form storage media or conditions of use.

## *Nondiscrimination Obligations*

Metro COG's Title VI and Non-Discrimination Plan documents the agency's commitment to:

- Ensure that the level and quality of transportation facilities and services are planned for and provided in a nondiscriminatory manner;
- Promote full and fair participation in transportation decision-making without regard to race, color, or national origin;
- Ensure meaningful access to transportation planning-related programs and activities by persons with limited English proficiency.

## Accommodations

Metro COG schedules public input meetings and regular meetings at accessible locations. When meetings pertain to a specific project, efforts are made to hold meetings at locations which are both accessible and in convenient proximity to study areas. News releases and public notices state that meeting facilities will be accessible to mobility-impaired individuals and that Metro COG will accommodate requests for translation services for meeting proceedings and related materials. More details on accommodations for persons with disabilities and limited English proficiency (LEP) is available on Metro COG's website at <https://fmmetrocog.org/resources/title-vi-plan>.

## Complaint Procedures

Persons wishing to file a formal discrimination complaint may do so by completing the Title VI Complaint Form available on Metro COG's website:

<http://fmmetrocog.org/titlevi>

Complaint forms are also available both at the front desk and near the entrance to Metro COG's offices at 1 - 2nd Street N, Suite 232, Fargo, ND.

## Record Keeping

Metro COG's Title VI Coordinator maintains a log of all complaints and the manner in which those complaints were addressed. At the time of this publication, the MPO has no discrimination complaints on file.

## Stakeholders and Public Groups

Metro COG's stakeholders include all who live, work, learn, play, and conduct business in the Fargo-Moorhead metropolitan area as stakeholders. This includes both existing and future generations of metropolitan area citizens. The organization strives to study and plan for the wide range of interests, needs, and desires through the variety of studies and programs undertaken.

Several organizations and groups, both formal and informal, have been identified which either have a particular interest in transportation planning project and public involvement opportunities. These groups are included in email distribution groups that Metro COG uses to distribute information about projects and opportunities for public information, input and engagement. The entire email distribution list or portions of it can be contacted for special stakeholder input opportunities.

- Neighborhood organizations
- Fargo Moorhead West Fargo Chamber of Commerce
- Moorhead Business Association
- Freight entities, logistics organizations, and railroad companies
- Transit providers, both public and private
- Advocacy groups for people with disabilities, low income, or minority groups
- Transportation providers for groups that lack access to private vehicles
- The media, including television, radio, print, and electronic means
- Governmental agencies
- Schools and universities
- Environmental organizations

- Social action groups and those representing diversity
- Public health
- First responders and emergency services
- Large employers
- Organizations and individuals interested in providing public input on transportation projects

Metro COG provides a website page (<http://fmmetrocog.org/contact-us>) where individuals or organizations may subscribe to email lists for Policy Board, Transportation Technical Committee, Metro Area Transit Coordinating Board, Cass Clay Food Commission, Metropolitan Bicycle and Pedestrian Committee, GIS Committee, Metro Connection (Newsletter) and Requests for Proposals and Consultant Information.

In addition to the Policy Board and Transportation Technical Committee, Metro COG currently supports the following committees which meet on a regular basis:

- Metropolitan Bicycle and Pedestrian Committee
- GIS Committee
- Cass Clay Food Commission
- Metro Area Transit Coordinating Board

Agendas and informational packets are emailed to a large distribution group made up of individuals and groups who have subscribed to these email distribution lists.

## Outreach Strategies

Metro COG uses several techniques to reach the citizens of the Fargo-Moorhead region and the metropolitan planning area and the stakeholder groups identified earlier in this document. A general outline of engagement strategies is used by the organization, particularly for projects that occur annually or every few years, such as the Metropolitan Transportation Plan, which occurs on a five-year cycle, or the Transportation Improvement Program, which is updated annually. The basic strategies may be added to or modified to enhance engagement or reach larger numbers of people in specific groups, either geographically, such as neighborhoods or corridors, or socially, such as people with disabilities, minorities (i.e. BIPOC - black, indigenous and people of color), or low income households.

Even before the COVID-19 pandemic in 2020, public agencies such as Metro COG were beginning to increase the use of digital methods of communicating with the public, either through social media or web-based methods of information and input opportunities, such as surveys or interactive maps. However, since the spring of 2020, those efforts have significantly increased along with virtual meetings. In some cases, on-line meetings attract more participants than in-person meetings typically attracted in the past. It is Metro COG's intent to move forward with a combination of web-based and in-person input opportunities to maximize the convenience of learning about projects and providing input. Different stages of projects may warrant different approaches to virtual or in-person meetings.

### *Public Meetings and Events*

The MPO Policy Board and TTC meet on a monthly basis. All of their meetings are open to the public, per the open meeting laws of the State of North Dakota. Meetings are a hybrid of in-

person and virtual, with the information about connecting to the meeting virtually provided on Metro COG's website, on the agenda, and in the email distribution of the packet.

Other committees as listed above meet less frequently, but their meetings are also open to the public either virtually or in person. All meeting schedules, agendas, minutes, and informational materials are posted on Metro COG's website. Yearly meeting dates, times, and locations of the Policy Board meetings are published annually in The Forum of Fargo-Moorhead.

**Figure 1 – Summary of Metro COG Boards and Committees**

<b>Group Name</b>	<b>Membership</b>	<b>Responsibilities</b>	<b>Meeting Frequency</b>	<b>Distribution of Materials</b>	<b>Information on Website</b>	<b>Past Meeting Minutes</b>
Policy Board	Appointed representatives from local units of government	Administrative leadership with authority on budget, policy, planning activities and project prioritization	Monthly on 3 <sup>rd</sup> Thursday at 4:00 PM <sup>1</sup>	Board and Email Subscription List	Full agenda packet	Available on website
Transportation Technical Committee (TTC)	Technical staff from local units of government and cognizant agencies, and representatives of higher education, economic development, bike & ped committee, and freight	Advise Policy Board on planning and policy activities and project prioritization	Monthly on 2 <sup>nd</sup> Thursday at 10:00 AM <sup>2</sup>	Committee and Email Subscription List	Full agenda packet	Available on website
Metropolitan Bicycle & Pedestrian Committee	Technical staff, park districts, higher education, non-profit organizations, law enforcement, transit, health agencies, and citizen member	Advise the TTC and Policy Board on bicycle and pedestrian plans, issues, and project priorities	Quarterly and as needed for specific planning studies or annual prioritization activities	Committee and Email Subscription List	Full agenda packet	Available on website
GIS Committee	Technical staff from local units of government	GIS data needs, sharing and standardization	As needed	Members only	Full agenda packet	Available upon request

Metro COG typically distributes committee materials six days in advance of the scheduled meeting (typically the Friday prior to the scheduled meeting). All meeting minutes are posted to the website once approved. All of the above meetings, with the exception of the MAT Coordinating Board, are typically held at Metro COG's Conference Room at 1 - 2nd Street N,

<sup>1</sup> On rare occasions, regular meeting dates are changed due to holidays. Changes are documented in the meeting materials and at [www.fmmetrocog.org](http://www.fmmetrocog.org).

<sup>2</sup> On rare occasions, regular meeting dates are changed due to holidays. Changes are documented in the meeting materials and at [www.fmmetrocog.org](http://www.fmmetrocog.org).

Suite 232, Fargo, ND. The MAT Coordinating Board typically meets at Fargo City Hall in the City Commission Room at 225 4th St N, Fargo, ND.

Each year, Metro COG has a different slate of projects in its Unified Planning Work Program (UPWP). The agency schedules public input meetings for the majority of those projects – typically more than one opportunity is provided over the course of the project, and larger projects often have three or more opportunities for input, and a variety of input methods at each phase of engagement. All input received is reviewed, synthesized, documented and shared with project decision-makers. At the beginning of every Policy Board and Transportation Technical Committee meeting, the MPO provides a public comment period where the public can address public officials.

The MPO seeks to engage all ages and all socioeconomic groups. In doing so, a variety of meeting locations and events are sought out as opportunities to reach out to a broad range of stakeholders. Project-related meetings and open houses are a public input component of most projects, and some projects also include pop-up meetings, where Metro COG has a booth or informational display at another public event, such as a community festival or street fair, that draws a large amount of attendance.

#### *Publications*

Press releases are issued throughout the year on many of Metro COG's planning projects and required transportation planning activities. Typically, these press releases are aimed at informing the public of scheduled input opportunities. Media releases go to media outlets throughout the region.

To subscribe to the MPO distribution list, contact MPO staff at 701-532-5100, or sign up at the following website: <https://fmmetrocog.org/contact-us>.

Metro COG also publishes legal notices or box ads in The Forum of Fargo-Moorhead, which is Metro COG's newspaper of record. For projects specific to Moorhead and Dilworth, notices are published in The FM Extra. Legal notices for projects in Clay County are currently published in the Clay County Union.

#### *Online Presence*

Metro COG's website at [www.fmmetrocog.org](http://www.fmmetrocog.org) provides information about upcoming meetings, committee members, staff contact information, maps, information about current projects, information about past projects, and other materials completed by the MPO or its consultants. Many relevant links are also provided on the website.

Social media sites including Facebook, Instagram and LinkedIn are also used to increase the extent to which Metro COG's information is available to the public. Metro COG posts project information and shares posts made by our local partners, NDDOT and MnDOT.

As mentioned above, Metro COG uses web-based formats for public engagement. Zoom is most frequently used, and on occasion, Microsoft Teams or WebEx are used as the preferred format of our local partners or consultants. In some cases, both virtual public meetings and in-person meetings, are shared via Facebook Live.

Metro COG provides notifications and announcements, both online and in various publications, of upcoming public-input meetings for the Metropolitan Transportation Plan, the Transportation

Improvement Program, and the Public Participation Plan. Input opportunities are announced through press releases, legal notices, publications, email subscriptions and online postings (website and social media). The announcements include timeframes during which public input opportunities are available. Time frames for notifications and the number of notices vary depending upon the type of project or plan. Metro COG also posts meeting agendas and minutes at [www.fmmetrocog.org](http://www.fmmetrocog.org).

The public is also notified of amendments to adopted plans and programs, such as the Metropolitan Transportation Plan and the Transportation Improvement Program using the same methods as described above.

#### *Availability of Information*

To provide reasonable access to information about transportation and processes, Metro COG posts publications, meeting notices, and other information online at [www.fmmetrocog.org](http://www.fmmetrocog.org). Most publications are posted in PDF format, which uses the free, downloadable Adobe Reader software. The agency will provide hard copies of any document upon request. Additionally, Metro COG staff is available to make presentations on relevant topics to local organizations, and to meet with citizens and other interested parties. Occasionally, videos are used to provide information related to regionally significant planning initiatives. The MPO posts copies of all presentations to the Policy Board on the website, as well as copies of presentations from guest speakers. To request a hard copy of a document or to schedule a presentation, call 701-532-5100 or email [metrocof@fmmetrocog.org](mailto:metrocof@fmmetrocog.org).

#### *Public Review and Comment*

Metro COG provides a public review and comment period of no less than 15 days during which public comments can be submitted. Public notice is posted no less than seven (7) days prior to the public input opportunity (in-person or virtual meeting). One exception to this timeframe applies to the Public Participation Plan. This document requires a minimum 45-day public comment period. Specific public review and comment periods and approaches to public participation for each type of Metro COG's plans and programs are described in greater detail in the tables on pages 15-24. Links are provided to on-line postings of draft documents. However, paper copies of draft and final studies and reports are also available at Metro COG's office, and when applicable, at the offices of the local jurisdiction(s) involved in the study.

#### *Public Meeting Locations, Dates and Times*

Metro COG strives to schedule and conduct public meetings on dates that are most convenient for the public to attend, at times of the day that accommodate most peoples' schedules, and at locations that are convenient, safe, and accessible. Alternative arrangements to talk with interested members of the public are made when they are unable to attend a public meeting due to schedule conflicts.

## Public Participation Procedures

Planning Document or Activity	Public Participation Procedures
<b>Metropolitan Transportation Plan (MTP)</b>	<p><b>About the MTP:</b></p> <ul style="list-style-type: none"> <li>• The official multi-modal transportation plan addressing no less than a 20-year planning horizon that the MPO develops, adopts and updates through the metropolitan transportation planning process, including a fiscally constrained list of projects.</li> <li>• Development of the MTP includes an analysis of local trends, synthesis of recently completed corridor studies and sub-area plans, review of local transportation needs, and available funding, and is overseen by a Study Review Committee of stakeholders.</li> <li>• Reviewed by Study Review Committee, MPO committees, the public, North Dakota Department of Transportation, Minnesota Department of Transportation, Federal Highway Administration and the Federal Transit Administration.</li> <li>• Updated every five years.</li> <li>• Depending on the scope of work for the MTP, public input opportunities may go above and beyond the minimum requirements established here.</li> </ul> <p><b>Public Participation and Adoption:</b></p> <ul style="list-style-type: none"> <li>• MPO Policy Board adopts the Final MTP after considering and incorporating local, state, and federal comments. <ul style="list-style-type: none"> <li>◦ Reviewed by TTC, which makes recommendations to Policy Board</li> <li>◦ Reviewed and approved by local member jurisdictions through adoption of resolution which are asked to approve resolutions of adoption</li> </ul> </li> <li>• Public input meetings (in-person and/or online opportunities) held during MTP development. <ul style="list-style-type: none"> <li>◦ Legal notice or box ad published in The Forum of Fargo-Moorhead at least seven calendar days prior to the meeting with information about the duration of the public comment period</li> <li>◦ 30 calendar day public comment and review period required starting on the date of publication of the notice</li> <li>◦ Public meetings or input opportunities published on Metro COG website calendar and project web page and posted on social media</li> <li>◦ Press release distributed to media outlets at least seven calendar days prior to the meeting</li> <li>◦ Email distribution to subscribers with information about meeting at least seven calendar days prior to the meeting</li> </ul> </li> <li>• All other public input opportunities during planning process published on MPO website, social media, and email distribution</li> <li>• At least one public input meeting must be held for completed draft MTP.</li> </ul>

	<ul style="list-style-type: none"> <li>• Additional public input meeting and 15-day comment period required if substantial changes are made to the draft MTP after the initial input meeting.</li> <li>• Public notice is posted no less than seven (7) days prior to the public input opportunity (in-person or virtual meeting).</li> <li>• Draft and final plan available for review on Metro COG website and at Metro COG office, with final product available after adoption.</li> </ul>
<p><b>Amending the Metropolitan Transportation Plan</b></p>	<p><b>Administrative Modifications:</b>  Administrative modifications are tantamount to technical corrections that do not require a coordinated review by the MPO, FHWA and FTA or a determination of conformity by these entities. Administrative modifications shall be inclusive, but not limited to the following: descriptive material, forecasts, data bases, project costs (provided fiscal constraint is maintained) project descriptions, time frames, etc. No public notifications are required for administrative amendments. Administrative modifications may require coordination with the respective State DOT. Administrative modifications are approved by the Policy Board at the recommendation of the TTC. Public notice is not required.</p> <p><b>Amendments:</b>  The addition or deletion of any project or group of projects constitutes an amendment. An amendment to the MTP is subject to the requirements of the public participation process outlined above for the initial review and adoption of the MTP. The public notice requirements as outlined there should be followed for amendments to the MTP, using a 15-day public comment period. Following the public input process, amendments are approved by the Policy Board at the recommendation of the TTC.</p>



Planning Document or Activity	Public Participation Procedures
<b>Transit Development Plan (TDP)</b>	<p><b>About the TDP:</b></p> <ul style="list-style-type: none"> <li>• Short and mid-term plan for the active management of transit services for the region.</li> <li>• Developed with oversight and input from the MAT Coordinating Board</li> <li>• Updated every five years</li> <li>• Referenced and reinforced by MTP</li> <li>• Depending on the scope of work for the TDP, public input opportunities may go above and beyond the minimum requirements established here.</li> </ul> <p><b>Public Participation and Adoption:</b></p> <ul style="list-style-type: none"> <li>• MPO Policy Board adopts the Final TDP after considering and incorporating local, state, and federal comments</li> <li>• Reviewed by MAT Coordinating Board, which makes recommendations to relevant local jurisdictions and Policy Board</li> <li>• Reviewed by TTC, which makes recommendations to Policy Board</li> <li>• Reviewed by local member jurisdictions which are asked to approve resolutions of adoption</li> <li>• Public input meetings (in-person and/or online opportunities) held during TDP development. <ul style="list-style-type: none"> <li>○ Legal notice or box ad published in <i>The Forum of Fargo-Moorhead</i> (Metro COG's newspaper of record) at least seven days prior to the meeting with information about the duration of the public comment period.</li> <li>○ 30 calendar day public comment and review period required starting on the date of publication of the notice.</li> <li>○ Public meetings or input opportunities published on Metro COG website calendar, project web page, and MATBUS website (<a href="http://www.matbus.com">www.matbus.com</a>), and posted on social media.</li> <li>○ Press release distributed to media outlets at least seven days prior to the meeting.</li> <li>○ Email distribution to subscribers with information about meeting at least seven days prior to the meeting.</li> </ul> </li> <li>• All other public input opportunities during planning process published on MPO website, social media, and email distribution.</li> <li>• At least one public input meeting (in-person and/or online opportunity) must be held for review of completed draft TDP.</li> <li>• Additional public input meeting and 15-day comment period required if substantial changes are made to the draft TDP after the initial input meeting with the same public notice requirements as stated above.</li> <li>• Draft and final plan available for review on Metro COG website and at Metro COG office, with final product available after adoption.</li> </ul>

<b>Amending the Transit Development Plan</b>	Amendments to the TDP require public notice, public comment period, review and recommendation by the MAT Coordinating Board and TTC, and adoption by the MPO Policy Board.
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<b>Planning Document or Activity</b>	<b>Public Participation Procedures</b>
<b>Metropolitan Bicycle and Pedestrian Plan</b>	<p><b>About the Bicycle and Pedestrian Plan:</b></p> <ul style="list-style-type: none"> <li>• Plan for the expansion and improvement to bicycle and pedestrian access and facilities throughout the region.</li> <li>• Addresses a minimum 20-year planning horizon that the MPO develops, adopts and updates through the metropolitan transportation planning process.</li> <li>• Referenced and reinforced in the MTP.</li> <li>• Depending on the scope of work for the Plan, public input opportunities may go above and beyond the minimum requirements established here.</li> </ul> <p><b>Public Participation and Adoption:</b></p> <ul style="list-style-type: none"> <li>• MPO Policy Board adopts the Final Metropolitan Bicycle and Pedestrian Plan after considering and incorporating local, state, and federal comments. <ul style="list-style-type: none"> <li>○ Reviewed by Metropolitan Bicycle and Pedestrian Committee, which makes recommendations to TTC and Policy Board.</li> <li>○ Reviewed by TTC, which makes recommendations to Policy Board.</li> </ul> </li> <li>• Public input meetings (in-person and/or online opportunities) held during Plan development. <ul style="list-style-type: none"> <li>○ Legal notice or box ad published in <i>The Forum of Fargo-Moorhead</i> at least seven days prior to the meeting with information about the duration of the public comment period.</li> <li>○ 30 calendar day public comment and review period required starting on the date of publication of the notice.</li> <li>○ Public meetings or input opportunities published on Metro COG website calendar and project web page and posted on social media.</li> <li>○ Press release distributed to media outlets at least seven days prior to the meeting.</li> <li>○ Email distribution to subscribers with information about meeting at least seven days prior to the meeting.</li> </ul> </li> <li>• All other public input opportunities during planning process published on MPO website, social media, and email distribution.</li> <li>• At least one public input meeting (in-person and/or online opportunity) must be held for completed draft Bicycle and Pedestrian Plan.</li> <li>• Additional public input meeting and 15-day comment period required if substantial changes are made to the draft Plan after the initial input meeting.</li> <li>• Draft and final plan available for review on Metro COG website and at Metro COG office, with final product available after adoption.</li> </ul>

**Planning Document or Activity**

**Public Participation Procedures**

**Transportation Improvement Program (TIP)**

**About the TIP (23 CFR § 450.326):**

- A detailed list of regionally significant, federally funded transportation projects by all jurisdictions and transit agencies in the MPO planning area, covering a period of at least four years and including capital and non-capital surface transportation projects, bicycle and pedestrian facilities, transit facilities, and other transportation enhancements and safety projects.
- Updated annually
- The TIP development process includes the solicitation of eligible projects for inclusion from all jurisdictions and transit agencies within the MPO planning area, an analysis of fiscal capacity, and feedback from MPO committees.
- Metro COG's current approved TIP outlines the required process for identification and prioritization of projects for the purpose of TIP development. The TIP also identifies the criteria for administrative modifications and amendments.

**Public Participation and Adoption:**

- MPO Policy Board adopts the Final TIP after considering and incorporating local, state, and federal comments
  - Reviewed by NDDOT, MnDOT, FTA and FHWA
  - Reviewed by local jurisdictions and transit agencies
  - Reviewed by TTC, which makes recommendations to Policy Board
- Public input meeting (in-person and/or online opportunities) held during TIP development.
  - Legal notice or box ad published in *The Forum of Fargo-Moorhead* (Metro COG's newspaper of record) initiates the public comment and review period which is a *minimum* 30 calendar day
  - Legal notice or box ad published in *The Forum of Fargo-Moorhead* at least seven days prior to the required public input meeting
  - Public meetings or input opportunities published on Metro COG website calendar and project web page and posted on social media
  - Press release distributed to media outlets at least seven days prior to the meeting
- All other public input opportunities during TIP development process published on MPO website, social media, and email distribution.
- At least one public input meeting (in-person and/or online opportunity) must be held during the development of the TIP.
- If substantive written or oral comments are received on the draft TIP, either through the public involvement process or through the interagency consultation process, a summary, analysis, and report of the disposition of these comments shall be included in the final TIP.
  - A legal public notice and minimum 15-day comment period required if substantial changes are made to the draft TIP that was available for public review and comment. Substantive changes are new material issues which interested parties could not

	<p>reasonably have foreseen from the earlier public involvement efforts.</p> <ul style="list-style-type: none"> <li>◦ The amended draft TIP will be made available for review on the Metro COG website.</li> <li>◦ The final TIP will document the public involvement process, present a summary of all public comments received and demonstrate Metro COG's consideration and response to these comments.</li> </ul> <ul style="list-style-type: none"> <li>• Draft and final TIP available for review on Metro COG website and at Metro COG office, with final product available after adoption.</li> </ul>
<p><b>Amendments to the Transportation Improvement Program</b></p>	<p><b>About TIP Amendments (23 CFR § 450.328):</b>  Changes to the TIP are defined as either administrative modifications or amendments. Administrative modifications to the TIP do not require public notifications but are announced to the TTC and Policy Board at regularly scheduled meetings. Amendments to the TIP are required if certain criteria are met, as identified in the current adopted TIP.</p> <p><b>Public Participation and Adoption:</b>  Public participation requirements and notifications for TIP Amendments are the same as those described above for the annual update of the TIP, except that public input meetings may occur at either the TTC or Policy Board meeting, rather than scheduling a separate meeting solely for the TIP amendment.</p> <ul style="list-style-type: none"> <li>◦ A legal public notice and minimum 10-day comment period required.</li> <li>◦ The amended draft TIP materials will be made available for review on the Metro COG website and at Metro COG's office.</li> <li>◦ The final amended TIP will be made available for review on Metro COG's website and at the Metro COG office.</li> </ul>

**Planning Document or Activity**

**Public Participation Procedures**

**Public Participation Plan (PPP)**

**About the PPP:**

- A documented participation plan that defines a process for providing the public and all members of the transportation industry with reasonable opportunities to be informed about and involved in the metropolitan transportation planning process.
- Updated every five years or as needed.
- The development process includes a review of past and potential new engagement practices to ensure the plan fits the needs of the community.

**Public Participation and Adoption:**

- MPO Policy Board adopts the Final PPP after considering and incorporating local, state, and federal comments.
  - Reviewed by NDDOT, MnDOT, FTA and FHWA
  - Reviewed by local jurisdictions and transit agencies
  - Reviewed by TTC, which makes recommendations to Policy Board
- Legal notice or box ad published in *The Forum of Fargo-Moorhead* (Metro COG's newspaper of record) initiates the public comment period, which is a minimum of 45 calendar days
  - Public input opportunity published on Metro COG website calendar and project web page and posted on social media
  - Press release distributed to media outlets at least four days prior to the initiation of the 45-day public comment and review period
- All other public input opportunities during PPP development process published on MPO website, social media, and email distribution.
- If substantive written or oral comments are received on the draft PPP, either through the public involvement process or through the interagency consultation process, a summary, analysis, and report of the disposition of these comments shall be included in the final PPP.
  - A legal public notice and minimum 15-day comment period required if substantial changes are made to the draft PPP that was available for public review and comment. Substantive changes are modifications to comment periods or public notice or public meeting requirements which interested parties could not reasonably have foreseen from the draft Plan.
  - The amended draft plan will be made available for review on the Metro COG website.
  - The final PPP will document the public involvement process, present a summary of all public comments received and demonstrate Metro COG's consideration and response to these comments.
- Draft and final PPP available for review on Metro COG website and at Metro COG office, with final product available after adoption.

**Planning Document or Activity**

**Public Participation Procedures**

**Unified Planning Work Program (UPWP)**

**About the UPWP:**

- An annual or biennial statement of work identifying the planning priorities and activities to be carried out within a metropolitan planning area. At a minimum, a UPWP includes a description of the planning work and resulting products, who will perform the work, time frames for completing the work, the cost of the work, and the source(s) of funds.
- Completed biannually with amendments as needed.
- The Policy Board adopts the Final UPWP after considering the recommendations of the TTC and incorporating state and federal comments.
- NDDOT, MnDOT, FHWA, and FTA affirm the final UPWP.
- The development process includes staff evaluating its planning funding availability, and regional planning tasks and needs with MPO communities and members to advance a draft UPWP.
- Public and stakeholder review is not required for the UPWP.
- Available on the MPO website.
- Developed with input from MPO committees and member jurisdictions after meetings and discussions about planning needs.
- MPO staff works with members as well as state and federal partners to monitor the progress of implementing the UPWP.
- Modifications and amendments are processed by seeking a recommendation from the TTC and approval from the Policy Board, followed by approval from NDDOT, MnDOT, FHWA, and FTA.

**Planning Document or Activity**

**Public Participation Procedures**

**Other Corridor Studies and Sub-Area Plans**

**About Corridor Studies and Sub-Area Plans:**

- As a follow-up to the MTP, TDP or Metropolitan Bicycle and Pedestrian Plan, Metro COG and its local jurisdictions frequently determine the need to study certain transportation corridors, transit facilities or services, or bicycle and pedestrian components for more in-depth analysis.
- Often, a one of the significant reasons for conducting such studies is to gain input from the public on the needs and issues pertaining to the study area. In other instances, the significant reasons are more technical in nature, but usually include the sharing of information with the public and the gathering and consideration of public input.
- The scope of work for each project includes a public engagement plan, which will differ from one plan to another, but will generally include a plan for public meetings, on-line or in-person opportunities for input. The engagement plan will also include the method by which the general public and those directly affected by the Plan or Study will be notified about the study and opportunities for input.
- Depending on the scope of work for the Plan or Study, public input opportunities may go above and beyond the minimum requirements established here.

**Public Participation and Adoption:**

- MPO Policy Board adopts the Final Plan after considering and incorporating local, state, and federal comments
  - Reviewed by NDDOT, MnDOT, FTA and FHWA
  - Reviewed by local jurisdictions and, when applicable, transit agencies
  - Reviewed by TTC, which makes recommendations to Policy Board
- If public input meetings (in-person and/or online opportunities) are held during Plan or Study development
  - Legal notice or box ad published in The Forum of Fargo-Moorhead or newspaper of public record initiates the public comment and review period, which is a minimum of 15 calendar days, and shall be published at least seven days prior to the public input meeting
  - Public meetings or input opportunities published on Metro COG website calendar and project web page and posted on social media
  - Press release distributed to media outlets at least seven days prior to the public meeting or comment period?
  - All other public input opportunities during Plan or Study development process published on MPO website, social media, and email distribution
- Draft and final Corridor Studies and Sub-Area Plans shall be available for review on Metro COG website and at Metro COG office, and at the local government office with final product available after adoption.

### *Visualization Techniques*

Metro COG makes every reasonable effort to incorporate visualization techniques into its public outreach activities. The MPO and its consultants prepare legible maps for public meetings regarding the development of the MTP and the TIP to help identify the location and potential impact of possible transportation improvements and network alternatives. Other useful visual aids used by the MPO may include concept plans, sketches, renderings, graphs and charts representing various types of data and flow charts depicting the transportation planning process. Online “story maps” are used for some projects to help the public walk through a series of informational materials about projects. Online interactive maps are provided as a means of public input on more and more projects. These maps allow the public to insert comments about transportation issues and desired future improvements or changes. In addition to inserting their own comments on the map, members of the public can also agree, disagree or add to the input of another individual. Previously, videos were mentioned as way to inform the public about projects. They are sometimes developed as way to inform large numbers of people about a project and continue to be available over an extended period of time.

### *Accommodations for Special Populations*

Metro COG works to reach out to special populations traditionally underserved by existing transportation systems that may face challenges accessing employment and other services. These populations may include low-income and minority households, persons with disabilities, and persons with limited English proficiency. The MPO schedules public input meetings at Americans with Disabilities Act compliant facilities, and at convenient and accessible locations and times.

Translation services are available and can be used by Metro COG to translate documents upon request. To request translation services, people can call or email MPO staff at 701-532-5100 or [Metrocog@fmmetrocog.org](mailto:Metrocog@fmmetrocog.org). The public is asked to provide Metro COG with as much notice as possible so staff can best provide for any special accommodations that may be necessary in order for them to participate in any public events. Additional information on Metro COG’s nondiscrimination obligations and procedures for investigating and tracking Title VI complaints can be found elsewhere in this document, or is available upon request by calling 701-532-5100 or by visiting [www.fmmetrocog.org/resources/title-vi-plan](http://www.fmmetrocog.org/resources/title-vi-plan).



Summary of Public Participation Procedures by Program Element						
Type of Plan	Public Meeting Requirement	Public Meeting Notification Requirements**	Length of Notice Prior to Public Meeting	Comment Period	Press Release Requirement	Other Considerations
<b>Metropolitan Transportation Plan (MTP)</b>	Yes	Legal Notice or Box Ad	7 Days	30 Days	7 days prior to public meeting	Email distributions to interested persons
<b>MTP Amendment</b>	Yes	Legal Notice or Box Ad	7 Days	15 Days	7 days prior to public meeting	Email distributions to interested persons
<b>Transit Development Plan</b>	Yes	Legal Notice or Box Ad	7 Days	30 Days	7 days prior to public meeting	Email distributions to interested persons
<b>Bicycle &amp; Pedestrian Plan</b>	Yes	Legal Notice or Box Ad	7 Days	30 Days	7 days prior to public meeting	Email distributions to interested persons
<b>Transportation Improvement Plan (TIP)</b>	Yes	Legal Notice or Box Ad	7 Days	30 Days	7 days prior to public meeting	Email distributions to interested persons
<b>TIP Amendments</b>	Yes	Legal Notice or Box Ad	7 Days	15 Days	7 days prior to public meeting	Email distributions to interested persons
<b>Public Participation Plan (PPP)</b>	No	Legal Notice or Box Ad	N/A	45 Days	Prior to initiation of public comment period	Email distributions to interested persons
<b>Unified Planning Work Program (UPWP)</b>	No	None Required	N/A	N/A	N/A	N/A
<b>Sub-Area &amp; Corridor Studies</b>	Varies – as specified by scope of work*	Legal Notice or Box Ad	7 Days	15 Days	7 days prior to public meeting	Email distributions to interested persons

\*Generally public meetings are required for sub-area and corridor studies. On occasion, certain studies do not require public meetings, and information is provided through other means.

\*\*Legal notices will typically be used unless a) schedule requirements for a legal notice cannot be met, or b) greater visual emphasis is desired, in which cases a Box Ad will be used.

## Public Input

The MPO accepts input and comments from the public through a variety of means. Members of the public may make comments by calling Metro COG at 701-532-5100. Written comments may be submitted in the following ways:

- Presented at public meetings
- Faxed to the MPO at 701-232-5043
- Emailed to [metrococ@fmmetrococ.org](mailto:metrococ@fmmetrococ.org)
- Mailed to Metro COG, 1 – 2<sup>nd</sup> Street N, Suite 232, Fargo, ND 58102

The public may submit comments to their respective TTC or Policy Board representatives for transmittal to the respective full committees. Citizens can make comments on MPO plans, reports and programs at public input meetings or at regular monthly meetings during the public comment period near the beginning of each agenda. Citizens or representatives may request time on a Metro COG TTC or Policy Board agenda to offer input to the full committees. The MPO staff shares all public comments and input with the TTC, the Executive Committee and the Policy Board in verbal and/or written form.

The MPO accepts and considers public input and comments received during the public participation process. When significant written or oral comments regarding the draft MTP, draft TIP, draft PPP, or other transportation planning project are received by Metro COG, a summary, analysis, and report on those comments is included in the final document. In those cases where a final MTP, TIP or PPP differs significantly from the version that was made available for public comment, the MPO provides an additional opportunity for further public comment on the final version. Additional public comment periods are at least 15 calendar days.

## Coordination and Consultation

Metro COG coordinates its public participation efforts with the statewide transportation planning public involvement and consultation process, as necessary. The MTP, TIP, and PPP are developed with due consideration of other related planning activities in the metropolitan area, and Metro COG consults with other agencies and officials responsible for other planning activities that may be impacted or affected by transportation. Additionally, the MPO involves the appropriate federal land management agencies in the development of the MTP and TIP as necessary.

## Evaluation

The MPO periodically reviews the PPP in order to monitor the effectiveness of the procedures outlined in this document. Following evaluation of the outputs of the PPP, the MPO may revise these procedures to incorporate new and innovative ways to involve the public, facilitate the sharing of information, and ensure a full and open participation process. In particular, Metro COG documents information regarding public attendance at public input meetings, records the number of requests or complaints associated with special populations, and solicits feedback on the use of visual aids at public meetings. The MPO reviews this information every year and evaluates the need to revise these procedures.

## Contact Information

Metro COG understands that the public is vital to a strong planning process, and that transportation plans and projects are meant to serve the citizens from whom input is sought. As such, Metro COG encourages residents to submit comments to the MPO. This can be accomplished by contacting Metro COG through the following means:

Mail: Metro COG  
1 – 2<sup>nd</sup> St N, Suite 232  
Fargo, ND 58102

Phone: 701-532-5100

Fax: 701-232-5043

Email: [metrococg@fmmetrococg.org](mailto:metrococg@fmmetrococg.org)

Website: [www.fmmetrococg.org](http://www.fmmetrococg.org)

Facebook: [www.facebook.com/fmmetrococg](http://www.facebook.com/fmmetrococg)

Instagram: [www.instagram.com/fmmetrococg](http://www.instagram.com/fmmetrococg)

LinkedIn: [www.linkedin.com/company/fmmetrococg](http://www.linkedin.com/company/fmmetrococg)

**To:** Policy Board Members  
**From:** Cindy Gray, Executive Director  
**Date:** October 14, 2022  
**Re:** **Transportation Management Area Transition Update; STBG and Carbon Reduction Program Solicitations for 2024-2027**

In late September, Metro COG, NDDOT and MnDOT were notified by FHWA that the Census Bureau did not successfully complete the required steps to allow for designation of new Transportation Management Areas (TMAs) and new Metropolitan Planning Organizations (MPOs) by the end of Federal Fiscal Year 2022 (September 30, 2022). Therefore, the designations were unable to be made by FY23, which was October 1 of this year. The determinations are expected to be made sometime in the winter of 2022 or early spring of 2023. FHWA and FTA will not change their allocations and sub-allocations mid-way through the fiscal year, so our TMA designation will not take effect until October 1, 2023 – nearly a year from now.

In the meantime, on the ND side, we know that NDDOT has been discussing the manner in which they will approach the funding of projects in our TIP, which we were advised to prepare as if we would have TMA designation and the resulting sub-allocations. NDDOT is discussing this internally, and at some point in the near future, will schedule a meeting with Metro COG to discuss the approach to 2023. Our concern is the potential for ripple effects to STBG funded projects in the years beyond 2023 as well as the impacts to the 2023 Transportation Alternative (TA) projects that we recently selected to be funded by anticipated additional TA sub-allocation funds. One solution to this would be to request that NDDOT use Carbon Reduction Program funds for these 2023 projects.

Given this situation, we are also holding off on STBG and Carbon Reduction Program solicitations for 2024-2027 projects to fill out these program years. Before we proceed with the solicitation, we feel it would be best if we know how projects programmed for 2023 will be handled.

**Requested Action: None**

**To:** Policy Board Members  
**From:** Cindy Gray, Executive Director  
**Date:** October 14, 2022  
**Re:** **Solicitation for Accounting Services**

Metro COG's contract for accounting services, and the ability to extend that contract on a year-to-year basis, expires on December 31, 2022. Attachment 1 is a draft solicitation for accounting proposals. Upon approval of the scope of work and solicitation by the Policy Board, Metro COG will solicit proposals from at least three vendors.

The solicitation has been structured such that proposals are due to Metro COG by noon on Friday, November 18, 2022. This should provide ample time for us to review the proposals, seek further input from the accounting firms if needed, and make a recommendation to the Policy Board in December. Ideally, we would be under contract with the firm by the end of the year, so a smooth transition can be made in January.

We have been satisfied with the work carried out by our current accountant, which is Balance Tax and Accounting. However, since our contract with them expires at the end of 2022, we must start fresh with a new solicitation.

**Requested Action: Approve the solicitation for accounting services and authorize the Executive Director to solicit for accounting services.**

Accounting Services  
for the  
Fargo-Moorhead Metropolitan Council of Governments  
Request for Proposals  
**October 20, 2022**

**PURPOSE OF PROPOSAL**

The Fargo-Moorhead Metropolitan Council of Governments (FM Metro COG) is requesting proposals for the purpose of retaining a qualified accountant to provide billings, accounts payable, payroll, general ledger write-up services, monthly time and cost reports, quarterly financial reports, assist with annual Federal audit, year-end close out activities, and general consulting services relative to Metro COG's financial activities and operations. The intent of this proposal is to request proposals from firms or individuals that can provide the specific accounting services necessary for Metro COG's operation.

Metro COG is a public organization funded with a combination of Federal and local funds. The organization's 2023-2024 annual budgets are approximately \$2.3 Million. Of that, internal operations are approximately \$1.2 Million annually. The remaining funds are used to hire engineering and planning consultants to complete a variety of transportation and land use studies.

**CONTRACTUAL SCOPE OF SERVICES**

The successful proposer will be required to provide services that meet the scope of work described below.

- A. Accounting services to be provided by the Third Party Contractor
  1. The firm will post all monthly routine entries (i.e. revenue adjustments, add interest from bank accounts, monthly cash reconciliation for the checking and savings accounts) within 10 to 15 days after the end of the month.
  2. The firm will produce the general ledger and provide to the Executive Director no later than one day prior to the Policy Board meeting, which is held the third Thursday of every month.
  3. The firm will develop a Cost Allocation Plan and an Annual Indirect Cost Rate to forward to the North Dakota Department of Transportation (NDDOT) for review and approval.
  4. The firm will prepare all monthly vendor checks, and provide these by the designated dates each month.
  5. The firm will prepare monthly state and federal financial reports, and monthly reimbursement materials with the monthly general ledger for Policy Board.

6. The firm will prepare and reconcile quarterly Metro COG financial reports within 10 or 15 days after the end of the month following the end of each quarter.
7. The firm will complete year-end functions such as balance the general ledger, trial balance, revenues and expenditures, enter any adjustments to the general ledger, etc., and the firm will make all accrual adjustments necessary, discuss these adjustments with the Executive Director, and provide a permanent copy of all year-end entries to Metro COG.

B. Financial technical assistance to be provided by the Third Party Contractor

1. The firm will assist the Executive Director in March-April of each year to develop the upcoming year's (fiscal year is calendar year) budget.
2. The firm will assist the Executive Director in July-August of each year to develop or update the upcoming year's work program based on COG staff hours, and define the cost allocation plan.
3. The firm may work with the Executive Committee and/or Policy Board to analyze current and long-range financial planning (e.g. five-year financial plan).
4. The firm may be required to attend Executive Committee and/or Policy Board meetings to discuss budget and financial matters on a quarterly basis.
5. The firm will assist the Executive Director on an on-call basis.
6. The firm will assist the Executive Director with complex funding issues, and communicate with state and federal DOT officials, when necessary.
7. The firm will assist the Executive Director with analyzing complex personnel costs such as moving expenses, military pay, etc.
8. The firm will provide the necessary personnel to answer general questions, as well as questions the Executive Director may have as to the allowability of any expenses. In order to provide this knowledge, the firm's representative must be well-versed in all applicable federal regulations including, but not limited to, 2 CFR 200, A-87, A-102, A-133, etc.

All services must be provided in a manner that is in accordance with the Statement on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants, accounting standards, and all procedures and recordkeeping must meet the requirements of the federal regulations.

### **TIMETABLE**

Metro COG's current accounting contract expires on December 31, 2022. A new contract secured before January 1, 2023 is preferred. After the release of this RFP, firms will have until Friday, November 18, 2022 at 12:00 PM to submit a proposal. The Metro COG Policy Board will make the selection at the December 15, 2022 meeting. Negotiation and contracting will be carried out after Policy Board approval, and service will begin January 1, 2023 subject to final contract approval by both Metro COG and the selected firm.

### **COMPENSATION SCHEDULE**

The firm must provide a breakdown of its required compensation levels. It is understood that these costs are provided on a "Not to Exceed" basis. It should also be understood that during contract negotiations, and the performance of services during the contract period, that Metro COG may choose to request less service, therefore the actual annual fee paid the accountant may be less than the "Not to Exceed" price quote.

However, it is further understood that a need or situation may arise that requires consultant services that fall outside of the "Not to Exceed" basic scope of work as contracted. In case of such occurrence arises, the proposer should also provide an hourly rate it would charge for the provision of services over and above the basic scope of work.

### **INFORMATION AND INSTRUCTIONS TO ACCOUNTING FIRMS**

To assist proposers in understanding Metro COG's current accounting system, the following information is provided:

- The annual Metro COG budget, which is adopted by the Policy Board, is composed of two general items, the Metro COG operational budget, which is approximately \$1.2M; and Metro COG's Contracted Planning Grant (CPG) (estimated \$700,000 - \$900,000). Monthly reports of expenditures are matched against the budget showing balance.
- Metro COG has eight full-time employees, up to three interns, and writes an average of 30 vendor checks per month, or approximately \$100,000 monthly.
- Payroll is currently handled by Payroll Professionals. If the prospective firm wishes to propose the option of including payroll in its scope of services, this must be proposed as an optional service, and a cost for the service shall be included as a separate line item in the cost proposal.



- Metro COG keeps its records on a modified accrual basis of accounting. The firm Brady, Martz & Associates, P.C., 401 Demers Avenue Suite 300, Grand Forks, ND 58208, was Metro COG's auditor for FY 2019, 2020 and 2021. Interested firms may contact Brian Opsahl for questions at 701.775.4685.
- A copy of Metro COG's 2021 Financial Audit report, the approved 2021-2022 budget, the 2023-2024 Unified Planning Work Program (UPWP), and samples of the monthly general ledger reports are available for review at the Metro COG office, or upon request.

To assist proposers in formulating their written proposal and cost proposal, Metro COG staff will be available to provide information, samples of work expected, and descriptions or presentations of Metro COG's general ledger program.

Metro COG may choose to set up the contract with the selected accounting firm in a manner that will allow annual contract extensions up to a specified number of years.

### **SERVICES TO BE COMPLETED BY METRO COG**

Metro COG will perform the following functions in support of the consultant's scope of work as identified in the Contractual Scope of Services section of this proposal.

- A. Metro COG will sign and mail all vendor checks.
- B. Metro COG will maintain the receipt journal and make appropriate deposits in its bank accounts, and monitor all balances.
- C. Metro COG will determine the general ledger account codes that invoices will be charged.
- D. Metro COG will code all payroll hours to correspond with work program coding.
- E. Metro COG will approve and sign all pertinent state and federal financial reports and reimbursement requests.
- F. Metro COG will provide data for budgets and annual work reports.
- G. Metro COG will provide data for annual federal financial audit.
- H. Unless otherwise specified as a result of negotiations, Metro COG's third-party payroll provider will prepare and deliver the firm quarterly payroll and tax reports (social security, workman's compensation, federal withholding, etc.) within 10 or 15 working days of the end of the reporting period.
- I. Metro COG's third-party payroll provider will prepare annual W-2s, 1099 statements, etc. by January 31 of each year.

## **PROPOSAL CONTENT**

All proposals shall include Contact Information, Introduction and Executive Summary, and a Work Plan and Project Methodology. Resumes and a summary of relevant experience shall be provided for both professional accounting staff directly assigned to Metro COG and the individual(s) to whom they report. Please also include a list of professional references, and if the firm qualifies under the federal definition as a minority, female, or Disadvantaged Business Enterprise (DBE). Proposals should also state that in accordance with the Statement of Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants, the proposer will complete all necessary services and procedures in compliance with the applicable laws, regulations, and contracts.

Attachments to review, complete, and submit are listed below:

- Exhibit A – Cost Proposal Form
- Exhibit B – Title VI Assurances
- Exhibit C – Current Federal Clauses

## **SUBMITTAL INFORMATION**

All proposals should be forwarded to:

Cindy Gray  
Executive Director  
Fargo Moorhead Metropolitan Council of Governments  
1 – 2<sup>nd</sup> Street North  
Case Plaza, Suite 232  
Fargo, ND 58102-4807

Questions relating to any portion of this RFP can be answered by the Executive Director by calling 701-532-5103 between the hours of 8:00 AM and 5:00 PM, Monday through Friday.

All proposals must be received by Metro COG by Friday, November 18, 2022, by 12:00 PM.

It is the continuing policy of the FM Metro COG to afford equal opportunity to qualified individuals regardless of their sex, race, creed, disability, or national origin, and to conform to applicable laws and regulations. Equal opportunity encompasses all aspects of employment practices to include, but not limited to, recruiting, hiring, training, compensation, benefits, promotions, transfers, layoffs, recall from layoffs, discipline, and agency-sponsored educational, social, recreational programs. Additionally, it is the policy of this agency to provide its members a viable means for communicating and resolving grievances and complaints regarding unlawful discriminatory employment practices. Any employee of the FM Metro COG who fails to comply with this policy is subject to appropriate disciplinary action.

## Exhibit A – Cost Proposal Form

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

## Exhibit B - Title VI Assurances

The **Fargo-Moorhead Metropolitan Council of Governments** (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Federal Highway Administration is subject to and will comply with the following:

### **Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

### **General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

*"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from DOT, including the Federal Highway Administration."*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

### **Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted Federal-Aid Highway Program.

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.

2. The Recipient will insert the following notification in all solicitations for bids, Requests for Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal-Aid Highway Program and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*"The Fargo-Moorhead Metropolitan Council of Governments, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."*

1. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
2. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
3. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
4. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
5. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
6. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Recipient retains ownership or possession of the property.

7. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
8. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Fargo-Moorhead Metropolitan Council of Governments also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the Federal Highway Administration's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the Federal Highway Administration. You must keep records, reports, and submit the material for review upon request to the Federal Highway Administration, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Fargo-Moorhead Metropolitan Council of Governments) gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the Federal-Aid Highway Program. This ASSURANCE is binding on Fargo-Moorhead Metropolitan Council of Governments, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the Federal-Aid Highway Program. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.



Brad Olson  
Chair, Metro COG Policy Board

1/16/2020

Date

**Attachments: Appendices A and B**

## **Fargo-Moorhead Metropolitan Council of Governments**

### Appendix A of the Title VI Assurances

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees as follows:

1. Compliance with Regulations:

The Contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. Non-discrimination:

The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment:

In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

4. Information and Reports:

The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or the Federal Highway Administration as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance:

In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:



- a. withholding payments to the Contractor under the contract until the Contractor complies; and/or
- b. cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions:

The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

Appendix B of the Title VI Assurances

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

**Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);



- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).



Fargo-Moorhead Metropolitan  
Council of Governments

Case Plaza Suite 232 | One 2nd Street North  
Fargo, North Dakota 58102-4807  
p: 701.532.5100 | f: 701.232.5043  
e: metrocog@fmmetrocog.org  
www.fmmetrocog.org

## EXHIBIT C

# CURRENT 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.



**To:** Policy Board Members  
**From:** Cindy Gray, Executive Director  
**Date:** October 14, 2022  
**Re:** **Solicitation for Auditing Services**

Metro COG's contract for auditing services, and the ability to extend that contract on a year-to-year basis for up to two years, expires on December 31, 2022. Attachment 1 is a draft solicitation for auditing proposals. Upon approval of the scope of work and solicitation by the Policy Board, Metro COG will solicit proposals from at least three vendors.

The solicitation has been structured such that proposals are due to Metro COG by noon on Friday, November 18, 2022. This should provide ample time for us to review the proposals, seek further input from the financial auditors if needed, and make a recommendation to the Policy Board in December. Ideally, we would be under contract with the firm by the end of the year, so a smooth transition can be made in January, although timeliness is not quite as critical with the audit contract as it is with the accounting contract.

**Requested Action: Approve the draft solicitation and authorize the Executive Director to solicit for auditing services.**

Contracted Annual Audit Services for 2022, 2023, and 2024  
Request for Proposals  
**October 20, 2022**

**PURPOSE OF PROPOSAL**

The Fargo Moorhead Metropolitan Council of Governments (Metro COG) is requesting proposals for the performance of audit services for the years ended December 31, 2022, December 31, 2023, and December 31, 2024. All detailed information needs are outlined in the following Request for Proposal (RFP). At the discretion of Metro COG, two one-year contract extensions (for 2025 and 2026 audits) may be executed.

**CONTRACTUAL SCOPE OF SERVICES**

## A. Nature of Services Required:

1. The services required are audits conducted in accordance with generally accepted auditing standards as defined by the American Institute of Certified Public Accountants (AICPA) "Statements on Auditing Standards," and "Standards for Audit of Organizations, Programs, Activities, and Functions," issued by the U.S. General Accounting Office. The audits will also be conducted in accordance with all requirements of the Single Audit Act of 1984, and will follow provisions of Uniform Guidance in 2 CFR 200, Subpart F, and all current supplements. The auditor should be familiar with all of the above standards and comply with all pertinent provisions.
2. The auditor's reports will contain the auditor's opinion on the fairness of statement of financial position, and results of operations in accordance with generally accepted accounting principles, as well as all required reports on internal control, and compliance as mandated by 2 CFR 200, Subpart F.

A separate management letter should be prepared to summarize all items which the auditor feels may improve or eliminate any financial or operating inefficiencies, detected during the audit engagement.

3. An annual audit exit conference with the Executive Director, and (if requested) the Metro COG Executive Committee, will be conducted by the auditor in charge. At this time, the findings and recommendations regarding compliance and internal control shall be discussed. The Executive Committee or its designees shall have the opportunity to respond, orally or in writing, to any findings. Any such written responses shall be included in the audit report.
4. The annual audit report will be presented to the Metro COG Policy Board by the firm's auditor in charge.

5. Should the circumstances disclosed by the audit call for a more detailed investigation by the auditor than necessary under ordinary circumstances, the auditor shall inform the Metro COG Policy Board in writing of the need for additional investigation, and the additional compensation required. Upon approval, an additional agreement may be made with the Metro COG Policy Board and the auditor for additional investigation. This agreement shall not ignore the routine portion of the examination to be performed as part of the normal examination. Any evidence of fraud, such as defalcation, misappropriation, misfeasance, malfeasance, embezzlement, or other illegal acts shall be immediately reported to the Metro COG Policy Board, who shall under all circumstances, have the preemptive authority to directly investigate such matters at their discretion.
  6. If any qualifications are placed on the audit by the federal or state officials, all corrective action and/or additional work to resolve the qualifications will be provided at no additional cost to Metro COG.
- B. Description of Metro COG Records to be Audited:
1. Metro COG maintains general ledger and payroll records on a general ledger using Quick Books Accounting. Actual monthly processing and write up services are contracted to third-party accounting consultant. Please note this consultant is not eligible to respond to this audit request for proposal.
  2. Metro COG approves its budget annually and the budget cycle is on a calendar year. Metro COG generates monthly reports of expenditures that are matched against the budget showing the line-item balances remaining. Metro COG's budget consists of an operating budget and a budget for contracted planning services.
  3. For the year ended December 31, 2021, records were kept by Metro COG on an accrual basis. Therefore, all requested audits will be reported on using an accrual basis of accounting.
  4. A copy of Metro COG's 2021 audit, the relevant approved budgets, and sample monthly reports (expenditure spreadsheets) are available for inspection at the Metro COG office prior to a firm's proposal development.
- C. Assistance Available to the Firm:
1. Metro COG recognizes any technical and/or clerical support it can provide the proposer may have a significant effect on the fee. Therefore, Metro COG will provide staff who has dealt with the agency's annual bookkeeping to work specifically with the in-charge auditor to ensure that all necessary records and data are provided to the firm for the completion of the audit in a timely manner. Metro COG staff will be



available through the duration of the audit to respond to inquiries on accounting matters. The copy machine will be available for use by the firm while on site.

2. The proposer may use any and all schedules and records currently used by Metro COG. Metro COG will provide suitable office or conference room space for an individual working on the audit. Recognizing staff schedules are frequently booked with meetings several weeks in advance, it will be necessary for the firm to schedule their on-site work at least thirty (30) days in advance.

### **TIMETABLE**

Metro COG's current financial audit contract expires on December 31, 2022. A new contract secured before January 1, 2023 is preferred. After the release of this RFP, firms will have until November 18, 2022 at 12:00 PM to submit a proposal. The Metro COG Policy Board will make the selection at the December 15, 2022 meeting, and service will begin January 1, 2023.

### **COMPENSATION SCHEDULE**

The firm must provide a breakdown of its required compensation levels. It is understood that these costs are provided on a "Not to Exceed" basis. It should also be understood that during contract negotiations, and the performance of services during the contract period, that Metro COG may choose to request less service, therefore the actual annual fee paid the accountant may be less than the "Not to Exceed" price quote.

However, it is further understood that a need or situation may arise that requires consultant services that fall outside of the "Not to Exceed" basic scope of work as contracted. In case of such occurrence arises, the proposer should also provide an hourly rate it would charge for the provision of services over and above the basic scope of work.

### **PROPOSAL CONTENT**

All proposals shall include Contact Information, Introduction and Executive Summary, and a Work Plan and Project Methodology. Resumes and a summary of relevant experience shall be provided for both professional auditing staff directly assigned to Metro COG and for the individual(s) who review and approve their work. Please also include a list of professional references, and if the firm qualifies under the federal definition as a minority, female, or Disadvantaged Business Enterprise (DBE). Proposals should also state that in accordance with the Statement of Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants, the proposer will complete all necessary services and procedures in compliance with the applicable laws, regulations, and contracts.

Attachments to review, complete, and submit are listed below:

- Exhibit A – Cost Proposal Form
- Exhibit B – Title VI Assurances
- Exhibit C –
- Current Federal Clauses

#### SUBMITTAL INFORMATION

All proposals should be forwarded to:

Cindy Gray  
Executive Director  
Fargo Moorhead Metropolitan Council of Governments  
1 – 2<sup>nd</sup> Street North  
Case Plaza, Suite 232  
Fargo, ND 58102-4807

Questions relating to any portion of this RFP can be answered by the Executive Director by calling 701-532-5103 between the hours of 8:00 AM and 5:00 PM, Monday through Friday.

All proposals must be received by Metro COG by Friday, November 18, 2022, by 12:00 PM.

It is the continuing policy of the FM Metro COG to afford equal opportunity to qualified individuals regardless of their sex, race, creed, disability, or national origin, and to conform to applicable laws and regulations. Equal opportunity encompasses all aspects of employment practices to include, but not limited to, recruiting, hiring, training, compensation, benefits, promotions, transfers, layoffs, recall from layoffs, discipline, and agency-sponsored educational, social, recreational programs. Additionally, it is the policy of this agency to provide its members a viable means for communicating and resolving grievances and complaints regarding unlawful discriminatory employment practices. Any employee of the FM Metro COG who fails to comply with this policy is subject to appropriate disciplinary action.

## Exhibit A – Cost Proposal Form

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

## Exhibit B: Title VI Assurances

The **Fargo-Moorhead Metropolitan Council of Governments** (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Federal Highway Administration is subject to and will comply with the following:

### **Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

### **General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

*"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from DOT, including the Federal Highway Administration."*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

### **Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted Federal-Aid Highway Program.

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and

the Regulations.

2. The Recipient will insert the following notification in all solicitations for bids, Requests for Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal-Aid Highway Program and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*"The Fargo-Moorhead Metropolitan Council of Governments, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."*

1. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
2. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
3. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
4. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
5. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
6. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or

- b. the period during which the Recipient retains ownership or possession of the property.
7. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
8. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Fargo-Moorhead Metropolitan Council of Governments also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the Federal Highway Administration's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the Federal Highway Administration. You must keep records, reports, and submit the material for review upon request to the Federal Highway Administration, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Fargo-Moorhead Metropolitan Council of Governments) gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the Federal-Aid Highway Program. This ASSURANCE is binding on Fargo-Moorhead Metropolitan Council of Governments, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the Federal-Aid Highway Program. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.



Brad Olson  
Chair, Metro COG Policy Board

1/16/2020

Date

**Attachments: Appendices A and B**

**Fargo-Moorhead Metropolitan Council of Governments**Appendix A of the Title VI Assurances

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees as follows:

1. Compliance with Regulations:

The Contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. Non-discrimination:

The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment:

In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

4. Information and Reports:

The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or the Federal Highway Administration as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance:

In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:



- a. withholding payments to the Contractor under the contract until the Contractor complies; and/or
- b. cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions:

The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

Appendix B of the Title VI Assurances

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

**Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);



- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

TITLE IX OF THE EDUCATION AMENDMENTS OF 1972, AS AMENDED, WHICH PROHIBITS YOU FROM DISCRIMINATING BECAUSE OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES (20 U.S.C. 1681 ET SEQ).

## EXHIBIT C

### CURRENT 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.