

FARGO-MOORHEAD
METROPOLITAN COUNCIL OF GOVERNMENTS

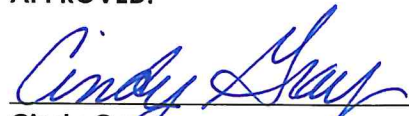
REQUEST FOR PROPOSALS (RFP)

PROJECT NO. 2023-210

***Safe Streets and Roads for All (SS4A)
Comprehensive Safety Action Plan***

April, 2023

APPROVED:



Cindy Gray
Metro COG, Executive Director

REQUEST FOR PROPOSALS (RFP)

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

SS4A Comprehensive Safety Action Plan

Qualifications based selection criteria will be used to analyze proposals from responding consultants. The most qualified consultant teams will be invited to interview in-person, virtually, or in a hybrid format. Upon completion of technical ranking and interviews, Metro COG will enter into negotiations with the top ranked firm. **Sealed cost proposals shall be submitted with the RFP.** The cost proposal of the top ranked firm will be opened during contract negotiations. Those firms not selected for direct negotiations will have their unopened cost proposals returned. Metro COG reserves the right to reject any or all submittals. This project will be funded, in part, with a Safe Streets and Roads for All (SS4A) Action Plan Grant and has a not-to-exceed budget of **\$250,000**.

Interested firms can request a full copy of the RFP by telephoning 701.532.5100, or by email: metrococg@fmmetrococg.org. Copies will be posted on the North Dakota Department of Transportation website (<https://www.dot.nd.gov>) and will also be available for download in PDF format at www.fmmetrococg.org.

All proposals received by **4:30 p.m. (Central Time) on Friday, May 26, 2023** at Metro COG's office will be given equal consideration. Minority, women-owned and disadvantaged business enterprises are encouraged to apply. Respondents must submit one PDF of the proposal, and one sealed hard copy of the cost proposal. The full length of the proposal should not exceed 30 pages; including any supporting material, charts, or tables.

A PDF of the proposal may be emailed or delivered by USB. Hard copies of sealed cost proposals shall be delivered to the contact below:

Adam Altenburg, AICP
Fargo-Moorhead Metropolitan Council of Governments
One 2nd Street North, Suite 232
Fargo, ND 58102-4807
altenburg@fmmetrococg.org
701.532.5105

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

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

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I. Agency Overview

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

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

II. Purpose of Request

A comprehensive safety action plan (CSAP) is a powerful way to prioritize safety improvements and justify investment decisions within area jurisdictions. These plans can serve as the basic building block to significantly improve roadway safety by reducing and eliminating serious injury and fatal crashes, communicating and collaborating with stakeholders and community members, and providing information on funding opportunities.

As a recent recipient of a FY22 Safe Streets and Roads for All (SS4A) Action Plan Grant, this first-of-its-kind regional CSAP for the Fargo-Moorhead metropolitan area will provide a framework of innovative strategies and implementation actions intended to reduce transportation-related fatalities and serious injuries while also supporting federal safety initiatives. The CSAP will identify safety issues and specific actions that can be implemented to improve safety for people traveling by any mode throughout the region. The plan will develop recommendations for both motorized and non-motorized modes in the roadway network as well as other elements including land use, transit, freight, and other community factors to create a comprehensive course of action. The plan will address federal and state regulations, including design guidance as well as performance management goals, measures, and targets, and will promote equitable outcomes.

As noted, this plan will be funded in part through an Action Plan Grant through the Safe Streets and Roads for All (SS4A) discretionary grant program. The purpose of this program, established by the Bipartisan Infrastructure Law (BIL), is to support local initiatives to prevent death and serious injury on roads and streets, including pedestrians, bicyclists, public transportation users, motorists, personal conveyance and micro-mobility users, and commercial vehicle operators. Once complete, the CSAP will allow Metro COG and area jurisdictions to apply for implementation (capital construction) discretionary grant funds through the SS4A initiative.

III. Project Narrative

The Fargo-Moorhead Metropolitan Council of Governments (Metro COG) and area jurisdictions understand our shared responsibility in eliminating fatal and serious crashes for all roadway users, including those who walk, bike, drive, ride transit, and travel by other modes in our community. We are committed to a holistic approach in how we think about transportation safety and how we prioritize investments across the entire transportation system so that we can build a safe and better system for all users of all modes.

By developing the first regional comprehensive safety action plan for the Fargo-Moorhead MSA, our area will commit to providing a framework of innovative strategies and implementation actions that will ensure crash reductions and support federal safety initiatives. Through expanded collaboration with regional stakeholders and community members, as well as guidance from FHWA's Safe System approach and SS4A's Action Plan Components, Metro COG and area jurisdictions will develop a joint comprehensive safety action plan that is founded upon the following:

- Stakeholder and public engagement plan, with a strong emphasis on equity and outreach to BIPOC, New Americans, historically marginalized communities, and economically disadvantaged communities.
- Data collection and review, including a summary of existing programs, policies, and studies as well as a peer review of comparable metropolitan areas.
- Safety analysis, including an analysis of regional trends, contributing factors, and patterns of transportation-related accidents in the region.
- Transportation equity review, including an assessment of regional equity indicators related to accessibility, connectivity, environment, health, engagement, and effectiveness, and how transportation systems affect and/or influence safe and equitable outcomes.
- Dashboard and toolkit, including graphic visualizations that illustrate safety countermeasures, context-sensitive solutions, user educational components, and performance measure tracking.
- Implementation matrix for implementing safety measures including:
 - Policies, programs, innovative practices, and low-cost/high-impact strategies; and
 - Specific construction projects with scope, budget, and time frame.

IV. Scope of Work and Performance Tasks

Metro COG is seeking a consultant that can not only provide the typical qualifications necessary in the development of the CSAP but also can provide pro-activeness, vision, innovation, and collaboration in examining and proposing strategies and recommendations that will ensure a reduction of fatal and serious crashes for all roadway users.

Outlined below is the scope of work that will guide the development of the CSAP. Metro COG has included the following scope of work to provide interested consultants insight into project intent, context, coordination, responsibilities, and other elements to help facilitate proposal development.

This outline is not necessarily all-inclusive and the consultant may include in the proposal any additional performance tasks that will integrate innovative approaches to successfully complete the CSAP. At a minimum, the consultant shall be expected to establish detailed outlines, analyses, assessments, and recommendations for the following tasks:

Task 1: Project Structure and Work Plan. Building on the scope of work presented in their proposal, and incorporating any relevant changes made during contract negotiations, the consultant will prepare a detailed work plan and the achievable timeline for the CSAP anticipated to be completed by November 2024. The work plan will outline the overall approach, as well as specific actions and activities that will occur during the project and how these will result in a successful conclusion to the study.

Task 2: Project Management and Coordination. The consultant shall be required to manage the study and coordination with any subconsultants, as well as bear responsibility for all documentation and equipment needs. The consultant will identify a project lead from their team to act as the direct point of contact for Metro COG's project manager.

This task will also include regular progress meetings with Metro COG, the preparation of monthly progress reports, documentation of travel and expense receipts, and the preparation and submission of invoices. When submitting progress reports, the consultant will be required to outline the following:

- Performed work;
- Upcoming tasks or milestones;
- Status of scope and schedule; and
- Any issues to be aware of.

Development of the CSAP will be guided by a Study Review Committee (SRC), which will provide oversight and input into study assessments, analyses, policies, and recommendations. The consultant should expect up to five meetings with the SRC.

The consultant shall be responsible for the preparation and coordination of all data collection, data analysis, technical memorandum, and draft documents for the SRC. Metro COG shall be responsible for coordinating and scheduling SRC meetings and assisting the consultant in developing agendas. The consultant will be expected to work closely with Metro COG on the coordination and distribution of materials to the SRC as applicable to consultant work tasks, as well as be responsible for the recording of meeting minutes.

The SRC is scheduled to be comprised of representatives from each of Metro COG's seven primary jurisdictions: Fargo, West Fargo, Horace, and Cass County, ND; and Moorhead, Dilworth, and Clay County, MN. State and federal partners including NDDOT, MnDOT, FHWA, and FTA may also be included on the SRC.

Task 3: Stakeholder and Public Engagement Program. In compliance with Metro COG's adopted Public Participation Plan (PPP), the consultant will develop and implement a detailed stakeholder and public engagement program that seeks to gain authentic and meaningful public input from community members across the Fargo-Moorhead metropolitan area. A strong emphasis shall be placed on equity and outreach to BIPOC, New Americans, historically marginalized communities, and economically disadvantaged communities in the region. At minimum, the stakeholder and public engagement program should address the following:

- Identification of, and engagement activities for, key communities that may be disproportionately impacted by traffic risks and traditionally underserved by safety efforts;
- Specific activities for reaching identified stakeholder groups and engagement strategies that inform, involve, and empower stakeholders and the public;
- Examination of perceived safety culture and concerns in the Fargo-Moorhead metropolitan area
- Timeline for stakeholder and public engagement activities;
- Communication methods for sharing information with residents and community members; and
- Strategy for effective and consistent messaging.

The consultant is encouraged to utilize creative methods, opportunities, and activities when collaborating, engaging, and informing stakeholders and the public, especially for communities disproportionately impacted and traditionally underserved. The consultant is also encouraged to review [Promising Practices for Meaningful Public Involvement in Transportation Decision-Making](#) for additional insights.

Task 4: Data Collection and Review. The consultant will collect and review existing, programs, policies, and activities, and provide a summary of current efforts to address transportation safety in the Fargo-Moorhead metropolitan area. The consultant should also review strategies that other cities, counties, and MPOs are using to address safety, identify programs that have evidence of measurable success, and provide an assessment of the most effective and efficient methods used to achieve outcomes.

As part of this task, the consultant should at minimum:

- Review existing local, regional, state, and federal plans, studies, and initiatives related to roadway safety improvements to identify opportunities to improve processes for prioritizing transportation safety and collaboration that could lead to improved effectiveness of safety analysis, project development, and implementation for jurisdictions in the Fargo-Moorhead metropolitan area;
- Conduct a peer review and comparison of the crash analyses of similar-sized MPOs and/or MSAs. This review should include, but is not limited to, a comparison based on crashes per VMT and crashes per capita, and exposure to risk/crash risk;
- Assess the quality and completeness of existing available data including crash, transportation, land use, and demographic data; and
- Develop recommendations based on literature, policy, and data review on best analysis strategies and data requirements.

Task 5: Safety Analysis. The consultant will conduct an analysis of existing safety conditions and historical trends that provides a baseline level of crashes involving fatalities and serious injuries across jurisdictions in the Fargo-Moorhead metropolitan area. This safety analysis shall include an examination of locations where there are crashes and the severity of the crashes, as well as contributing factors and crash types by relevant road users (personal motorists, bicyclists, pedestrians, freight, etc.). An analysis of systemic and specific safety needs should also be performed, as needed (e.g., high-risk road features, specific safety needs of relevant road users, public health approaches, analysis of the built environment, demographic, and structural issues, etc.). To the extent practical, the analysis should include all roadways within the Fargo-Moorhead MSA, without regard for ownership.

Task 6: Transportation Equity Review. The consultant will perform a transportation equity review to better understand how current transportation systems, services, and decision-making processes impact the lives of all users, including underserved and underrepresented communities in the Fargo-Moorhead metropolitan area. This should include an analysis of systems, services, and processes that support safe and easy-to-use multimodal options, amenities that are accessible to all populations for reaching destinations independently, and strategies to reduce socioeconomic disparities experienced by underserved and underrepresented communities.

As part of this task, the consultant should develop and assess regional transportation indicators that easily measure transportation barriers in the Fargo-Moorhead metropolitan area and/or potential structural inequalities that different population groups may face. These indicators should include, at minimum:

- Accessibility;
- Connectivity;
- Effectiveness;
- Environment;
- Health;
- Mobility;
- Safety;
- Level of community engagement; and
- Other equity indicators, as required.

Task 7: Dashboard and Toolkit. The consultant will establish a process and create a publicly accessible tracking mechanism in the form of a dashboard or other appropriate format as a means to monitor safety outcomes and evaluate which safety measures are most effective throughout the Fargo-Moorhead metropolitan area. The consultant will also develop a safety toolkit with graphic visualizations that illustrate safety countermeasures, context-sensitive design solutions, and user educational components tailored for the region.

Task 8: Implementation Matrix. The consultant will develop an implementation matrix that identifies potential projects, strategies, and recommendations for future grant opportunities, measures that can be included in regular maintenance cycles, and potential updates to Fargo-Moorhead area jurisdictions to better align with safety best practices. The implementation matrix will recognize the needs of all users of the regional transportation system, potential projects that are feasible and applicable for grant funding, conceptual infrastructure improvements with estimated costs, and schedule for implementation.

Strategies and recommendations shall consider and outline fiscal and staff time resources necessary for a continued, sustained, and successful effort to achieve traffic safety goals and meet SS4A objectives after plan adoption. A project readiness timeline for each strategy and project should be included for short-term (0-5 years), mid-term (5-10 years), and long-term (10+ years).

Task 9: Administrative Draft and Final Plan. The consultant will prepare an administrative draft of the CSAP for review and comment by the SRC. This draft is to be provided as an electronic PDF to SRC members. Comments received from the SRC will be incorporated into the final plan.

Upon final review and consent by the SRC, the consultant will develop a final report that is visually appealing, easy for policymakers and stakeholders to understand, and communicates action plan strategies and recommendations. The report should be able to be used both digitally and in hard copy format. This may take the form of separate print and web formats.

Specifically, the consultant should develop a final report that:

- Is organized and communicates a clear message both graphically and with accompanying text;
- Is easy to read and understand; and
- Explains key implications as they relate to policies, programs, practices, strategies, infrastructure projects, funding, and other recommendations.

The consultant shall provide Metro COG with appropriate presentation materials for final review and approval of the CSAP by Metro COG's TTC, Policy Board, and other jurisdictions as appropriate. Metro COG shall be responsible for presenting and achieving final recommendations and approval of the study. If the consultant wishes to include assistance with the final approval process in their scope of work, this should be accounted for in the proposal.

Task 10: Executive Summary/Fact Sheet. Upon completion of the CSAP, the consultant shall develop a brief executive summary or fact sheet in PDF format which relays all pertinent information in an easy-to-follow format. The summary should be concise and highly graphic, highlighting major assumptions, strategies, and recommendations.

Task 11: Deliverables. Upon final project completion, the consultant will be responsible for providing a high-resolution document in PDF format. **The consultant is also expected to provide Metro COG with all data and study products.** All meeting summaries and technical analyses should be included as an appendix of the study.

NOTE: If the consultant wishes to modify or include additional tasks deemed necessary to complete the study, this must be agreed to by Metro COG before issuing the notice to proceed.

V. Implementation Schedule

1) Consultant Selection.

Advertise for Consultant Proposals	4/21/2023
Deadline for RFP Clarifications/Questions	5/19/2023
Due Date for Proposal Submittals (by 4:30 p.m.)	5/26/2023
Review Proposals/Identify Finalists	(week of) 5/29/2023
Interview Finalists	(week of) 6/5/2023
Metro COG Board Approval/Consultant Notice	(week of) 6/12/2023
Contract Negotiations/Signed Contract	(week of) 6/19/2023
Notice to Proceed*	(week of) 6/19/2023

2) Project Development (Major Milestones).

Project Start-Up/Mobilization	(week of) 6/26/2023
Planned Draft Action Plan Completion	June 2024
Final Action Plan Completion	August 2024
Planned Action Plan Adoption	November 2024
Final Invoices Received	December 2024

*Notice to Proceed shall not be issued until an SS4A Action Plan Grant Agreement has been executed by the FHWA Office of Acquisition and Grants Management.

VI. Evaluation and Selection Process

Selection Committee. Metro COG will establish a selection committee to select a consultant. The selection committee will likely include representatives from Metro COG and each of Metro COG's seven primary jurisdictions: Fargo, West Fargo, Horace, and Cass County, ND; and Moorhead, Dilworth, and Clay County, MN.

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

- 20% The consultant's related experience with similar projects, including the consultant's ability, familiarity, and involvement in handling similar types of activities
- 20% Specific qualifications of the consultant's project manager and key staff's experience related to the development of similar studies
- 20% The consultant's understanding of the project scope and knowledge of local/regional issues related to the study
- 20% The consultant's project understanding, proposed project approach and methodology, project work plan, and project management techniques
- 15% The consultant's current workload, availability of key personnel, and record of past performance
- 5% The consultant or subconsultant is documented as a Disadvantaged Business Enterprise (DBE) and/or Minority Business Enterprise (MBE)

The selection committee will entertain formal oral presentations for the top candidates to provide additional input into the evaluation process. Oral presentations will be followed by a question-and-answer period during which the selection committee may question the prospective consultants about their proposed approaches.

A consultant will be selected on June 15, 2023 based on an evaluation of the proposals submitted, the recommendation of the selection committee, and approval by Metro COG's Policy Board. Metro COG reserves the right to reject any or all proposals or to waive minor irregularities in said proposal, and reserves the right to negotiate minor deviations to the proposal with the successful consultant. Metro COG reserves the right to award a contract to the firm or individual that presents the proposal, which, in the sole judgement of Metro COG, best accomplishes the desired results.

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

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

VII. Proposal Content and Format

The purpose of the proposal is to demonstrate the qualifications, competence, and capacity of the consultant seeking to provide comprehensive services specified herein for Metro COG, in conformity with the requirements of the RFP.

The proposal should demonstrate qualifications of the firm and its staff to undertake this project. It should also specify the proposed approach that best meets the RFP requirements. The proposal must address each of the service specifications under the Scope of Work and Performance Tasks.

At minimum, proposals shall include the following information:

- 1) **Contact Information.** Name, telephone number, email address, mailing address, and other contact information for the consultant's project manager.
- 2) **Introduction and Executive Summary.** This section shall document the firm name, business address (including telephone, email address(es), year established, type of ownership and parent company (if any), project manager name and qualifications, and any major features that may differentiate this proposal from others, if any.
- 3) **Work Plan and Project Approach Methodology.** Proposals shall include the following, at minimum:
 - a) Detailed work plan identifying the major tasks to be accomplished relative to the requested study tasks and expected product as outlined in this RFP;
 - b) Timeline for completion of the requested services, including all public outreach and stakeholder meetings, identifying milestones for development of the project, and completion of individual tasks;
 - c) List of projects with similar size, scope, type, and complexity that the proposed project team has successfully completed in the past;
 - d) List of the proposed principal(s) who will be responsible for the work, proposed Project Manager, and project team members (with resumes);
 - e) Breakout of hours for each member of the team by major task area, and an overall indication of the level of effort (percentage of overall project team hours) allocated to each task. Note that specific budget information is to be submitted in a sealed cost proposal as described in Section IX: General RFP Requirements;
 - f) List of any subcontracted agencies, the tasks they will be assigned, the percent of work to be performed, and the staff that will be assigned;

- g) List of client references for similar projects described within the RFP;
 - h) Required Disadvantaged Business Enterprise (DBE) and/or Minority Business Enterprise (MBE) Firms participation documentation, if applicable; and
 - i) Ability of firm to meet required time schedules based on current and known future workload of the staff assigned to the project.
- 4) **Signature.** Proposals shall be signed in ink by an authorized member of the firm/project team.
- 5) **Attachments.** Review, complete, and submit the completed versions of the following RFP Attachments with the proposal:

Exhibit A – Cost Proposal Form (complete and submit)
Exhibit B – Federal Clauses (review only)

VIII. Submittal Information

A PDF of the proposal may be emailed or delivered by USB. Sealed cost proposals shall be submitted as hard copies. Hard copies of the sealed cost proposals may either be hand delivered or shipped to ensure timely delivery to the project manager as defined below:

Adam Altenburg, AICP
Fargo-Moorhead Metropolitan Council of Governments
One 2nd Street North, Suite 232
Fargo, ND 58102-4807
altenburg@fmmetrocog.org
701.532.5105

All proposals received by **4:30 p.m. on Friday, May 26, 2023** will be given equal consideration. Minority, women-owned and disadvantaged business enterprises are encouraged to apply. Respondents must submit one PDF copy of the proposal. The full length of each proposal should not exceed 30 pages; including any supporting material, charts, or tables.

The consultant may ask for clarifications of the RFP by submitting written questions to the Metro COG project manager identified above. Questions regarding this RFP must be submitted no later than May 19, 2023. Metro COG reserves the right to decline a response to any question if, in Metro COG's assessment, the information cannot be obtained and shared with all potential firms in a timely manner. All questions and responses will be forwarded to applicants and posted on Metro COG's website on May 22, 2023.

IX. General RFP Requirements

- 1) **Sealed Cost Proposal.** All proposals must be clearly identified and marked with the appropriate project name; inclusive of a separately sealed cost proposal per the requirements of this RFP. Cost proposals shall be based on an hourly “not to exceed” amount and shall follow the general format as provided within Exhibit A of this RFP. Metro COG may decide, in its sole discretion, to negotiate a price for the project after the selection committee completes its final ranking. Negotiation will begin with the Consultant identified as the most qualified per requirements of this RFP, as determined in the evaluation/selection process. If Metro COG is unable to negotiate a contract for services negotiations will be terminated and negotiations will begin with the next most qualified Consultant. This process will continue until a satisfactory contract has been negotiated.
- 2) **Consultant Annual Audit Information for Indirect Cost.** Consulting firms proposing to do work for Metro COG must have a current audit rate no older than fifteen (15) months from the close of the firms Fiscal Year. Documentation of this audit rate must be provided with the sealed cost proposal. Firms that do not meet this requirement will not qualify to propose or contract for Metro COG projects until the requirement is met. Firms that have submitted all the necessary information to Metro COG and are waiting for the completion of the audit will be qualified to submit proposals for work. Information submitted by a firm that is incomplete will not qualify. Firms that do not have a current cognizant Federal Acquisition Regulations (FARs) audit of indirect cost rates must provide this audit prior to the interview. **This documentation should be attached with the sealed cost proposal. The submitted Indirect Rate MUST match the Indirect Rate on all invoicing.**
- 3) **Debarment of Suspension Certification and Certification of Restriction on Lobbying.** See Exhibit B, Federal Clauses regarding Debarment of Suspension and Restriction on Lobbying.
- 4) **Respondent Qualifications.** Respondents must submit evidence that they have relevant past experience and have previously delivered services similar to the requested services within this RFP. Each respondent may also be required to show that similar work has been performed in a satisfactory manner and that no claims of any kind are pending against such work. No proposal will be accepted from a respondent whom is engaged in any work that would impair his or her ability to perform or finance this work.
- 5) **Disadvantaged Business Enterprise.** Pursuant to Department of Transportation policy and 49 CFR Part 23, Metro COG supports the participation of DBE/MBE businesses in the performance of contracts financed with federal funds under this RFP. Consultants shall make an effort to involve DBE/MBE businesses in this project. If the Consultant is a DBE/MBE, a statement indicating that the business is certified DBE/MBE in North Dakota or Minnesota shall be included within the proposal.

If the Consultant intends to utilize a DBE/MBE to complete a portion of this work, a statement of the Subconsultant's certification shall be included. The percent of the total proposed cost to be completed by the DBE/MBE shall be shown within the proposal. Respondents should substantiate (within proposal) efforts made to include DBE/MBE businesses.

- 6) **US DOT Policy Statement on Bicycle and Pedestrian Accommodations.** Consultants are advised to review and consider the *US DOT Policy Statement on Bicycle and Pedestrian Accommodation* issued in March of 2010 when developing written proposals.
- 7) **North Dakota Department of Transportation Consultant Administration Services Procedure Manual.** Applicants to this Request for Proposal are **required** to follow procedures contained in the *NDDOT Consultant Administration Services Procedure Manual*, which includes prequalification of consultants. Copies of the Manual may be found on the Metro COG website www.fmmetrocog.org or the NDDOT website at www.dot.nd.gov.

X. Additional Resources

Respondents are encouraged to review project planning resources on the SS4A website at <https://www.transportation.gov/grants/SS4A/resources>.

XI. Contractual Information

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

- 5) Any agreement or contract resulting from the acceptance of a proposal shall be on forms either supplied by or approved by Metro COG and shall contain, as a minimum, applicable provisions of the RFP. Metro COG reserves the right to reject any agreement that does not conform to the RFP and any Metro COG requirements for agreements and contracts.
- 6) The consultant shall not assign any interest in the contract and shall not transfer any interest in the same without prior written consent of Metro COG.

XII. Payments

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

XIII. Federal and State Funds

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

The services performed under any resulting agreement shall comply with all applicable federal, state, and local laws and regulations. In addition, this contract will be subject to the relevant requirements of 2 CFR 200.

XIV. Title VI Assurances

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

- 1) **Compliance with Regulations.** The consultant shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation, 49 CFR Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations).
- 2) **Nondiscrimination.** The consultant, with regard to the work performed by it, shall not discriminate on the grounds of race, color, national origin, sex, age, disability/handicap, or income status**, in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The consultant shall not participate, either directly or indirectly, in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

- 3) **Solicitations for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations, either by competitive bidding or negotiation, made by the consultant for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the consultant of the contractor's obligations to Metro COG and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, disability/handicap, or income status**.
- 4) **Information and Reports.** The consultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by Metro COG or NDDOT to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a consultant is in the exclusive possession of another who fails or refuses to furnish this information, the consultant shall so certify to Metro COG, or NDDOT, as appropriate, and shall set forth what efforts it has made to obtain the information.
- 5) **Sanctions for Noncompliance.** In the event of the consultant's noncompliance with the nondiscrimination provisions as outlined herein, Metro COG shall impose such sanctions as it or FHWA may determine to be appropriate, including but not limited to:
 - a) Withholding of payments to the consultant under the contract until the consultant complies; and/or
 - b) Cancellation, termination, or suspensions of the contract, in part or in whole.
- 6) **Incorporation of Title VI Provisions.** The consultant shall include the provisions of Section XIII, paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

The consultant shall take such action with respect to any subcontract or procurement as Metro COG, the U.S. Department of Transportation, or FHWA may direct as a means of enforcing such provisions, including sanctions for noncompliance provided, however, that in the event a consultant becomes involved in, or is threatened with, litigation by a subcontractor or supplier as a result of such direction, the consultant may request Metro COG enter into such litigation to protect the interests of Metro COG; and, in addition, the consultant may request the United States to enter into such litigation to protect the interests of the United States.

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

XV. Termination Provisions

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

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

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

XVI. Limitation on Consultant

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

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

XVII. Conflict of Interest

No consultant, subcontractor, or member of any firm proposed to be employed in the preparation of this proposal shall have a past, ongoing, or potential involvement which could be deemed a conflict of interest under North Dakota Century Code or other law. During the term of this agreement, the consultant shall not accept any employment or engage in any consulting work that would create a conflict of interest with Metro COG or in any way compromise the services to be performed

under this agreement. The consultant shall immediately notify Metro COG of any and all potential violations of this paragraph upon becoming aware of the potential violation.

XVIII. Insurance

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

XIX. Risk Management

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

The consultant shall secure and keep in force during the term of the contract, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota, the following insurance coverage:

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

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

Metro COG reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time. Any attorney who represents the State under this contract must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C Section 54-12-08.

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

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

Exhibit A – Cost Proposal Form

Cost Proposal Form – Include completed cost form (see below) in a separate sealed envelope – labeled “**Sealed Cost Form – Vendor Name**” and submit 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 contractor. Changes in the final contract amount and contract extensions are not anticipated.

REQUIRED BUDGET FORMAT

Summary of Estimated Project Cost

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

Exhibit B – 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.