

**Atlanta Regional Commission
Homeland Security and Recovery Group**

Urban Area Security Initiative of Atlanta, Georgia

REQUEST FOR PROPOSAL

Multi-Jurisdictional, Cyber Security Penetration Testing and Threat Intelligence Services

05.05.2020

INTRODUCTION

This regional project is intended to provide 1) cybersecurity penetration testing and 2) threat intelligence services to jurisdictional members of the Atlanta Urban Area Security Initiative (UASI) specifically for the counties of Clayton, Cobb, DeKalb and Gwinnett. The Atlanta Regional Commission (ARC) is the fiscal agent and is the overall responsible party for this project. Funding for this project is through ARC's Homeland Security and Recovery Group which administers the Atlanta UASI with grant funds from Grant Award Numbers: EMW 2018-SS-00067-S01 (FY2018 DHS HSGP) and EMW-2019-SS-00072 (FY2019 DHS HSGP) under Catalog of Federal Domestic Assistance (CFDA) Number: 97.067. Vendors may bid on either penetration testing or threat information or any combination therefore, required to meet the specifications of this RFP. This RFP may result in an award to multiple vendors. Prior to services being performed, individual jurisdictions will present a refined Scope of Work (SOW) for the work requested. The successful vendor(s) should be prepared to begin work within 30 days of the fully signed contract.

For scoring purposes, vendor responses should consist of answers to the requirements listed: for example, one for penetration test report, and another for threat intelligence report. Similarly, if a vendor submits a proposal for either penetration testing and/or threat intelligence separate references and cost information must be provided. Please note that for penetration testing services, vendors are required to include a sample penetration test report in their response that does not count against the page limitation of this RFP.

1. Operating Agency. Throughout this document there will be references to the Operating Agency or its designee which represents the jurisdictional members of the UASI. As such, the Operating Agency will identify and name an individual or group of individuals to oversee their interest in the project. These "designees" shall be identified and named to the vendor after award and prior to the start of the project.

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2. Instructions. Vendors/Bidders responding to this proposal should adhere to the following additional instructions:

- A. Interested firms must notify ARC by 5:00 PM Friday, May 25, 2020, if they intend to submit a proposal. ARC will email each interested firm or team of firms individually a link to a secure and confidential portal to upload the proposal. Interested firms should email Felecia Jackson at fjackson@atlantaregional.org by 5:00 PM May 25, 2020 of their intent to submit a proposal and to receive the link to the portal. ARC must also receive one (1) hard copy via the address below and one copy through the secure and confidential portal set up for each interested firm. ARC physical offices are closed, but still receiving mail through the United States Postal Service. Please send your proposal via USPS with a tracking number. Please send the tracking information to Felecia Jackson at fjackson@atlantaregional.org. The proposal must be either in Microsoft Word or PDF format. Proposals are due **no later than 10:00 AM EST on Friday, June 5, 2020.**
- B. The one (1) hard copy of the proposals must be submitted to the following address: ATTN: Bernard Coxton
c/o Atlanta Regional Commission/Homeland Security & Recovery Group
International Tower
229 Peachtree Street NE
Suite 100
Atlanta, Georgia 30303
- C. Proposals shall not exceed a total of 20-pages (8.5 x 11), inclusive of quotes, resumes, firm experience, covers, end sheets and an introductory letter. Font size shall be a minimum of 11 points in all cases.
- D. Submit a Price Sheet in Word or Excel. Price sheet(s) must include Penetration Testing and or Treat Information Sharing services
 - 1. Indicate your typical hourly rate (a range of rates is sufficient) for each person assigned to the project; and
 - 2. The basis of the fees to be charged to the ARC, and the estimated cost for completing the assignment.
- E. Qualified Service Area.
 - 1. The personnel who will be assigned to do this work, if selected, and each person's anticipated contribution. Please provide the individuals' backgrounds,

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- to demonstrate that he or she has experience to undertake the tasks they will be expected to do as a part of the engagement.
2. The estimated length of the engagement and how quickly the Consultant can begin once a task order is formally awarded.
- F. The successful vendor or team of vendors should be prepared to sign a standard ARC contract for services which contains required federal and state clauses. A copy of this boilerplate language is attached as Exhibit #4. Any major reservations with this boilerplate agreement should be note in the bidder's response.
- G. Proposals must include the following information:
1. Name of lead firm and any sub-consultants;
 2. Listing of key project personnel and their qualifications;
 3. Point of contact (name, title, phone number, mailing address, and email address) at lead firm;
 4. Description of experience on similar projects to include 8 to 12 references with current contact information. Description of experience on similar projects and references must not exceed one page each. This is exclusive of the 20-page limit requirement;
 5. A description of the organization's legal status, tax classification, FEIN/Contractor Tax ID Number, and proof of organization's financial solvency;
 6. Geographic location of the consultant's office performing the services; and
 7. Any other pertinent information.

ARC reserves the right to award a contract based on this RFP to a vendor(s) based on initial proposals received without formal interviews and to award all or part of this project to one or more firms. If interviews are necessary, the short-listed firms will be invited to participate in an interview process with an evaluation committee. To further assist prospective bidders successfully propose on this project, ARC will host a vendor/bidder's conference virtually via teleconference on May 15, 2020, at 11:00 am. Information about the bidder's conference is outlined below, along this RFP's schedule of milestones.

Issue Request for Proposal	Tuesday May 5, 2020
Technical Questions	Received until Monday May 11, 2020 (5PM) to UASI-RFQ@atlantaregional.org .
Bidder's Teleconference	Friday, May 15, 2020 from 11:00 am until 12:00 pm Call in number: 1 (805) 309-0248 using conference ID 693-3501.
Response to Technical Questions or Questions from Bidder's Conference	Wednesday May 20, 2020 Responses will be posted to ARC's website
Intent to Submit a Proposal	Friday May 25, 2020 (5PM)

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Proposals Due	Friday June 5, 2020 (10AM)
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3. Best Value. Selection of a vendor will be based on “Best Value” to the ARC and the Operating Agency. The ARC and the Operating Agency shall solely determine the “Best Value” through evaluation of each vendor proposal per the criteria described below.
4. Award Procedure. ARC reserves the right to make an award without further discussion of the qualifications and/or subsequent proposals received. Therefore, it is important that the qualifications be submitted initially on the most favorable terms from both a technical and cost standpoint. After submission of the qualifications and closing thereof, no information will be released until after selection of vendor(s) are determined and contract(s) executed. ARC reserves the following rights: (1) to reject any and all qualifications received; (2) to decide to receive some, but not all, of the services requested in this RFP; and (3) that any qualified proposals submitted become part of the official file, without obligation or cost to the ARC.
5. Evaluation Criteria. The following are evaluation criteria. While negotiations may be held, vendors are advised to submit their most competitive Cost and Technical Responses.

A.	Technical approach to provide the requested services, including the quality/thoroughness of example reports	35%
B.	Demonstration of expert qualifications and experience to perform requested services	30%
C.	Reasonableness of fee and expenses	25%
D.	References of the firm/organization, letters of support	10%

6. Subcontractors. Subcontractors may be used but vendor must provide list of proposed subcontractors in their bid package and is subject to approval by the ARC and the Operating Agency.

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7. Required Federal Clauses and Certifications. Vendors should note that all ARC-UASI solicitations and resulting contracts shall contain the following Federal Acquisition Regulations (FAR) <https://www.acquisition.gov/browsefar> and other clauses as applicable:
- A. Debarment and Suspension.
 - B. Conflict of Interest.
 - C. Lobbying and Certification and Disclosure.
 - D. Sensitive Security Information.
 - E. Federal Civil Rights Laws and Regulations.
 - F. Federal EEO requirements.
 - G. Disadvantaged Business Enterprises/Small and Minority Firms and Women's Business Enterprises.
 - H. Labor Requirements.
 - I. Environmental Protections.
 - J. Energy Conservation.
 - K. Georgia E-verify.
 - L. Audit requirements.

Exhibit #1

Vendor Mandatory Requirements

Vendors to this RFP are required to confirm by indicating “Yes” or “No” to their organization/firm’s ability to meet the requirement listed in Exhibit #1. The evaluation of responses will consist of a vendor’s adherence to completing an Exhibit #1 for each of the two services.

NAME OF VENDOR:	
For the Services below, confirm your organization’s offering with a “Yes” or “No”.	Confirm
Organization must sign CJIS Addendum https://gbi.georgia.gov/document/document/fbi-cjis-security-addendum/download	
Must store / transmit penetration test findings in encrypted formats	
Must destroy penetration test findings at conclusion of test	
Must perform penetration test on location	
Must be headquartered in the United States	

<u>Additional Requirements</u>	Confirm
Experience with Federal or State agencies, or local governments serving more than 500,000 residents (include as references)	
Minimum of 5 yrs. experience in business offering IT security assessment services	
Must agree to a signed scope work which include time and systems included in test	
Internal pen test team should be able to perform on-site work at multiple locations	
Pen test services may involve work on, but not limited to the following:	
Mobile applications	
Web applications	
Cloud hosted applications	
Client images	
Wireless Networks	
Perform web testing from the following perspectives:	
Unauthenticated user	
Authenticated user	
Administrative user	
Evaluate the agency’s infrastructure from a network, system and application level.	
The ability to test at minimum 5000 internal IP addresses.	
The ability to test at minimum 125 active external IP addresses.	
Ability to locate all services and applications that exist within a provided subnet.	
Vendor should be able to exploit all possible attack surfaces identified.	

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Vendor shall provide a methodology of how the Vendor will access all of the agency's assets.	
Vendor must provide efficient communication between the Vendor and the agency.	
Vendor must be able to provide feedback on proposed remediation by customer.	
Vendor must complete all clean up processes, including but not limited to:	
Removal of accounts created as part of the assessment	
Removal of tools installed by tester on the agency's systems	
The ability to perform and complete external and internal tests within 60 days of request.	
Vendor shall not store any cardholder data, if obtained during a penetration test.	
Sign a non-disclosure agreement, a copy will be retained by the agency.	

Exhibit #2

PENETRATION TESTING SERVICES

For the Services below, confirm your organization's offering with a "Yes" or "No".

NAME OF VENDOR:	
Services Requested:	Confirm
Red Team Testing Social engineering tests done internally may include, but not limited to the following methods: <ul style="list-style-type: none"> • Phishing • Spear Phishing • Random calls • Whaling • Vishing 	
Physical Penetration Testing <ul style="list-style-type: none"> • Dumpster Diving • Badge cloning • Tailgating • Piggybacking • Impersonation • Network Access Control • Public Information & Information Leakage • Attempt to get users to plugin USB drivers or other media 	
Services Requested Network Testing <ul style="list-style-type: none"> • Brute force (on designated systems) • Password Cracking • Assessment of public routing policy • Enumeration on public facing DNS servers • Assessment of internal network devices • Denial of Service Identification • VPN Endpoint Analysis • Protocol Analysis of discovered protocols in use • Determining which TCP/UDP ports are accessible • Public Information & Information Leakage • Password Service Strength Testing • Public safety in-car communication systems 	Confirm
Application Testing <ul style="list-style-type: none"> • Brute force (on designated systems) • Password Cracking • Public Information & Information Leakage • Identification of OWASP Top 10 vulnerabilities 	

REQUIRED: Include a sample penetration test report in your response

Exhibit #3

CYBER THREAT INTELLIGENCE SERVICES

Deliver actionable intelligence on known and emerging cyber threats applicable to users at each municipality and government entities for a period of 3-years from the date of the contract.

Organizations may choose to donate one of their intelligence briefings to cities or other organizations but will not exceed the count below. Briefings are expected to contain the following when applicable:

- Suspicious / malicious IP addresses
- Identification information regarding malware including file names, hashes and behavior
- News about active threat actors
- Attack techniques
- Vulnerabilities
- Suggested remediation or mitigation steps organizations should take
- Targets of attack
- Types of data affected in attacks

Jurisdictions	Users
Clayton	6
Cobb	4
Dekalb	10
Gwinnett	10

REQUIRED: Include a sample threat briefing for review.

NOTE: In your response, indicate your organization's ability to meet the following requirements:

Requirement	Confirm
Provide users at each County/City with intelligence information (count above)	
Provide timely intelligence briefings via email as new threats occur	
Provide monthly summary reports on threats	

Exhibit #4

CONSULTANT AGREEMENT

THIS AGREEMENT, entered into as of this [REDACTED] day of [REDACTED] 2020, by and between [REDACTED] (hereinafter referred to as the "Consultant") and the ATLANTA REGIONAL COMMISSION (hereinafter referred to as "ARC").

WITNESSETH THAT:

WHEREAS, ARC desires to engage the Consultant to render certain services hereinafter described in connection with an undertaking or project (hereinafter referred to as the "Project") which is to be wholly or partially financed by a grant from the United States Department of Homeland Security (DHS) through the Georgia Emergency Management Agency and Homeland Security Agency (GEMA/HS), (hereinafter, along with the appropriate auditing agency of the entities making such grant, referred to as "the Concerned Funding Agencies");

WHEREAS, the Consultant desires to render such services in connection with the project;

NOW THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter contained, the parties hereto agree as follows:

1. Engagement of the Consultant. ARC hereby agrees to engage the Consultant and the Consultant hereby agrees to perform the services hereinafter set forth in accordance with the terms and conditions herein.
2. Scope of Services. The Consultant shall do, perform and carry out in a satisfactory and proper manner, as determined by ARC, the work and services described in Attachment "A" which is attached hereto and made a part hereof.
3. Time of Performance. The services of the Consultant are to commence immediately upon execution of this agreement. Work and services shall be undertaken and pursued in such sequence as to assure their expeditious completion and as may be required in Attachment "A." All work and services required hereunder shall be completed on or before [REDACTED], 2020.
4. Compensation. The Consultant shall be compensated for the work and services to be performed under this agreement as set forth in Attachment "B" which is attached hereto and made part hereof. Compensation for work and services in the performance of this contract shall not exceed \$ [REDACTED].00.
5. Approval of Subcontracts. None of the work or services to be performed under this agreement by the Consultant shall be subcontracted without the prior written approval of ARC's Executive Director or his authorized agent. If such approval is requested, all subcontract documents shall be submitted to ARC's Executive Director or his authorized agent, for his review and approval prior to the execution of such subcontract. Further, if requested by ARC's Executive Director or his authorized agent, the Consultant shall provide ARC with such documentation as ARC's Executive Director shall require, regarding the method the Consultant used in selecting its subcontractor. The Consultant acknowledges that if work or services to be performed under this agreement is financed solely or partially with federal funds, the selection of subcontractors is governed by regulations requiring competition between potential subcontractors or adequate justification for sole source selection. The Consultant agrees to abide by such regulations in its selection procedure. Subcontracts presented in the proposal for services are considered to be approved.
6. Prompt Payment and Retainage. The prime Consultant agrees to pay each subcontractor under this prime grant for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime Consultant receives from ARC. The prime Consultant agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or

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postponement of payment from the above referenced time frame may occur only for good cause following written approval of ARC.

Any Consultant found not to be in compliance with this clause will be considered in breach of contract and any further payments will be withheld until corrective action is taken. If Consultant does not take corrective action, Consultant may be subject to contract termination.

7. Assignability. The Consultant shall not assign, sublet or transfer all or any portion of its interest in this agreement without the prior written approval of ARC.
8. Amendments. ARC may require changes in this agreement. Except for termination for cause or convenience, such changes, including any increase or decrease in the amount of the Consultant's compensation shall be incorporated in written amendments to this agreement. Amendments to this agreement may be executed on behalf of ARC only by ARC's Executive Director and Chairman.
9. Insurance. The Consultant will have and maintain insurance coverage that complies with the laws of the state of Georgia, as well as reasonable and prudent business practices. Such insurance shall at least include Worker's Compensation, Public Liability, and Property Damage coverage.
10. Indemnification. To the extent permitted by law, the Consultant shall hold harmless and indemnify ARC, its officers, directors, and employees from and against losses, reasonable attorney's fees and costs, that may be based on any injury to persons or property caused by the negligent performance of services under this agreement by the Consultant or any person employed by the Consultant.
11. Formal Communication. Formal communications regarding this agreement shall include, but not necessarily be limited to correspondence, progress reports and fiscal reports.

All formal communication regarding this agreement shall be in writing between the person executing this agreement on behalf of the Consultant (executor) and ARC's Executive Director. However, the Consultant executor and ARC's Executive Director shall each have the right to designate in writing to the other an agent to act in his or her behalf regarding this agreement. Any restrictions to such designation must be clearly defined in the written designation.

In this regard, ARC's Executive Director hereby designates the Manager of the Homeland Security and Recovery Group as his agent for purposes of this contract only, except for Amendments and Terminations.

12. Reports. The Consultant shall furnish ARC with narrative progress reports, in such form and frequency as may be specified by ARC's Executive Director or his authorized agent, outlining the work accomplished by the Consultant during the period, including the current status of the Project, and the percentage of work which has been completed.
13. Financial Reports. In addition to other records required by this contract, the Consultant agrees to provide to ARC such additional financial reports in such form and frequency as ARC may require in order to meet ARC's requirements for reporting to the Concerned Funding Agencies.
14. Review and Coordination. To ensure adequate assessment of the Consultant's project and proper coordination among interested parties, ARC shall be kept fully informed concerning the progress of the work and services to be performed hereunder. The Consultant may be required to meet with designated representatives of ARC and the Concerned Funding Agencies from time to time to review the work and services performed. The Consultant shall be given reasonable written notice of such meetings.
15. Inspections. Authorized representatives of ARC and the Concerned Funding Agencies may at all reasonable times review and inspect the Project activities and data collected pursuant to this agreement. Except where specifically prohibited by law, all reports, studies, records, and computations prepared by or for the Consultant under this agreement shall be made available to authorized representatives of ARC and the Concerned Funding Agencies for inspection and review at all reasonable times in the Consultant's office where data is normally accumulated.

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Approval and acceptance of such material shall not relieve the Consultant of its professional obligation to correct, at its expense, any errors found in the work unless such errors can be shown to be caused by inaccurate or incomplete information provided by ARC.

16. Maintenance of Cost Records. The Consultant shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred on the Project and shall make such material available at all reasonable times during the period of the agreement, and for three years from the date of final payment under the agreement, for inspection by ARC, the Concerned Funding Agencies, and if the work and services to be performed under this agreement is wholly or partially funded with federal funds, the Comptroller General of the United States, or any of their duly authorized representatives. The Consultant shall include the provisions of this paragraph in any subcontract executed in connection with this Project.
17. No Obligation by the Federal Government. ARC and the Consultant acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to ARC, the Consultant, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
18. Consultant's Personnel. The Consultant represents that it has, or will secure at its own expense, all personnel required to perform the services under this agreement. Such personnel shall not be employees of ARC, nor shall such personnel have been employees of ARC during any time within the twelve-month period immediately prior to the date of this agreement, except with the express prior written consent of ARC. Further, the Consultant agrees that no such former ARC employees shall be involved in any way with the performance of this agreement, without the express prior written approval of ARC.
19. Employees' Rate of Compensation. The rate of compensation for work performed under this project by a staff member or employee of the Consultant shall not exceed the compensation of such person that is applicable to his or her other work activities for the Consultant. Charges for salaries and wages of individuals shall be supported by time and attendance and payroll distribution records.
20. Interest of Consultant. The Consultant covenants that neither the Consultant, nor anyone controlled by the Consultant, controlling the Consultant, or under common control with the Consultant, nor its agents, employees or Consultants, presently has an interest, nor shall acquire an interest, direct or indirect, which would conflict in any manner or degree with the performance of its service hereunder, or which would prevent, or tend to prevent, the satisfactory performance of the Consultant's service hereunder in an impartial and unbiased manner. The Consultant further covenants that in the performance of this agreement no person having any such interest shall be employed by the Consultant as an agent, Consultant or otherwise. If the Consultant contemplates taking some action which may constitute a violation of this paragraph, the Consultant shall request in writing the advice of ARC, and if ARC notifies the Consultant in writing that the Consultant's contemplated action will not constitute a violation hereof, then the Consultant shall be authorized to take such action without being in violation of this paragraph.
21. Interest of Members of ARC and Others. No officer, member or employee of ARC, and no public official of any local government which is affected in any way by the project, who exercises any function or responsibilities in the review or approval of the project or any component part thereof, shall participate in any decision relating to this agreement which affects his or her personal interests or the interest of any corporation, partnership or association in which he or she is directly, or indirectly, interested; nor shall any such officer, member or employee of ARC, or public official of any local government affected by the project, have an interest, direct or indirect, in this agreement or the proceeds arising therefrom.
22. Officials Not to Benefit. No member of or delegate to the Congress of the United States of America, resident commissioner or employee of the United States Government, shall be admitted to any share or part of this agreement or to any benefits to arise herefrom.

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23. Compliance with Requirements of the Concerned Funding Agencies. The Consultant shall be bound by the applicable terms and conditions of the Grant Contract between ARC and the Concerned Funding Agencies which said Grant Contract is on file in the offices of ARC and is hereby made a part of this agreement as fully as if the same were attached hereto. ARC will notify the Consultant in writing of any applicable changes within a reasonable time after ARC has received appropriate notice of such changes from the Concerned Funding Agencies.
24. Allowable Costs. In the case of a cost reimbursable contract, the Consultant certifies that costs claimed for reimbursement under this contract shall not include costs incurred prior to the effective date or subsequent to the end date of this contract. The amount reimbursed under this contract shall be limited to the necessary and reasonable costs of employment, training and other services provided according to the terms and conditions of this contract and the attachments hereto. In no event shall the allowable costs for any single line item of the budget attached hereto exceed the amounts shown for that line item therein, except as allowed under Attachment B. Reimbursement shall not be made to pay cost incurred for travel outside the state of Georgia unless approved in writing by ARC in advance for said travel; provided, further, that if travel inside or outside Georgia is approved, and said travel is to be by air, first class accommodations shall not be allowed. Mileage reimbursement is allowable and shall not exceed the IRS Standard Mileage Rate for Business.
25. Disallowed Costs. If costs incurred by the Consultant are not in conformity with the requirements of this contract and are subsequently disallowed as a result of a financial and compliance audit performed either pursuant to Audits herein below, by ARC, the concerned funding agency, the Comptroller General of the United States, or any of their duly authorized representatives, or otherwise, such costs shall be refunded to ARC from non-federal sources. ARC further reserves the right to withhold funds to recoup such improper or unauthorized disbursements. No finding of disallowed costs shall be made except after notice and opportunity for a fair hearing as provided in Disputes and Appeals herein below. Funds shall not be allowable under this contract for costs of entertainment. Contributions made on behalf of any participant to retirement systems or plans are not allowable under this contract. Further, funds shall not be allowable under this contract for payment of premiums for insurance policies which provide protection from debts against ARC, the state of Georgia or the United States government.
26. Publicity. Articles, papers, bulletins, reports or other material reporting the plans, progress, analysis or results and findings of the work conducted under this agreement shall not be presented or published without first submitting the same to ARC for review and comment. No such presentation shall be made until comments have been received from ARC regarding such review; provided, however, if such comments have not been received by the Consultant within thirty calendar days after such submission, it shall be presumed that ARC has no objection thereto. ARC's comments, objections, reservations or disagreements regarding such material shall be accommodated as ARC shall specify.
27. Assurances. The Consultant hereby assures and certifies that it will comply with the appropriate regulations, policies, guidelines and requirements (as applicable), including, but not limited to, 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 48 CFR 31, "Contract Cost Principles and Procedures," Executive Order 12372, "Intergovernmental review of Federal programs," U.S. Office of Management and Budget Circular Nos. A 21, "Cost Principles for Educational Institutions," and A 133, "Audits of States, Local Governments and Non-Profit Organizations," or other requirements imposed by ARC or the Concerned Funding Agencies concerning requirements of law or project matters as expressly made applicable by ARC herein, as they relate to the application, acceptance, use and audit of federal funds for this federally assisted project. The provisions of 2 CFR 200.501 require a nonfederal entity that expends \$750,000 or more in federal awards during its fiscal year must have a single or program-specific audit conducted for that year. Also, the Consultant gives assurance and certifies with respect to this agreement that:
 - a. For all agreements:

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- i. It understands that the phrase "federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect federal assistance.
- ii. It will comply with Title VI of the Civil Right Act of 1964 (P.L. 88-352 and 42 USC 2000d) and in accordance with Title VI of that Act, no person in the United States shall, on the ground of age, handicap, religion, creed or belief, political affiliation, sex, race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any project or activity for which the applicant receives federal financial assistance and will immediately take any measures necessary to effectuate this assurance. The Consultant shall take affirmative action to ensure that qualified applicants are employed, and qualified subcontractors are selected, and that qualified employees are treated during employment, without regard to their age, handicap, religion, creed or belief, political affiliation, race, color, sex or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; selection for training including apprenticeship, and participation in recreational and educational activities.

The Consultant shall in all solicitations or advertisements for subcontractors or employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to age, handicap, religion, creed or belief, political affiliation, race, color, sex or national origin. The Consultant shall not discriminate against any qualified client or recipient of services provided through this agreement on the basis of age, handicap, religion, creed or belief, political affiliation, race, color, sex or national origin. The Consultant shall cause foregoing provisions to be included in all subcontracts for any work covered by this agreement so that such provisions will be binding upon each subcontractor.

The Consultant shall keep such records and submit such reports concerning the racial and ethnic origin of applicants for employment and employees as ARC or the Concerned Funding Agencies may require.

The Consultant agrees to comply with such rules, regulations or guidelines as ARC or the Concerned Funding Agencies may issue to implement the requirements of this paragraph.

- iii. It will comply with applicable requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of federal and federally assisted projects.
- iv. It will comply with the applicable provisions of the Hatch Act which limits the political activity of employees.
- v. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
- vi. It will cooperate with ARC in assisting the Concerned Funding Agencies in this compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), Executive Order 11593, and the Archeological and Historic Preservation Act of 1966 (16 U.S.C. 469a-1 et seq.) by (a) consulting, through ARC, with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Part 800.8) by the activity, and notifying, through ARC, the Concerned Funding Agencies of the existence of any such properties, and by (b) complying with all requirements established by ARC or the Concerned Funding Agencies to avoid or mitigate adverse effects upon such properties.
- vii. For agreements not involving federal financial assistance for construction, it will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the Project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will

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notify the Concerned Funding Agencies, through ARC, of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by EPA.

- viii. It will comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in U.S. Department of Labor regulations (41 CFR Part 60).
- ix. The Consultant agrees that throughout the performance of this contract it will remain in full compliance with all federal and state immigration laws, including but not limited to provisions 8 USC 1324a and O.C.G.A. § 13-10-91 regarding the unlawful employment of unauthorized aliens and verification of lawful presence in the United States. Thereunder, Consultant will ensure that only persons who are citizens or nationals of the United States or non-citizens authorized under federal immigration laws are employed to perform services under this contract or any subcontract hereunder.
- x. The Consultant agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

The Consultant further agrees to include the provisions contained in the forgoing paragraph in each subcontract for services hereunder.

The Consultant shall not retaliate or take any adverse action against any employee or any subcontractor for reporting or attempting to report a violation(s) regarding applicable immigration laws.

- b. For agreements involving either full or partial federal financial assistance for construction projects(s):
 - i. It will comply with the provisions of Executive Order 11296, relating to evaluation of flood hazards, and Executive Order 11288, relating to the prevention, control, and abatement of water pollution.
 - ii. It will require the facility to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to and Usable by, the Physically Handicapped," Number A117 1-1961, as modified (41 CFR 101 - 17.703). The Consultant will be responsible for conducting inspections to ensure compliance by the Consultant with these specifications.
- c. For agreements exceeding \$ 100,000.00 in federal financial assistance:
 - i. It will comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).

28. Certifications.

- a. Prohibition Against Use of Funds to Influence Legislation (Lobbying). No part of any funds under this agreement shall be used to pay the salary or expenses of any Consultant, or agent acting for the Consultant, to engage in any activity designed to influence legislation or appropriations pending before the Congress as stated in 49 CFR 20.
- b. Debarment and Suspension. The Consultant agrees to comply with the nonprocurement debarment and suspension rules in 49 CFR 29.
- c. Drug-Free Workplace. The Consultant agrees and certifies that it will comply with the requirements for a Drug-Free Workplace, as described in Section 50-24-3 of the Official Code of Georgia, including passing through this requirement to lower tier Consultant.

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- d. The Consultant agrees and hereby certifies that it will comply with the Georgia Security and Immigration Compliance requirements of O.C.G.A. § 13-10-91.
29. Termination for Mutual Convenience. ARC or the Consultant may terminate this agreement in whole or in part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall, through formal written amendment, agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The Consultant shall not incur new obligations for the terminated portion after the effective date and shall cancel as many outstanding obligations as possible. ARC shall evaluate each noncancelable obligation to determine its eligibility for inclusion in project costs. Settlement will be made in accordance with the terms and conditions of this agreement. ARC shall allow full credit to the Consultant for the ARC share of the non-cancelable obligations, properly incurred by the Consultant prior to termination.
30. Termination for Convenience. ARC may terminate this agreement, in whole or in part, at any time by giving written notice to the Consultant of such termination and specifying the effective date thereof, at least fifteen days before the effective date of such termination. In that event, all information and material produced or collected under this agreement and/or used in the performance of the scope of services shall, at the option of ARC, become its property. If this agreement is terminated by ARC as provided in this paragraph, the Consultant will be reimbursed for the otherwise allowable actual expenses incurred by the Consultant up to and including the effective date of such termination, as authorized in Attachment "B." The Consultant shall not incur new obligations for the terminated portion after the effective date and shall cancel as many outstanding obligations as possible. ARC shall evaluate each noncancelable obligation to determine its eligibility for inclusion in project costs.
31. Termination of the Agreement for Cause. If the Consultant, due to its action or failure to act, shall fail to fulfill in a timely and proper manner its obligations under this agreement, or if the Consultant has or shall violate any of the covenants, agreements, representations or stipulations of this agreement, ARC shall thereupon have the right to terminate this agreement by giving written notice to the Consultant of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, all information and materials collected or produced under this agreement and/or used in the performance of the scope of services shall, at the option of ARC, become its property. The Consultant shall be entitled to receive just and equitable compensation for any satisfactory work completed under the Scope of Service up to and including the effective date of termination as authorized in Attachment "B." Notwithstanding the foregoing to the extent provided by law, the Consultant shall not be relieved of liability to ARC for damages sustained by ARC by virtue of any breach of this agreement by the Consultant and ARC may withhold any payments to the Consultant for the purpose of set-off for damages caused by the Consultant's breach, until such time as the exact amount of damages to ARC from the Consultant is determined.
32. Termination Due to Non-Availability of Funds. Notwithstanding any other provision of this agreement, in the event that any of the funds for carrying out the functions to which this agreement relates do not become available, then, upon written notice to the Consultant, this agreement may be immediately terminated without further obligation of ARC.
33. Suspension Due to Non-Availability of Funds. The Concerned Funding Agencies have the right to suspend financial assistance for this project. Consequently, ARC reserves the same right regarding this agreement. Such suspension would cause the withholding of further payments and/or prohibiting the Consultant from incurring additional obligations during the suspension period. However, unless notified in writing to the contrary, such suspension would not invalidate obligations otherwise properly incurred by the Consultant prior to the date of suspension to the extent that they are noncancelable.
34. Disputes and Appeals Any dispute concerning a question of fact arising either from a Consultant or Consultant selection decision, or under a Consultant or Consultant contract, once executed, shall be decided by the cognizant Center Director who, after advisory consultation with all appropriate ARC officials (e.g., Director of Business Services, General Counsel, etc.), shall promptly reduce such decision concerning the question of fact to writing and mail, or otherwise furnish a copy thereof, to the disputing party (i.e., as appropriate, either: the unsuccessful

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proposer; or the Consultant). The Center Director shall concurrently fully advise the disputing party, in writing, of the provisions outlined herein below concerning the disputing party's right to appeal the decision to the ARC Executive Director. A copy of all such documents shall also be furnished to the Director of Business Services.

The decision of the Center Director shall be final and conclusive unless, within ten (10) calendar days of receipt of such written decision, the disputing party mails or otherwise furnishes a written appeal concerning the question of fact to the ARC Executive Director, who shall arrange a formal hearing within twenty (20) calendar days after receipt of such appeal. Both the appealing party and the cognizant Center Director shall be notified no less than five (5) calendar days in advance of the hearing and shall have the right to present witnesses and give evidence concerning the question of fact at such time. Within twenty (20) calendar days after the hearing, the Executive Director shall make a decision concerning the question of fact in writing to the appealing party and to the cognizant Center Director. A copy of the decision shall also be furnished to the Director of Business Services.

The decision of the Executive Director concerning the question of fact shall be final and conclusive unless determined by the cognizant grantor agency or agencies, or the Comptroller General of the United States, or a court of competent jurisdiction to have been arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law.

Pending final decision of an appeal to the Executive Director under a Consultant or Consultant contract already executed, the Consultant or Consultant shall proceed diligently with the performance of the contract and in accordance with the cognizant Center Director's decision.

Nothing in the foregoing shall be construed as making final the decisions of the cognizant Center Director or the Executive Director as such decision relate to question of law.

35. Force Majeure. Any delay or nonperformance of any provisions of this Agreement caused by conditions beyond the reasonable control of the performing party shall not constitute a breach of this agreement, provided that such party has made reasonable efforts to notify the other party in writing and makes reasonable efforts to resume performance once the condition interfering with or preventing performance is removed.
36. Waiver. The failure of ARC to insist upon strict performance of any of the provisions contained herein shall in no way constitute a waiver of future violations of the same or any other provision.
37. Authority. The individuals executing this Agreement on behalf of the Consultant and ARC do each hereby represent and warrant that they are duly authorized by all necessary action to execute this Agreement on behalf of their respective principals.
38. Applicable Law. This agreement shall be deemed to have been executed and performed in the State of Georgia. All questions of interpretation and construction shall be construed by the laws of Georgia.

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IN WITNESS WHEREOF, the Consultant and ARC have executed this agreement as of the day first above written.

ATTEST

NAME OF FIRM.

By: _____

Title: _____

ATTEST

ATLANTA REGIONAL COMMISSION

Assistant Secretary

Executive Director

Board Chairman

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ATTACHMENT A
SCOPE OF SERVICES

I. General: The work to be accomplished by the Consultant is in support of the following ARC Cost Center:

<u>Cost Center No.</u>	<u>Cost Center Title</u>
XXXXXXXX	XXXXXXXXXXXXXX

II. Purpose: The Atlanta Regional Commission (ARC), an instrumentality of the State of Georgia through its Homeland Security and Recovery Group, (HSRG) with its office located at 229 Peachtree Street, NE, Suite 100, Atlanta, Georgia 30303, is contracting to provide
