

ARC Contract Guidance and Requirements

The following notes are provided as guidance for receiving federal funds through the Atlanta Regional Commission (ARC). These are in addition to, not in place of, local, state and federal laws and the Subgrantee's own rules and procedures for contracting. Herein the "Subgrantee" is defined as the local government or CID sponsor or fund recipient.

A) Program Requirements:

1. Matching requirements:

Studies funded through ARC require a 20% local match. This match must be in cash, not in-kind services, and cannot be comprised of other USDOT funds. Grants are not paid up-front. Invoices are paid on a reimbursement basis, i.e. subgrantee submits invoice to ARC, ARC pays 80% of that invoice.

2. Eligible activities:

Since the source of the grant funding is the federal Surface Transportation Block Grant program, all studies or projects must be related to transportation. For example, studies related to trails, streetscapes, or regulatory and policy work that support transit or walkability are all eligible, but activities such as site planning for a park or a business plan for a real estate development are not.

3. Eligible recipients:

Local governments (cities or counties), CIDs which have satisfied ARC's grant management and contracting requirements, and other governmental entities, such as transit agencies, authorities, or state universities.

4. Project Management:

The ARC project manager must be included in all meetings throughout the study process, including project team meetings with the Subgrantee and its consultant (and other entities if applicable). The ARC project manager should be consulted throughout the procurement and contracting process.

B) Procurement:

1. Competitive Procurement:

- a. All work subcontracted by the Subgrantee **must use competitive procedures** and follow applicable Federal regulations (2 CFR Part 200.318 thru 326 - <http://www.ecfr.gov>). This regulation also provides guidance on accounting and financial requirements, records maintenance and administration of contracts.
- b. As such, if a consultant firm prepares a funding application or an RFP on behalf of a Subgrantee, that consultant firm is **precluded** from competing for said study contract if the application is successful. For reference, see 2 CFR Part 200.219(a):

"In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements."

2. Disadvantaged Business Enterprise (DBE) policy:

A DBE goal must be included in your RFPs. If the Subgrantee has its own DBE goal or policy, they should follow that. However, if the Subgrantee does not have its own DBE policy, then they must include ARC's DBE goal in their procurement. ARC's DBE goal is 17.61%. DBE requirements are governed by 49 CFR Part 26 and apply to all federally funded projects.

C) Subcontracting Process & Requirements:

1. All Subgrantee contracts with consultants and RFPs/RFQs to be issued by Subgrantees must be **approved in writing** (email is acceptable) by ARC prior to execution. ARC staff must be given **at least one week** to review and submit comments on the subcontract, RFP or RFQ. Here are some items ARC is looking for:
 - a. All items in the Scope of Work between ARC and the Subgrantee must be covered in the RFPs/RFQs and consultant agreements.
 - b. The end date of any consultant contract may not be later than the end date of the contract with ARC. This same condition applies to start dates. If the ARC work scope is a subelement of a larger consultant contract (e.g. task order contracts, or a comprehensive planning study or the like), the ARC work element must have a clear end date that is prior to the ARC contract expiration date. You should discuss this with ARC staff before you issue any RFP or enter into a contract.
 - c. If the amount of compensation in the consultant contract is greater than that in the ARC contract, the consultant contract must document how the additional services/costs are funded. The Subgrantee must also keep records on such multi-source funding.
 - d. For general plans and studies, subgrantees shall issue an RFP where price is a factor in the evaluation. For scoping type studies focused on developing a concept for a specific transportation improvement, an RFQ may be appropriate, where cost would not be considered as a factor. If you are uncertain about the appropriate type of procurement, please make sure to confirm with your ARC project manager.
2. Consultant contracts must contain the following clauses:
 - a. ARC, the Georgia Department of Transportation, and the U. S. Department of Transportation must be identified as “Concerned Funding Agencies”.
 - b. Language requiring compliance with the Georgia Security and Immigration Compliance Act as prescribed in O.C.G.A. § 13-10-91.
 - c. The agreement between the ARC and the Subgrantee (i.e. City, County, CID) must be referenced in the consultant contract using language to the effect of: “Appropriate terms and conditions of the ARC Agreement with the <insert subgrantee name> apply to this agreement.”
 - d. The Subgrantee, ARC and the Concerned Funding Agencies must have **unrestricted rights to use**, and to authorize others to use, the work products from your subcontracts. A consultant may retain ownership, as long as these rights are established.
3. Have your attorney review the all contracts and subcontracts. ARC's review is to focus only on its interests.