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# GRANT ADMINISTRATION MANUAL

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Porterville Transit

NOVEMBER 1, 2018

CITY OF PORTERVILLE

Porterville Transit

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## **Introduction**

The City of Porterville's Grant Administration Manual is designed to improve efficiency and compliance with grant awards.

## **Effective/Applicability Date**

According to 2 CFR § 200.110(a), the standards set forth in this part which affect administration of Federal awards issued by Federal awarding agencies become effective once implemented by Federal awarding agencies or when any future amendment to this part becomes final. Federal awarding agencies must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by Federal Office of Management and Budget (OMB). For the procurement standards in §§200.317-200.326, non-Federal entities may continue to comply with the procurement standards in previous OMB guidance (superseded by this part as described in §200.104) for two additional fiscal years after this part goes into effect (OMB extended this to September 9, 2017). If a non-Federal entity chooses to use the previous procurement standards for an additional two fiscal years before adopting the procurement standards in this part, the non-Federal entity must document this decision in their internal procurement policies. The Transit Manager must ensure all procurement policies/procedures included in grant are adhered to. If not specifically documented for procurement, this must be noted when submitting procurement documentation to Purchasing or Financial Services Department.

## **Purpose of the Grant Administration Manual**

The City of Porterville has created this manual to establish guidelines for grant management and to define procedures to be used by Purchasing in the processing and evaluation of procurements requiring the solicitation of quotations, informal bids or advertised sealed bids, including but not limited to, Invitation to bids, Request for Proposals, Request for Qualifications, Invitation to Negotiate, or any other form of competitive bidding as may be authorized by the City.

Adherence to this manual will promote efficiency and compliance, better transparency, greater accountability, a strategic approach to funding opportunities, and generally place the City in a more competitive position for securing grant funds. If specific direction relative to grants cannot be located in these procedures, please contact the Transit Manager for assistance at (559) 782-7448.

## **Scope**

These policies and procedures apply to grants that must meet the Federal Office of Management and Budget (OMB) "SuperCircular" (2CFR Chapter I and II, Parts 200,215,220,225, and 230). The purchasing procedures apply to all purchases when bids

or quotations are required. The City's competitive procurement process is aimed at the protection of the public against collusive contracts, fraud, bias, and favoritism. It is designed to secure fair competition on equal terms to all bidders, to secure the best values at the lowest possible expense, to provide an opportunity for an exact comparison of bids, and to assure that the most responsive bid is accepted. To ensure that the competitive process conforms to applicable Federal law, all grant funded procurements shall include all grant required third party contract clauses.

Herein are the minimum standards for the administration of grant awards. The City may establish additional controls with approval from the City of Porterville City Council.

## **Existing Policies and Procedures**

Federal Transit Administration (FTA) grant awards should follow the Federal Transit Administration Awards Policies and Procedures Manual as approved by FTA for all items covered in that manual and utilize the Grant Administration Manual for items outside the scope of the Federal Transit Administration Awards Policies and Procedures Manual.

Grant evaluations, submittals, monitoring and reporting should comply with AR 2.18 (latest revision): Guidelines for Grant Evaluations, Submittals, Monitoring and Reporting unless otherwise noted in this manual.

## **Written Standards of Conduct**

### **Personal Conflicts of Interest**

No employee, officer, agent, or board member, or his or her immediate family member, partner, or organization that employs or is about to employ any of the foregoing individuals may participate in the selection, award, or administration of a contract supported with grant assistance if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when any of those individuals previously listed has a financial or other interest in the firm selected for award.

The City must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.

### **Gifts**

City officers, employees, agents, or board members may neither solicit nor accept gifts, gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subcontracts. Acceptance of gifts at any time, other than advertising novelties, is prohibited. Acceptance of entertainment also is prohibited. Employees must not become obligated to any suppliers and shall not conclude any City transaction from which they may personally benefit.

## **Grant Fraud, Waste, and Abuse**

Waste, fraud, abuse, misconduct or any other serious deviation from acceptable grant practices when proposing, carrying out, or reporting activities or results that involve a grant is considered grant misconduct and must be disclosed, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

## **Contract Administration System**

The City of Porterville City Council has the power and authority to enter into contracts and bind the City by contract when authorized by law.

It is the purpose and intent of this policy document to provide a guide to those who participate in the contractual process on behalf of the City, with a view toward a better understanding of what constitutes proper contract practices and to provide a more uniform treatment of the contract process to ensure that contracts to which the City is a party are both legal and in the best interest of the City.

The City shall maintain contract administration systems that insure contractors/firms perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. The accepted performance of contractors/ firms will be a factor in subsequent contract negotiations and award. Remedial action by the City through legal processes shall be considered in instances of identified significant nonperformance.

## **Roles and Responsibilities**

All City personnel engaged in preparing grant proposals and administering grant awards or responsible for grant funded assets serve an important role in the success of project outcomes and objectives and ensuring that all grant terms and conditions and budgetary and regulatory requirements are met.

Some of the key roles and responsibilities are as follows:

### **Grant Project Manager**

The Grant Project Manager is the primary person responsible for programmatic activities on a grant project as authorized by the grant agreement. Although some tasks may be delegated, the Grant Project Manager is the chief accountable person and bears responsibility for the overall administrative and fiscal conduct of the grant award for meeting the terms and conditions of the award and for representing the project to the granting agency.

### **Administrative Staff**

Administrative staff members are those persons who are typically responsible for certain delegated duties to provide assistance to Grant Project Manager.

Administrative staff members are a critical element in the successful management of grant awards.

### **Department Directors**

The department director is a manager with programmatic and fiscal responsibilities for a designated department. He or she is the individual who ensures adequate staff and infrastructure are provided for the appropriate conduct of project management duties and grant award management, and supervises staff members who serve as Transit Manager and administrative staff identified as key members on projects and grant awards. Ultimate grant compliance and verification rests with the Department Director. It is the Department Directors responsibility to remediate identified internal control deficiencies on a timely basis.

### **Human Resources Department**

The Human Resources Department provides and coordinates competent staff recruitment, training, and retainment to the departments, agencies and officers of the City to achieve the City's objectives. Human Resources Department is responsible for updating and maintaining the employee handbook. The department also assists City staff with mentoring opportunities if requested beyond the scope of what the staff member's department can provide.

### **City Attorney**

The City Attorney provides legal advice, counsel, and legal representation to the City, the City Manager and the departments, agencies and officers of the City. The City Attorney reviews contracts, settlements, and other documents pertinent to grant awards. The City Attorney also assists City staff with writing ordinances and council resolutions, reviews and prepares grant agreements for signature by authorized representatives.

### **City Council**

The Mayor of the Porterville City Council or his or her designee signs all grant applications, amendments, modifications, award agreements, and other grant documents as the Authorized signer for the City, unless otherwise delegated by the City Council.

### **Finance Director**

The Finance Director is responsible for the official financial records of the City, and in that capacity is responsible for maintaining adequate records to ensure compliance with federal and state accounting and reporting requirements for all grants administered by departments under the City Manager. The Finance Department is involved with grants from the financial perspective. The Finance Department has responsibility for Accounts Payable, Accounts Receivable, and General Ledger functions. The Finance Department also annually produces the

SEFA (Schedule of Expenditures of Federal Awards) and works the external auditors by providing them with documentation to perform the Single Audit. Additionally, Finance validates that expenditures being sought for reimbursement are properly charged to Project Accounting and the General Ledger to ensure completeness for audit trail purposes.

## General Guidelines

Grant agreements are legal contracts. It is the City's responsibility to carry out grant activities to accomplish its objectives, while adhering to the regulatory and budgetary terms and conditions prescribed by the Grantor in the grant agreement. Failure to do so exposes the City to legal liability and compromises current and future grant funding. The City carries a significant legal and ethical responsibility when accepting grant funding, and management of grant awards requires heightened awareness throughout the organization.

- Read and follow all grant guidelines
- Stay current with **required** training, which may be self-taught through the existing resources provided on the City intranet or sought from mentorship within the City, or through outside sources as approved through current policies.
- City acceptance/execution/ appropriation
- Notify appropriate departments for project setup
- Establish grant file
- Charging and approving expenditures
- Managing the Award - Federal spending guidelines
- Collecting revenue
- Monitoring and oversight
- Subcontracting
- Progress reports - reconcile budget
- Financial reports reporting
- Annual reports
- At close-out - final report
- Time extensions closeout

## Grant Procedures Checklist

In order to properly report all grants in the City's Annual Financial Report (Audit) the following information is required to be provided to Finance Department:

1. The original signed grant contract and all attachments.
2. The completed Grant Information Sheet (available on the intranet).
3. Any original signed amendments or changes and all attachments.

The following must be submitted to the Clerk of Courts Financial Services Department to meet end of fiscal year requirements:

1. A copy of the September 30th report/payment request.
2. Completed 4th quarter reconciliation, received by November 1<sup>st</sup>.
3. Ensure all billings are sent to Financial Services.
4. Ensure all information for any new grants has been sent to Clerk of Courts Financial Services Department.
5. A copy of the Roll over budget for the new fiscal year (Finance cannot set up any budget or pay any invoices until this information is received)

### Types of Grants

- Cost Reimbursement- granting agency reimburses City for approved expenditures.
- Units of Service- the City is reimbursed for a certain amount of money per unit of service given.
- Misc. - lump sum payment or equal monthly/ quarterly/ semiannually payments.

### Monitoring and Oversight of the Grant

1. The transit manager is the liaison with the Grantor regarding program performance, operational requirements and monitoring, and will supervise all programmatic (operational) aspects of the grant in accordance with the terms and conditions of the grant. He or she is responsible for conducting or coordinating all internal program monitoring and ensuring preparation and submission of all required program reports by or before the specified deadlines in the award agreement.
2. The Finance Department is responsible for ensuring that essential support and control is provided to City departments and agencies to assure all Grantor and City regulatory, procurement, and budgetary policy and procedures are followed.

### Information Technology

#### **Maintaining System Continuity in the Event of System or Operation Disruption**

Management continues to evaluate changes in the use of information technology and designs new control activities when these changes are incorporated into the entity's information technology infrastructure. Management also designs control activities needed to maintain the information technology infrastructure. Maintaining technology often includes backup and recovery procedures, as well as continuity of operations plans, depending on the risks and consequences of a full or partial power systems outage. For accounting systems, this function is performed by the Finance Department, for all other applications, this function is overseen by City Information Technology Department.

#### **Updating or Terminating User Access Rights and Segregation of Duties**

Security management includes the information processes and control activities related to access rights in an entity's information technology, including who has the ability to execute

transactions. Security management includes access rights across various levels of data, operating system (system software), network, application, and physical layers. Management designs control activities over access to protect an entity from inappropriate access and unauthorized use of the system. These control activities support appropriate segregation of duties. By preventing unauthorized use of and changes to the system, data and program integrity are protected from malicious intent (e.g., someone breaking into the technology to commit fraud, vandalism, or terrorism) or error. For accounting systems, this function is performed by the Finance Department, for all other applications, this function is overseen by City Information Technology Department.

### **Updating Safeguarding Data Records against Unauthorized Alterations including Personally Identifiable Information (PII)**

Protected PII means an individual's first name or first initial and last name in combination with any one or more of types of information, including, but not limited to, social security number, passport number, credit card numbers, clearances, bank numbers, biometrics, date and place of birth, mother's maiden name, criminal, medical and financial records, educational transcripts. This does not include PII that is required by law to be disclosed. See also §200.79 Personally Identifiable Information (PII).

The City takes reasonable measures to safeguard protected PII and other information the Federal awarding agency or pass-through entity designates as sensitive or the non-Federal entity considers sensitive consistent with applicable Federal, state, local and tribal laws regarding privacy and obligations of confidentiality. There is a dedicated Records Manager within the City that all public records requests must go through. Systems Management performs regular scans to ensure PII is protected.

When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable. The City currently uses various platforms for electronic records management. All records that are the City's responsibility to maintain are managed by the City's Records Manager.

### **Financial Management**

The financial management system of each non-Federal entity must provide for written procedures for §200.305 Payment and for determining the allowability of costs in accordance with Subpart E—Cost Principles and the terms and conditions of the Federal award.

### **Receipt and Use of Grant Funds**

1. No grant funds shall be disbursed until a City agenda item and budget resolution have been approved by the City, an award and project have been established in the accounting software, and required documentation is complete.

2. Grant funds may only be used for grant related expenses and expended within the period of performance identified in the grant agreement.
3. Departments receiving grant funds shall adhere to City policy and procedures regarding revenue collection and accounting and reporting of grants received by the City, including preparing year end accruals. The City chart of accounts must be used since it conforms to the State of California Uniform Accounting System.
4. Modifications or reallocations to the awarded budget that alters the grant amount or moves funds from one budget line item to another must adhere to Grantor and City policy and procedures.
5. Grant funds awarded to the City shall not be used to replace an existing expense so that current funds can be diverted to another use, unless such use of grant funds is explicitly identified as allowable in writing by the Grantor in the grant award.
6. All income resulting from a grant funded project or program shall adhere to City revenue and grants policy and procedures, and managed and maintained as established in the grant agreement.
7. All procurement activity associated with grant funded projects or programs shall follow the Grantor and City policy and procedures for procurement of goods.
8. All property acquired through grant funds shall follow the Grantor and City policy and procedures for property or inventory control.
9. All grant and related matching revenues and expenditures shall be recorded in the grant department. Any revenues or expenditures that occur in another program/department that are applicable to a grant or that are used as a match shall be transferred to the grant department, unless not required by Grantor or City policy.
10. If it is determined that there are "excess" funds either through an unallowable expense or unused, they must be returned as soon as possible or as required by Grantor.

### **Classification of Costs**

There is no universal rule for classifying certain costs as either direct or indirect (F&A) under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the Federal award or other final cost objective. Therefore, it is essential that each item of cost incurred for the same purpose is treated consistently in like circumstances either as a direct or an indirect (F&A) cost in order to avoid possible double-charging of Federal awards. Guidelines for determining direct and indirect (F&A) costs charged to Federal awards are provided in §200.412-414.

The cost of services provided by one agency to another within the governmental unit may include allowable direct costs of the service plus a pro-rated share of indirect costs. A standard indirect cost allowance equal to 10% of the direct salary and wage cost of providing the service (excluding overtime, shift premiums, and fringe benefits) may be

used in lieu of determining the actual indirect costs of the service. These services do not include centralized services included in central service cost allocation plans.

### **Expenditure Monitoring/Award Reconciliation**

It is critical to the overall success of a project that grant funds are expended accurately, including administrative/ program and direct/ indirect costs. All grant related expenditures must follow current City policies and procedures, grant documentation, and 2 CFR §200.

After initial setup, grant awards should be reconciled at minimum on a monthly basis to ensure:

- a. Expenditures are allowable, allocable, necessary, and reasonable based on terms and conditions of the grant award (Please see §200.403-405, 408-409).
- b. Expenditures are adequately supported by documentation.
- c. Expenditures are charged to the correct department.
- d. Award spending is commensurate with the project timeframe.

Cost Transfers: Incorrectly posted charges to grant funded projects must be fixed within regulated time-constraints, which is why routine account reconciliation is critical. Failure to transfer incorrectly posted charges in a timely manner may result in the expense being disallowed for grant reimbursement.

The total cost of a Federal award is the sum of the allowable direct and allocable indirect costs less any applicable credits (Please see §200.406).

If you have any doubts or concerns regarding award expenditures or in fulfillment of the award requirements, contact the Finance Department.

### **Personnel Costs Compensation**

Compensation for personal services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under the Federal award, including but not necessarily limited to wages and salaries.

Compensation for personal services may also include fringe benefits which are addressed in § 200.431 Compensation—fringe benefits. Costs of compensation are allowable to the extent that they satisfy the specific requirements of this Part, and that the total compensation for individual employees:

1. Is reasonable for the services rendered and conforms to the established written policy of the City consistently applied to both Federal and non-Federal activities;
  2. Follows an appointment made in accordance with the City's laws and/or rules or written policies and meets the requirements of Federal statute, where applicable;
- and

3. Is determined and supported as provided in Support of Salaries section of this manual, when applicable.

### **Fringe Benefits**

The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, family-related leave, sick leave, holidays, court leave, military leave, administrative leave, and other similar benefits, are allowable if they meet City leave policies.

The cost of fringe benefits in the form of employer contributions or expenses for social security; employee life, health, unemployment, and worker's compensation insurance (except as indicated in §200.447 Insurance and indemnification); pension plan costs (see next paragraph of this section); and other similar benefits are allowable, provided such benefits are granted under established written policies. Such benefits, must be allocated to Federal awards and all other activities in a manner consistent with the pattern of benefits attributable to the individuals or group(s) of employees whose salaries and wages are chargeable to such Federal awards and other activities, and charged as direct or indirect costs in accordance with the City's accounting practices.

Pension plan costs which are incurred in accordance with the established policies of the City are allowable, provided that they are computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the City.

Post-retirement health plans (PRHP) refers to costs of health insurance or health services not included in a pension plan covered by the pension plan costs paragraph of this section for retirees and their spouses, dependents, and survivors. PRHP costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the City.

### **Professional Activities Outside the Non-Federal Entity**

Unless an arrangement is specifically authorized by a Federal awarding agency, a non-Federal entity must follow its written non-Federal entity-wide policies and practices concerning the permissible extent of professional services that can be provided outside the non-Federal entity for non-organizational compensation. Where such non-Federal entity-wide written policies do not exist or do not adequately define the permissible extent of consulting or other non-organizational activities undertaken for extra outside pay, the Federal government may require that the effort of professional staff working on Federal awards be allocated between:

1. Non-Federal entity activities, and
2. Non-organizational professional activities. If the Federal awarding agency considers the extent of non-organizational professional effort excessive or inconsistent with

the conflicts-of-interest terms and conditions of the Federal award, appropriate arrangements governing compensation will be negotiated on a case-by-case basis.

### **Support of Salaries and Wages**

1. Compensation for personnel services on federal grants must be based on payrolls documented through standard City policy and procedures. The consequences of noncompliance with employee time and effort certification may be the disallowance of such charges to a federal grant program.
2. Salaries and wages of employees used in meeting cost sharing or matching requirements of federal awards must be supported in the same manner as those claimed as allowable costs under federal awards. The consequences of noncompliance with employee time and effort certification may be the disallowance of such charges to a federal grant program.
3. Where an employee works on a single federal award, charges for their salaries and wages must be supported by periodic certification that the employee worked solely on that program for the period covered by the certification. Such certification must be prepared at least semi-annually and must be signed by the employee or supervisor who has first-hand knowledge of the work performed by the employee.
4. Where an employee works on multiple awards (including federal and non-federal), a distribution of their salaries and wages must be supported by a personnel activity report/timesheet that:
  - a. Reflects an after-the fact distribution of the actual activity of the employee.
  - b. Accounts for total compensated activities.
  - c. Must be prepared at least monthly and coincide with one or more pay periods.
  - d. Must be signed by the employee or supervisor who has first-hand knowledge of the work performed by the employee.

### **Relocation Costs of Employees**

Relocation costs are costs incident to the permanent change of duty assignment (for an indefinite period or for a stated period of not less than 12 months) of an existing employee or upon recruitment of a new employee. Relocation costs are allowable, subject to the limitations described in §200.464, provided that:

1. The move is for the benefit of the employer.
2. Reimbursement to the employee is in accordance with an established written policy consistently followed by the employer.

### **Travel Costs**

Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the City. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual

costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the City's non-federally-funded activities and in accordance with City's written travel reimbursement policies. Notwithstanding the provisions of §200.444 General costs of government, travel costs of officials covered by that section are allowable with the prior written approval of the Federal awarding agency or pass-through entity when they are specifically related to the Federal award.

Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, must be considered reasonable and otherwise allowable only to the extent such costs do not exceed charges normally allowed by the City in its regular operations as the result of the City's written travel policy. In addition, if these costs are charged directly to the Federal award documentation must justify that:

1. Participation of the individual is necessary to the Federal award; and
2. The costs are reasonable and consistent with City's established travel policy.

### **Unallowable Costs**

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise.

Adjustments may be made of previously negotiated indirect (F&A) cost rates containing unallowable costs. (Please see §200.411)

### **Prior Written Approval (Prior Approval)**

Under any given Federal award, the reasonableness and allocability of certain items of costs may be difficult to determine. In order to avoid subsequent disallowance or dispute based on unreasonableness or nonallocability, the City may seek the prior written approval of the cognizant agency for indirect costs or the Federal awarding agency in advance of the incurrence of special or unusual costs. Prior written approval should include the timeframe or scope of the agreement. The absence of prior written approval on any element of cost will not, in itself, affect the reasonableness or allocability of that element, unless prior approval is specifically required for allowability as described under certain circumstances in sections of §200.407.

### **Drawdowns of Federal Funds**

Drawdowns must comply with §200.305. Reimbursement is the preferred method of payment to the City. The City will not draw down Federal Funds for advances, unless a memo is sent to the Administrator/ designee requesting a deviation from this policy and approved. If approved and the City must be paid in advance, it is only allowed provided

the City maintains or demonstrates the willingness to maintain both written procedures that minimize the time elapsing between the transfer of funds and disbursement by the City, and financial management systems that meet the standards for fund control and accountability as established in §200.305(b). Advance payment memo request to the Administrator should document the need and timing of advance receipt, expenditure, and any other facts that may assist in the determination of whether an advance is appropriate.

Advance payments to the City must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the City in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the City for direct program or project costs and the proportionate share of any allowable indirect costs. The City must make timely payment to contractors in accordance with the contract provisions. Whenever possible, advance payments must be consolidated to cover anticipated cash needs for all Federal awards made by the Federal awarding agency to the City. Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer (EFT) and must comply with applicable guidance in 31 CFR part 208. Non-Federal entities must be authorized to submit requests for advance payments and reimbursements at least monthly when EFTs are not used, and as often as they like when EFTs are used, in accordance with the provisions of the Electronic Fund Transfer Act (15 U.S.C. 1693-1693r). Advance payments of Federal funds must be deposited and maintained in insured accounts whenever possible.

### **Cost Sharing/Matching**

Match is typically stated as a percentage of the total project costs for an award. For example, a 20% match on a \$100,000 project would be \$20,000, with the funds share being \$80,000 and \$20,000 being provided by the recipient. There are two kinds of match:

1. Cash Match (actual dollars) includes cash spent for project-related costs. An allowable cash match must include those costs which are allowable with grant funds, with the exception of the acquisition of land, when applicable.
2. In-Kind Match (services, facility space, equipment, supplies...) includes, but is not limited to, the valuation of non-cash contributions. In-kind may be in the form of services, supplies, property, or equipment. For example, if in-kind match is permitted by law (other than cash payments), then the value of donated services could be used to comply with the match requirements. Also, third party in-kind contributions may count toward satisfying match requirements provided the subrecipient receiving the contributions expends them as allowable costs.

Documentation supporting the market value of in-kind match must be maintained in the grant award recipient files.

The value of donated property must be determined in accordance with the usual accounting policies of the City, with the following qualifications:

1. The value of donated land and buildings must not exceed its fair market value at the time of donation to the City as established by an independent appraiser (e.g., certified real property appraiser or General Services Administration representative) and certified by a responsible official of the City as required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (42 U.S.C. 4601-4655) (Uniform Act) except as provided in the implementing regulations at 49 CFR part 24.
2. The value of donated equipment must not exceed the fair market value of equipment of the same age and condition at the time of donation.
3. The value of donated space must not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.
4. The value of loaned equipment must not exceed its fair rental value.

### **Program Generated Income**

Some grant programs contain tasks or objectives that may result in program income. Typically, program income could come from fees collected for services performed or registration fees for conferences or workshops. Such fees can also be generated through subawardees and must be accounted for in the same manner.

Program generated income may be used for a project in several ways:

- Additive: program income is added to funds committed to the project by the Grantor and used to fulfill eligible project or program objectives.
  - Cost Share: program income is used to finance a share of the project or program.
  - Deductive: program income is deducted from the total project or program budget.
1. It is important that program income be anticipated and disclosed in the grant proposal budget, which should include a plan for utilization that identifies the method of use. The plan should also include use of income collected in excess of expenditures.
    - a. If program income is not disclosed at the proposal stage, the Grantor must be promptly notified that the project will generate program income to determine how program income is to be used.
  2. All program income must be accounted for during the performance period of the award and be reported per the method of utilization approved by the Grantor. Failure to disclose program income may require that all program income be treated as Deductive.

### **Inventory of Supplies Management**

For Federal Awards, title to supplies will vest in the City upon acquisition. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other Federal award, the City must retain the supplies for use on other activities or sell them, but must, in either case, compensate the Federal government for its share. (The amount of compensation must be computed in the same manner as for equipment. See §200.313 Equipment, paragraph (e) (2) for the calculation methodology.)

### **Equipment and Real Property Management**

Equipment and other capital assets, including repairs which materially increase their useful life, are allowable with prior approval. In reviewing equipment acquisition budgets and proposals, the following principles must be adhered to:

1. No other equipment owned by the City is suitable for the project.
2. Federal funds are not used to provide reimbursement for the purchase of equipment already owned by the City. Exception: Equipment that has been purchased for a common pool and will be charged to the award at cost value is allowable. Equipment that has already been purchased and charged to other activities of the organization is not an allowable expense to the award.
3. The cost of equipment purchased and used commonly for two or more programs should be appropriately divided among each activity.
4. Equipment purchased with grant funds shall be used exclusively during the life of the grant for the project or program for which it was acquired.
5. Grant purchased equipment must be properly maintained and safeguarded, and equipment records must be maintained per City inventory procedures.
6. For Federal awards, the Federal awarding agency or pass-through entity must require the City and its subrecipients to submit reports at least annually on the status of real property in which the Federal government retains an interest, unless the Federal interest in the real property extends 15 years or longer. In those instances where the Federal interest attached is for a period of 15 years or more, the Federal awarding agency or pass-through entity, at its option, may require the City and its subrecipients to report at various multiyear frequencies (e.g., every two years or every three years, not to exceed a five-year reporting period; or a Federal awarding agency or pass-through entity may require annual reporting for the first three years of a Federal award and thereafter require reporting every five years).
7. After the grant award is closed and equipment is no longer needed for its originally authorized purpose, the grant project manager shall request disposition instructions from the Grantor and follow City policy and procedures for property and inventory control.

## **Collection of Amounts Due**

Any funds paid to the City and its subrecipients in excess of the amount to which the City and its subrecipients is finally determined to be entitled under the terms of the Federal award constitute a debt to the Federal Government. If not paid within 90 calendar days after demand, the Federal awarding agency may reduce the debt by:

1. Making an administrative offset against other requests for reimbursements;
2. Withholding advance payments otherwise due to the City and its subrecipients; or
3. Other action permitted by Federal statute.

Except where otherwise provided by statutes or regulations, the Federal awarding agency will charge interest on an overdue debt in accordance with the Federal Claims Collection Standards (31 CFR parts 900 through 999). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

## **Grant Reporting**

Every award has reporting requirements specified in the grant agreement. It is critical that all reports are complete, accurate, and submitted per the specified dates outlined in the agreement. Performance reports must be submitted at the interval required by the Federal awarding agency. Accurate and timely reporting is critical to maintaining a good relationship with the Grantor. Requirements and procedures are established to ensure that grant funds are expended and accounted for in a method that provides accuracy, uniformity, and consistency. Late or inaccurate reports may negatively impact current or future funding and result in Single Audit findings. To assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, the annual and final fiscal reports or vouchers requesting payment under the agreements must include a certification, signed by an official who is authorized to legally bind the City. Certifications may be signed by the City Manager as designated by the City Council.

Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, the City must inform the Federal awarding agency or pass-through entity as soon as the following types of conditions become known:

1. Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
2. Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

3. A change in the scope of the work plan, change in key personnel, or major budget adjustments.

Interim reporting of significant developments must be prepared and submitted to the Federal awarding agency.

### **General Guidelines for Backup Documentation**

Costs claimed by the City under its grants must be allowable, allocable, and reasonable, and adequate documentation to support charges to the grant must be maintained. Expenditures under most cost reimbursement grants are governed by the cost principles established by federal, state, and other Grantors and must conform to the respective policies, grant special provisions and City policies.

1. Typical grant transactions may include: personnel costs, purchase of equipment and supplies, costs for contracted services, grant income or revenue, etc. Grantees must submit documentation of eligible expenses and proof of payment for expenses incurred during the reporting period.
2. Documentation of eligible expenses may include copies of invoices, receipts, payroll or labor reports, or other proof that complies with federal and state audit standards. Proof of payment of expenditures may include a copy of a receipt, receipt showing cash payment, cancelled checks, bank statements, or other proof that complies with federal and state audit standards. A supplemental accounting record may accompany the receipts and cancelled checks.

Please do not keep duplicate records. The Finance Department maintains copies of invoices, receipts, and bank documents.

### **File Management/Maintenance, Access, and Retention**

#### **Grant File Structure**

All departments associated with a grant award must maintain a file structure that includes the following sections with clear separations between different fiscal years, unless otherwise directed by the Grantor:

1. Proposal Submission
2. Award Documentation
3. Financial Documentation
4. All Reports
5. Subrecipient Documents (if applicable)
6. All other pertinent or necessary information to show compliance with the award terms and conditions

### **File Maintenance**

Recipient departments are obligated to protect records adequately against loss, theft, fire or other damage in accordance with statutory provisions.

### **File Access**

It is the policy of the City of Porterville that openness leads to a better informed citizenry, which leads to better government and better public policy. Consistent with the premise that government exists first to serve the interests of the people; it is the intent of the City of Porterville to establish a public records policy consistent with state law.

### **File Retention**

The grant project manager is responsible for keeping the official record of all grant activity, correspondence, billing, and other related documents. The Administrative Services Department is responsible for keeping the original contract or agreements, grant amendments, and copies of all required financial reports. Once the mandatory retention period has lapsed, the recipient department shall request that the grant record be properly destroyed through the City's Record Manager.

For Federal awards, retention requirements are as follows:

Financial records, supporting documents, statistical records, and all other non-Federal entity information pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities.

The only exceptions are the following:

- a. If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- b. When the non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.
- c. Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.
- d. When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the non-Federal entity.
- e. Records for program income transactions after the period of performance. In some cases recipients must report program income after the period of performance.

Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.

- f. Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).
  1. If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.
  2. If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

### **Grant Modifications/Extensions and Cancellation**

During the course of a grant's lifetime, there are times when changes are necessary to either the budget or the project scope-of-work. Most of these changes, typically called grant amendments, are allowable, but it is important to follow the procedures written in the grant agreement or in the guides provided by the grantor. Unless grant agreement/grantor states otherwise.

### **Grant Modifications/ Extensions**

In the event that a grant funded project requires modifications to the established time table, contract and/or budget it shall be the grant project manager's to coordinate review and resolution. Modifications deemed to be non-substantial may be approved administratively. Modifications to City executed contracts may be submitted for Consent Agenda approval if additional City resources are not applicable or unless directed otherwise by the City Manager and/or City Attorney. Modifications which require the allocation of additional City resources not previously budgeted shall be placed on the Scheduled Business Agenda. Board approved resolutions addressing modification approval by Councilmembers are exempt from this procedure unless additional City resources are required. The grant project manager shall be responsible for assuring that all impacted parties are made aware of the modifications. Original amendments shall be provided to the City Clerk after execution.

## **Cancellations**

In the event that a grant must be terminated before the original completion date or returned to the grantor prior to project initiation, the City must approve the cancellation.

## **Grant Closeout**

The grant closeout is a critical piece in the life cycle of a grant, and is the process by which the City performs all necessary administrative and financial actions to satisfactorily complete all requirements set forth in the grant agreement. Preparation for closeout usually begins 60 to 90 days prior to the end date of the grant to accurately forecast expenses and make any adjustments to accounting entries. The grant project manager shall then coordinate closure of all contracts, payment for services, required documentation and financial review or audit.

All necessary final reports shall be prepared and submitted to the granting agency(s) prior to file closure. The complete grant project file shall be retained by the recipient department in accordance with applicable Federal and State record keeping rules. The original contract and amendments shall be retained by the City Clerk in accordance with applicable Federal and State retention schedules.

## **Grant Subcontracting and Subrecipient Monitoring Procedures**

The City will regularly encounter situations where it does not have the resource capacity to adequately fulfill all of the grant objectives and must seek out other entities to perform certain functions. These activities will be obligated in the form of a subcontract or subaward. As well, during the course of the grant award, certain materials and supplies and equipment may be purchased through various vendor/ contractors.

It is important that subrecipients and vendor/ contractors be defined accurately, as there are specific requirements the City must comply with based on the designation. The correct determination is essential due to the additional accountability requirements that are placed on recipients and subrecipients. These accountability requirements must be included in any agreement. Accurate classification of subrecipients and vendor/ contractors is critical to a program's success and integrity.

## **Vendor/ Contractor**

A vendor/ contractor is defined as a dealer, distributor, merchant or other seller of required goods or services. These goods or services are in support of the project activities. A vendor/ contractor agreement is issued for obtaining routine commercial services, supplies, and equipment that require no special handling or prior approvals, and are issued as standard purchase orders.

Characteristics of a vendor/ contractor:

- Provides the goods and services within normal business operations.

- Provides similar goods or services to many different purchasers.
- Operates in a competitive environment.
- Provides goods or services that are ancillary to the operation of the program.
- Is not subject to the compliance requirements of the program.

### **Subrecipient**

A subrecipient is defined per 2 CFR §200.93 as “a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.”

A pass-through entity is an entity that provides an award to a subrecipient to carry out a program. A subrecipient is an external entity with special expertise or resources that the City does not possess, but are necessary to fulfill the overall objectives of the project. A subaward is issued for financial or other support from a qualified organization known as a subrecipient for the performance of a substantive portion of the programmatic effort under the prime award. A subaward usually requires prior approval of the Grantor and is subject to subrecipient monitoring.

Characteristics of a subrecipient:

- Receiving entity determines who is eligible to receive financial assistance.
- Subrecipient performance is measured against whether the objectives of the program are met.
- Has responsibility for programmatic decision making.
- Has responsibility for adherence to applicable program compliance requirements.
- Uses the funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity.

### **Subaward Risk Assessment**

Evaluate each subrecipient’s risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described below, which may include consideration of such factors as:

1. The subrecipient’s prior experience with the same or similar subawards;
2. The results of previous audits including whether or not the subrecipient receives a Single Audit, and the extent to which the same or similar subaward has been audited as a major program;
3. Whether the subrecipient has new personnel or new or substantially changed systems; and

4. The extent and results of Federal awarding agency monitoring (e.g., if the subrecipient also receives Federal awards directly from a Federal awarding agency).

### **Subrecipient Monitoring – Internal and External Agencies**

All grant requirements placed upon the City will flow-down to any subrecipient, and it is the prime grantee's responsibility to ensure subaward compliance with the prime grant provisions.

All subawards issued under federal grants must contain language requiring subrecipients to fulfill the prime grant requirements.

1. The grant project manager will advise subrecipients of requirements (including but not limited to financial and non-financial reporting) imposed on them by federal laws, regulations of the flow-down provisions of the prime contract or grant agreement, and any supplemental City requirements imposed depending on a level of risk determination by the City.
2. The grant project manager along with applicable City grant related staff will monitor the subrecipients' use of grant funds and issue a written report summarizing the results and any corrective actions needed.
3. The grant project manager along with applicable City grant related staff will ensure that the City receives annual audit reports from subrecipients required to have an audit in accordance with OMB SuperCircular 2 CFR §200.
4. Upon receipt of an unfavorable audit report from a subrecipient, the grant project manager along with applicable City grant related staff will confirm that the subrecipient has taken appropriate and timely corrective action. If a material weakness or other reportable condition exists, monitoring of the subrecipient will be more frequent and management actions will be taken as appropriate.
5. All subawards for which monitoring is mandated shall be reviewed regularly throughout the year and at a minimum must include:
  - a. Advising subrecipients of all applicable federal laws and regulations, and all appropriate flow-down provisions from the prime agreement.
  - b. Routine receipt and review of technical performance/progress reports.
  - c. Routine review of expenses-to-budget reports.
  - d. Periodic on-site visits, or regular contact, if necessary.
  - e. The option to perform audits/monitoring if necessary.
  - f. Review of 2 CFR §200 audit reports filed by subrecipients and any audit findings.
  - g. Review of corrective actions cited by subrecipients in response to their audit findings.
  - h. Consideration of sanctions on subrecipients in cases of continued inability or unwillingness to have required audits or to correct non-compliant actions.

### **Subaward Modification**

As with the initial award, the City must ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the required information per 2 CFR §200.331 at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification(s).

### **Subaward Closeout**

An integral part of subcontract monitoring is close-out of the subcontract at the end of the project period. In general, a subcontract is closed when all deliverables have been met and the final payment has been made.

## **Procurement**

### **Procurement Procedure- General**

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with procurement standards in 2 CFR §200.318-323, §200.325, and §200.326. The City and/or non-Federal entity must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders and their contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

Please avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase (do not try to deviate purchasing thresholds or split-purchasing). Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the City is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. The City is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

The City is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

### **Procurement- Local Preference**

The City must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation

of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

### **Procurement by Competitive Proposals**

The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the City must have a written method for conducting technical evaluations of the proposals received and for selecting recipients. These written requirements are submitted as part of the solicitation documentation as "Evaluation and Scoring of Responses ". (Please see §200.320)

### **Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms**

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

Affirmative steps must include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

### **Procurement of Covered Materials**

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as

amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. (Please see §200.322)

### **Procurement - Time and Materials Type Contract**

The City may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk.

Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of:

1. The actual cost of materials; and
2. Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the City awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

### **Procurement - Contract Cost and Price**

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with 2 CFR §200.323 as follows:

1. The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.
2. The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the

contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

3. Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E— Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.
4. The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

### **Procurement - Bonding Requirements**

Per §200.325, for construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the City and its subrecipients provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

1. A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
2. A performance bond on the part of the contractor for 100 % of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
3. A payment bond on the part of the contractor for 100 % of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

### **Procurement – Awarding Agency Review**

The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

1. The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;
2. The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

3. The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a “brand name” product;
4. The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
5. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

The non-Federal entity is exempt from the pre-procurement review in the above paragraph of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

1. The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;
2. The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

### **Contracts**

1. 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.
2. All contracts in excess of \$10,000 must address termination for cause and for convenience by the City and its subrecipients including the manner by which it will be effected and the basis for settlement.

### **Contract Provisions**

The City and its subrecipients 's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards. (Please see §200.326)

### **Federal Awarding Agency or Pass-Through Entity Review**

The City and/or its subrecipients must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the City and/or its subrecipients desire to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

### **Suspension and Debarment**

The City and/or its subrecipients shall not award grant assistance to applicants that are debarred or suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs.

It is the responsibility of the department to ensure that any subcontractor or subawardee that will be funded through a grant award is not prohibited from receiving federal or state funds due to suspension or debarment. A person or entity debarred or suspended is excluded from federal financial and non-financial assistance and benefits under federal programs and activities. Debarment or suspension of a participant in a program by one agency has government-wide, reciprocal effect. Contact the Purchasing Section for assistance in determining suspended or debarred contractors.

### **Audits/ Reviews/ Monitoring's**

The following internal roles must be promptly notified in the event the award or program is selected for external audit by the Grantor:

- Grant Project Manager
- Administrative Staff
- Department Director
- Finance Department

### **Monitoring the Progress of the Corrective Action Plan until Successful Completion**

Management completes and documents corrective actions to remediate internal control deficiencies on a timely basis. These corrective actions include resolution of audit findings. Depending on the nature of the deficiency, either the oversight body or management oversees the prompt remediation of deficiencies by communicating the corrective actions to the appropriate level of the organizational structure and delegating authority for completing corrective actions to appropriate personnel. The audit resolution process begins when audit or other review results are reported to management, and is completed only after action has been taken that (1) corrects identified deficiencies, (2) produces

improvements, or (3) demonstrates that the findings and recommendations do not warrant management action. Management, with oversight from the oversight body, monitors the status of remediation efforts so that they are completed on a timely basis. City staff and management work together to address and implement corrective actions, although final oversight and progress monitoring of corrective action plan falls within the Department Director responsibilities.

### **Internal Control Deficiencies**

Management evaluates and documents internal control issues and determines appropriate corrective actions for internal control deficiencies on a timely basis. Management evaluates issues identified through monitoring activities or reported by personnel to determine whether any of the issues rise to the level of an internal control deficiency. Internal control deficiencies require further evaluation and remediation by management. An internal control deficiency can be in the design, implementation, or operating effectiveness of the internal control and its related process. City staff and management work together to identify and remediate internal control deficiencies, although final oversight and progress monitoring falls within the Department Director responsibilities.

### **Other Important Federal Guidelines and National Policy Guidance**

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the City under a Federal award must contain provisions from Appendix II to 2 CFR Part 200 covering the following, as applicable.

#### **Contract Work Hours and Safety Standards Act**

Where applicable, all contracts awarded by the City and/or its subrecipients in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

#### **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.

### **Clean Air Act & Federal Water Pollution Control Act**

Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

### **Byrd Anti-Lobbying Amendment**

Contractors that apply or bid for an award exceeding \$100,000 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.

### **DUNS Number**

The Federal government requires that all applicants for Federal grants, cooperative agreements, and subawards, with the exception of individuals other than sole proprietors, have a Data Universal Numbering System (DUNS) number to better identify Organizations that are receiving funding under grants and cooperative agreements, and to provide consistent name and address data for electronic grant application systems. The City’s DUNS number is 030969406.

### **Federal Funding Accountability and Transparency Act (FFATA)**

As of October 1, 2010, all federal grants of \$25,000 and over are subject to the FFATA subaward reporting requirements. Prime awardees are required to upload the subrecipient information in the FFATA Sub-Award Reporting System (FSRS (<https://www.fsrs.gov/index?&>)). Subrecipients must maintain an active registration in the System for Award Management (S.A.M.) in order to receive federal funding.

Per the Act, a prime awardee must provide:

- a. The prime awardee DUNS number and the DUNS number of any sub-awardee(s).
- b. The names and total compensation of the five most highly compensated officers of a prime or sub-awardee entity, if the entity in the preceding fiscal year: (1) Received 80 % or more of its annual gross revenues in federal awards and \$25,000,000 or more in annual gross revenues from federal awards; and (2) the public does not have access to this information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m (a), 78o (d)) or section 6104 of the Internal Revenue Code of 1986. See FFATA § 2(b) (1).

### **Federal Requirements for Construction Projects**

It is the responsibility of the department to ensure compliance with the following federal requirements involving construction related projects. Departments should plan accordingly to ensure that adequate time, funding and staffing are available to carry out these additional responsibilities.

These requirements shall flow-down to all subcontractors funded through a grant award.

### **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”, 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.”

### **Davis-Bacon Act**

The Davis-Bacon Act of 1931 is a federal law that established the requirement for paying prevailing wages on public works projects. All federal government construction contracts, and most contracts for federally assisted construction over \$2,000, must include provisions for paying on-site workers no less than the locally prevailing wages and benefits paid on similar projects.

### **Uniform Relocation Assistance Act**

The Uniform Relocation Assistance Act (a.k.a. Uniform Act) of 1970 is a federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms. The Uniform Act's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federally funded projects. When conducting a program or project under the Uniform Act there are very specific legal responsibilities to affected property owners and displaced persons that must be addressed. The following must be considered prior to property acquisition:

### **For Real Property Acquisition**

- Appraise property before negotiations.
- Invite the property owner to accompany the appraiser during the property inspection.
- Provide the owner with a written offer of just compensation and a summary of that is being acquired.
- Payment for property before possession.
- Reimburse expenses resulting from the transfer of title such as recording fees, prepaid real estate taxes, or other expenses.

### **For Residential Displacements**

- Provide relocation advisory services to displaced tenants and owner occupants.
- Provide a minimum 90 days written Notice to Vacate prior to requiring possession.
- Reimburse residents for moving expenses.
- Provide payments for the added cost of renting or purchasing comparable replacement housing.

### **For Non-residential Displacements (businesses, farms, and nonprofits)**

- Provide relocation advisory services.
- Provide a minimum 90 days written Notice to Vacate prior to requiring possession.
- Reimburse for moving and re-establishment expenses.

### **National Policy Requirements**

City grant staff shall also adhere to National Policy Requirements affecting grants. A sample of these policies is listed below. Please note that this list is not inclusive and may be revised through the Federal Government.

*It is the responsibility of the grant project manager to ensure that subgrantees adhere to these applicable policies.*

### **Civil Rights**

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq. and its implementing regulations provide that no person shall be subjected to discrimination on the basis of race, color, or national origin under any program or activity that receives federal financial assistance. In most cases, when a recipient receives Federal financial assistance for a particular program or activity, all operations of the recipient are covered by Title VI, not just the part of the program that uses the Federal assistance.

### **Equal Services Provider**

All grant decisions are based on merit and program need, and not on race, color, citizenship status, national origin, ancestry, gender, sexual orientation, age, weight, religion, creed, physical or mental disability, marital status, veteran status, political affiliation or any other factor protected by law.

### **Limited English Proficiency (LEP)**

Language for LEP individuals can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by federally funded programs and activities. Title VI and Title VI regulations require that recipients take reasonable steps to ensure meaningful access to the information, programs, and services they provide. Departments are encouraged to include within their program budgets the costs for providing interpretation and translation services to eligible LEP service populations.

### **American with Disabilities Act (ADA)**

In the broadest sense, it requires that state and local governments be accessible to people with disabilities. For additional information regarding statute and regulations <http://www.ada.gov/> or contact the respective Assistant City Attorney.

### **Other National Policies – Miscellaneous**

Age Discrimination Act, Section 504 of the Rehabilitation Act, Fair Labor Standards Act, Anti-Kickback (Copeland) Act, Debarment and Suspension, Freedom of Information Act, Drug-Free Workplace Act, and more.

The following generally relate to construction grants:

National Environmental Policy Act and National Historic Preservation Act.

### **Manual Review**

This manual will be reviewed at least annually by the City on or before January 1, starting January 1 2018, to ensure compliance with grant award regulations.

It is the grant project manager's responsibility to stay current and comply with all Federal regulations related to grant management and bring them to the attention of DMB to include in the manual review.

If anything in this manual is unclear or any questions arise, please contact the Transit Manager at (559) 782-7448 for assistance.

### **References:**

2 CFR Part 200