

(Mayor Potter)

CITY OF KIRTLAND

RESOLUTION NUMBER 21-R-2

A RESOLUTION AUTHORIZING THE MAYOR AND HIS FINANCE DIRECTOR TO ADOPT UNIFORM GUIDANCE COST PRINCIPLES, AUDIT AND ADMINISTRATION REQUIREMENTS NECESSARY TO COMPLY WITH FEDERAL COST PRINCIPLES, INTERNAL CONTROLS, PROCUREMENT STANDARDS, PROGRAM INCOME REQUIREMENTS IN OBTAINING FEDERAL GRANTS, AND DECLARING AN EMERGENCY.

WHEREAS, the Administration recommends the adoption of policies that will facilitate the ability of the City of Kirtland to obtain grants and participate in agreements; and

WHEREAS, Kirtland Codified Ordinance 220.25 requires the posting of copies of enacted legislation for fifteen consecutive days in three places within the City, those being City Hall, the Kirtland Public Library, and the Kirtland Community Center; and

WHEREAS, due to the current state of emergency in Ohio stemming from the COVID-19 pandemic, at some point City Hall, the Kirtland Public Library, and the Kirtland Community Center have been closed in order to protect both the community and the staff from potential infection; and

WHEREAS, Kirtland Codified Ordinance 220.25 grants City Council the authority to modify the posting requirement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kirtland, County of Lake, State of Ohio, that:

SECTION I: The Mayor and/or the Director of Finance, or their designees, are hereby authorized adopt said policies attached hereto as Exhibit A and incorporated herein by reference.

SECTION II: The City Council, pursuant to its authority in Kirtland Codified Ordinance, Section 220.25 and due to the COVID-19 pandemic, hereby modifies the requirement to post this enacted legislation in three places and instead requires the following:

1. If City Hall, the Kirtland Public Library, and/or the Kirtland Community Center are open on the effective date of this enacted legislation, then the Clerk of Council is hereby directed to post the enacted legislation for fifteen (15) consecutive days after its effective date in each facility; and

2. Should any of the facilities listed above be closed on the effective date of the enacted legislation, then the Clerk of Council is not required to post the enacted legislation in that facility; and
3. The Clerk of Council is hereby directed to post the enacted legislation on the City of Kirtland's website for fifteen (15) consecutive days after the effective date of this legislation.

SECTION III:

(a) It is found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were passed in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

(b) This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that it will facilitate the ability to obtain federal funds in a timely manner given the current crisis, wherefor, this Resolution shall be in full force and effect immediately upon its passage by the affirmative vote of five (5) members of Council and approval by the Mayor, otherwise this Resolution shall be in effect from and after its adoption at the earliest period allowed by law.

First Reading: _____
Second Reading: _____
Third Reading: _____

DATE PASSED: _____

President of Council

Submitted to the Mayor for his
Approval on this _____ day of
_____, 2021.

ATTEST:

Approved by the Mayor, this _____
day of _____, 2021.

Clerk of Council
Guidance & Audit Principles for Federal Funds

Mayor Kevin F. Potter



TRAVEL EXPENSE POLICY – Uniform Guidance

If travel costs are charged directly to a federal award, documentation must be maintained that justifies that:

1. Participation of the individual is necessary to the federal award.
2. The costs are reasonable and consistent with the district's established policy

Travel costs charged to a Federal program shall be reimbursed on a mileage basis for travel using an employee's personal vehicle and on an actual cost basis for meals, lodging and other allowable expenses, consistent with those normally allowed in like circumstances in the City's non-federally funded activities, and in accordance with the City's travel reimbursement policies and administrative regulations. For purposes of this section, travel costs shall mean the expenses for transportation, lodging, subsistence, and related items incurred by employees and City officials who are in travel status on official business as a federal grant recipient.

Mileage reimbursements charged to a Federal program shall be at the rate approved for other travel reimbursements. Actual costs for meals, lodging and other allowable expenses shall be reimbursed only to the extent they are reasonable and do not exceed the per diem limits. Any meals charged to a grant will be required to have a receipt.

See the City of Kirtland travel reimbursement policy for additional information.

References:

Uniform Guidance 2 CFR Sec. 200.474



CONFLICT OF INTEREST – Uniform Guidance

1. Purpose

This policy shall affirm standards of conduct established to ensure that Council members and employees avoid potential and actual conflicts of interest, as well as the perception of a conflict of interest.

2. Definitions

Confidential information shall mean information not obtainable from reviewing a public document or from making inquiry to a publicly available source of information.

Conflict or Conflict of interest shall mean use by a Council member or employee of the authority of his/her office or employment, or any confidential information received through his/her holding public office or employment, for the private pecuniary benefit of him/herself, a member of his/her immediate family or a business with which s/he or a member of his/her immediate family is associated. The term does not include an action having a de minimis economic impact, or which affects to the same degree a class consisting of the general public or a subclass consisting of an industry, occupation or other group which includes the Council member or employee, a member of his/her immediate family or a business with which s/he or a member of his/her immediate family is associated.

De minimis economic impact shall mean an economic consequence which has an insignificant effect.

Financial interest shall mean any financial interest in a legal entity engaged in business for profit which comprises more than five percent (5%) of the equity of the business or more than five percent (5%) of the assets of the economic interest in indebtedness.

Honorarium shall mean payment made in recognition of published works, appearances, speeches and presentations, and which is not intended as consideration for the value of such services which are nonpublic occupational or professional in nature. The term does not include tokens presented or provided which are of de minimis economic impact.

Immediate family shall mean a parent, parent-in-law, spouse, child, spouse of a child, brother, brother-in-law, sister, sister-in-law, or the domestic partner of a parent, child, brother or sister.

Business partner shall mean a person who, along with another person, plays a significant role in owning, managing, or creating a company in which both individuals have a financial interest in the company.

3. Delegation of Responsibility

Each employee and Council member shall be responsible to maintain standards of conduct that avoid conflicts of interest. The Council prohibits members of the Council and employees from engaging in conduct that constitutes a conflict of interest as outlined in this policy.



4. Guidelines

All Council members and employees shall be provided with a copy of this policy and acknowledge in writing that they have been made aware of it. Additional training shall be provided to designated individuals.

Disclosure of Financial Interests

No Council member shall be allowed to take the oath of office or enter or continue upon his/her duties, nor shall s/he receive compensation from public funds, unless s/he has filed a statement of financial interests as required law.

Standards of Conduct

The City maintains the following standards of conduct covering conflicts of interest and governing the actions of its employees and Council members engaged in the selection, award and administration of contracts. (2 CFR Sec. 200.318)

No employee or Council member may participate in the selection, award or administration of a contract supported by a federal award if s/he has a real or apparent conflict of interest as defined above, as well as any other circumstance in which the employee, Council member, any member of his/her immediate family, his/her business partner, or an organization which employs or is about to employ any of them, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. (2 CFR Sec. 200.318)

The City shall not enter into any contract with a Council member or employee, or his/her spouse or child, or any business in which the person or his/her spouse or child is associated valued at \$500 or more, nor in which the person or spouse or child or business with which associated is a subcontractor unless the Council has determined it is in the best interests of the City to do so, and the contract has been awarded through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded. In such a case, the Council member or employee shall not have any supervisory or overall responsibility for the implementation or administration of the contract.

When advertised formal bidding is not required or used, an open and public process shall include at a minimum:

1. Public notice of the intent to contract for goods or services;
2. A reasonable amount of time for potential contractors to consider whether to offer quotes; and
3. Post-award public disclosure of who made bids or quotes and who was chosen.

Any Council member or employee who in the discharge of his/her official duties would be required to vote on a matter that would result in a conflict of interest shall abstain from voting and, prior to the vote being taken, publicly announce and disclose the nature of his/her interest as a public record.

Council members and employees may neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontracts, unless the gift is an unsolicited item of nominal value. Gifts of a nominal value may be accepted in accordance with Council policy. (2 CFR Sec. 200.318)



Improper Influence

No person shall offer or give to a Council member, employee or nominee or candidate for the Council, or a member of his/her immediate family or a business with which s/he is associated, anything of monetary value, including a gift, loan, political contribution, reward or promise of future employment based on the offeror's or donor's understanding that the vote, official action or judgment of the Council member, employee or nominee or candidate for the Council would be influenced thereby.

No Council member, employee or nominee or candidate for the Council shall solicit or accept anything of monetary value, including a gift, loan, political contribution, reward or promise of future employment, based on any understanding of that Council member, employee or nominee or candidate that the vote, official action or judgment of the Council member, employee or nominee or candidate for the Council would be influenced thereby.

Organizational Conflicts

Organizational conflicts of interest may exist when due to the City's relationship with a subsidiary, affiliated or parent organization that is a candidate for award of a contract in connection with federally funded activities, the City may be unable or appear to be unable to be impartial in conducting a procurement action involving a related organization. (2 CFR Sec. 200.318)

In the event of a potential organizational conflict, the potential conflict shall be reviewed by the Mayor or designee to determine whether it is likely that the City would be unable or appear to be unable to be impartial in making the award. If such a likelihood exists, this shall not disqualify the related organization; however, the following measures shall be applied:

1. The organizational relationship shall be disclosed as part of any notices to potential contractors;
2. Any City employees or officials directly involved in the activities of the related organization are excluded from the selection and award process;
3. A competitive bid, quote or other basis of valuation is considered; and
4. The Council has determined that contracting with the related organization is in the best interests of the program involved.

Reporting

Any perceived conflict of interest that is detected or suspected by any employee or third party shall be reported to the Mayor. If the Mayor is the subject of the perceived conflict of interest, the employee or third party shall report the incident to the Council President.

Any perceived conflict of interest of a Council member that is detected or suspected by any employee or third party shall be reported to the Council President. If the Council President is the subject of the perceived conflict of interest, the employee or third party shall report the incident to the Mayor, who shall report the incident to the Law Director.

No reprisals or retaliation shall occur as a result of good faith reports of conflicts of interest.



Investigation

Investigations based on reports of perceived violations of this policy shall comply with state and federal laws and regulations. No person sharing in the potential conflict of interest being investigated shall be involved in conducting the investigation or reviewing its results.

In the event an investigation determines that a violation of this policy has occurred, the violation shall be reported to the federal awarding agency in accordance with that agency's policies.

Disciplinary Actions

If an investigation results in a finding that the complaint is factual and constitutes a violation of this policy, the City shall take prompt, corrective action to ensure that such conduct ceases and will not recur. City staff shall document the corrective action taken and, when not prohibited by law, inform the complainant.

Violations of this policy may result in disciplinary action up to and including discharge, fines and possible imprisonment. Disciplinary actions shall be consistent with Council policies, procedures, applicable collective bargaining agreements and state and federal laws.



PROCUREMENT POLICY – Uniform Guidance

Purpose

The purpose of this Policy is to establish guidelines that meet or exceed the procurement requirements for purchases of goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects when federal funds are being used in whole or in part to pay for the cost of the contract.

Policy

- A. **Application of Policy.** This policy applies to contracts for purchases, services, and construction or repair work funded with federal financial assistance (direct or reimbursed). The requirements of this Policy also apply to any subrecipient of the funds.

All federally funded projects, loans, grants, and sub-grants, whether funded in part or wholly, are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal awards (Uniform Guidance) codified at 2 C.F.R. Part 200 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds.

- B. **Compliance with Federal Law.** All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procurement Standards codified in 2 C.F.R. § 200.317 through § 200.326 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. The City will follow all applicable local, state, and federal procurement requirements when expending federal funds. Should the City have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law.
- C. **Contract Award.** All contracts shall be awarded only to the lowest responsive responsible bidder possessing the ability to perform successfully under the terms and conditions of the contract.
- D. **No Evasion.** No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this Policy or state and federal law.
- E. **Contract Requirements.** All contracts paid for in whole or in part with federal funds shall be in writing. The written contract must include or incorporate by reference the provisions required under 2 C.F.R § 200.326 and as provided for under 2 C.F.R. Part 200, Appendix II.
- F. **Contractors' Conflict of Interest.** Designers, suppliers, and contractors that assist in the development or drafting of specifications, requirements, statements of work, invitation for bids or requests for proposals shall be excluded from competing for such requirements.
- G. **Approval and Modification.** The administrative procedures contained in this Policy are administrative and may be changed as necessary at the staff level to comply with state and federal law.



General Procurement Standards and Procedures:

Either the Finance Department or the Requesting Department shall procure all contracts in accordance with the requirements of this Section of the Policy.

- A. **Necessity.** Purchases must be necessary to perform the scope of work and must avoid acquisition of unnecessary or duplicative items. The Finance Department and/or the Requesting Department should check with the federal surplus property agency prior to buying new items when feasible and less expensive. Strategic sourcing should be considered with other departments and/or agencies who have similar needs to consolidate procurements and services to obtain better pricing.
- B. **Clear Specifications.** All solicitations must incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured, and shall include all other requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals. Technical requirements must not contain features that restrict competition.
- C. **Notice of Federal Funding.** All bid solicitations must acknowledge the use of federal funding for the contract. In addition, all prospective bidders or offerors must acknowledge that funding is contingent upon compliance with all terms and conditions of the funding award.
- D. **Compliance by Contractors.** All solicitations shall inform prospective contractors that they must comply with all applicable federal laws, regulations, executive orders, and terms and conditions of the funding award.
- E. **Fixed Price.** Solicitations must state that bidders shall submit bids on a fixed price basis and that the contract shall be awarded on this basis unless otherwise provided for in this Policy. Cost plus percentage of cost contracts are prohibited. Time and materials contracts are prohibited in most circumstances. Time and materials contracts will not be used unless no other form of contract is suitable and the contract includes a "Not to Exceed" amount. A time and materials contract shall not be awarded without express written permission of the federal agency or state pass-through agency that awarded the funds.
- F. **Use of Brand Names.** When possible, performance or functional specifications are preferred to allow for more competition leaving the determination of how to reach the required result to the contractor. Brand names may be used only when it is impractical or uneconomical to write a clear and accurate description of the requirement(s). When a brand name is listed, it is used as reference only and "or equal" must be included in the description.
- G. **Lease versus Purchase.** Under certain circumstances, it may be necessary to perform an analysis of lease versus purchase alternatives to determine the most economical approach.
- H. **Dividing Contract for M/WBE Participation.** If economically feasible, procurements may be divided into smaller components to allow maximum participation of small and minority businesses.



and women business enterprises. The procurement cannot be divided to bring the cost under bid thresholds or to evade any requirements under this Policy.

- I. **Documentation.** Documentation must be maintained by the Finance Department and/or the Requesting Department detailing the history of all procurements. The documentation should include the procurement method used, contract type, basis for contractor selection, price, sources solicited, public notices, cost analysis, bid documents, addenda, amendments, contractor's responsiveness, notice of award, copies of notices to unsuccessful bidders or offerors, record of protests or disputes, bond documents, notice to proceed, purchase order, and contract. All documentation relating to the award of any contract must be made available to the granting agency upon request.
- J. **Cost Estimate.** For all procurements costing equal to or more than the City's bidding threshold, the Finance Department and/or Requesting Department shall develop an estimate of the cost of the procurement prior to soliciting bids. Cost estimates may be developed by reviewing prior contract costs, online review of similar products or services, or other means by which a good faith cost estimate may be obtained. Cost estimates for construction and repair contracts may be developed by the project designer.
- K. **Contract Requirements.** The Requesting Department must prepare a written contract incorporating the provisions referenced in Section II.C of this Policy.
- L. **Debarment.** No contract shall be awarded to a contractor included on the federally debarred bidder's list.
- M. **Contractor Oversight.** The Requesting Department receiving the federal funding must maintain oversight of the contract to ensure that contractor is performing in accordance with the contract terms, conditions, and specifications.
- N. **Open Competition.** Solicitations shall be prepared in a way to be fair and provide open competition. The procurement process shall not restrict competition by imposing unreasonable requirements on bidders, including but not limited to unnecessary supplier experience, excessive or unnecessary bonding, specifying a brand name without allowing for "or equal" products, or other unnecessary requirements that have the effect of restricting competition.
- O. **Geographic Preference.** No contract shall be awarded on the basis of a geographic preference.

IV. Specific Procurement Procedures

Either the Purchasing Department or the Requesting Department shall solicit bids in accordance with the requirements under this Section of the Policy based on the type and cost of the contract.

- A. **Service Contracts and Purchase Contracts** within the respective dollar threshold established at 48 CFR part 2, subpart 2.1 shall be procured using the Uniform Guidance "micro-purchase" procedure (2 C.F.R. § 200.320(a)) as follows:
 - 1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.



2. To the extent practicable, purchases must be distributed among qualified suppliers.
3. A transaction is an occurrence in which two or more entities exchange goods, services, or money between or among them under an agreement formed for their mutual benefit. The following examples illustrate transactions in the context of micro-purchasing:

(1) A program operator purchases computer paper, ink cartridges, paper towels, and cleaning fluids from the same supplier at the same time. That would be a single transaction. If the aggregate cost of these items (that is, the total bill) does not exceed the micro-purchase threshold, the transaction is a micro-purchase under 2 CFR §200.320(a).

(2) A program operator makes the following purchases on the same day at two separate locations: computer paper and ink cartridges at a retail office supply store, and paper towels and cleaning fluids at a different retail store. The dollar amount spent at each supplier is less than the micro-purchase threshold. Each purchase is a separate transaction made from different suppliers. Neither supplier is involved in the transaction with the other. Therefore, these transactions are micro-purchases and the program operator has distributed purchases among qualified suppliers.

B. Service Contracts and Purchase Contracts within the respective dollar threshold established at 48 CFR part 2, subpart 2.1 shall be procured using the Uniform Guidance "small purchase" procedure (2 C.F.R. § 200.320(b)) as follows:

1. Obtain price or rate quotes from an "adequate number" of qualified sources (a federal grantor agency might issue guidance interpreting "adequate number," so the Requesting Department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids.
4. Award the contract on a fixed-price basis (a not-to-exceed basis is permissible for service contracts where obtaining a fixed price is not feasible).
5. Award the contract to the lowest responsive, responsible bidder.

C. Service Contracts and Purchase Contracts within the respective dollar threshold established at 48 CFR part 2, subpart 2.1 shall be procured using a combination of the most restrictive requirements of the Uniform Guidance "sealed bid" procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids.
2. Complete specifications or purchase description must be made available to all bidders.
3. The bid must be formally advertised in a newspaper of general circulation for at least 2 weeks between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for "sound documented reasons."
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.



5. Open bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids submitted must be sealed. A minimum of 2 bids must be received in order to open all bids.
 6. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis. Governing board approval is required for purchase contracts unless the governing board has delegated award authority to an individual official or employee. Any and all bids may be rejected only for "sound documented reasons."
- D. Service Contracts** within the respective dollar threshold established at 48 CFR part 2, subpart 2.1 may be procured using the Uniform Guidance "competitive proposal" procedure (2 C.F.R. § 200.320(d)) when the "sealed bid" procedure is not appropriate for the particular type of service being sought. The procedures are as follows:
1. A Request for Proposals (RFP) must be publicly advertised. Formal advertisement in a newspaper is not required so long as the method of advertisement will solicit proposals from an "adequate number" of qualified firms.
 2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
 3. Identify evaluation criteria and relative importance of each criteria (criteria weight) in the RFP.
 4. Consider all responses to the publicized RFP to the maximum extent practical.
 5. Must have a written method for conducting technical evaluations of proposals and selecting the winning firm.
 6. Award the contract to the responsible firm with most advantageous proposal taking into account price and other factors identified in the RFP. Governing board approval is not required.
 7. Award the contract on a fixed-price or cost-reimbursement basis.
- E. Construction and repair contracts** within the respective dollar threshold established at 48 CFR part 2, subpart 2.1 shall be procured using the Uniform Guidance "micro-purchase" procedure (2 C.F.R. § 200.320(a)) as follows:
1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
 2. To the extent practicable, contracts must be distributed among qualified suppliers.
- F. Construction and repair contracts** within the respective dollar threshold established at 48 CFR part 2, subpart 2.1 shall be procured using the Uniform Guidance "small purchase" procedure (2 C.F.R. § 200.320(b)) as follows:
1. Obtain price or rate quotes from an "adequate number" of qualified sources (a federal grantor agency might issue guidance interpreting "adequate number," so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
 2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
 3. Cost or price analysis is not required prior to soliciting bids, although price estimates may be provided by the project designer.
 4. Award the contract on a fixed-price or not-to-exceed basis.



5. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required.
- G. Construction and repair contracts** within the respective dollar threshold established at 48 CFR part 2, subpart 2.1 shall be procured using the Uniform Guidance "sealed bid" procedure (2 C.F.R. § 200.320(c)) as follows:
1. Cost or price analysis is required prior to soliciting bids (this cost estimate may be provided by the project designer).
 2. Complete specifications must be made available to all bidders.
 3. Publically advertise the bid solicitation for a period of time sufficient to give bidders notice of opportunity to submit bids (formal advertisement in a newspaper is not required so long as other means of advertising will provide sufficient notice of the opportunity to bid). The advertisement must state the date, time, and location of the public bid opening, and indicate where specifications may be obtained.
 4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
 5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids submitted must be sealed. A minimum of 2 bids must be received in order to open all bids.
 6. A 5% bid bond is required of all bidders. Performance and payment bonds of 100% of the contract price is required of the winning bidder.
 7. Award the contract on a firm fixed-price basis.
 8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required. Any and all bids may be rejected only for "sound documented reasons."

V. Exceptions

Non-competitive contracts are allowed **only** under the following conditions and with the written approval of the federal agency or state pass-through agency that awarded the federal funds:

- A. Sole Source.** A contract may be awarded without competitive bidding when the item is available from only one source. The Finance Department and/or Requesting Department shall document the justification for and lack of available competition for the item. A sole source contract must be approved by the City Council.
- B. Public Exigency.** A contract may be awarded without competitive bidding when there is a public exigency. A public exigency exists when there is an imminent or actual threat to public health, safety, and welfare, and the need for the item will not permit the delay resulting from a competitive bidding.
- C. Inadequate Competition.** A contract may be awarded without competitive bidding when competition is determined to be inadequate after attempts to solicit bids from a number of sources as required under this Policy does not result in a qualified winning bidder.



- D. Federal Contract.** A contract may be awarded without competitive bidding when the purchase is made from a federal contract available on the U.S. General Services Administration schedules of contracts.
- E. Awarding Agency Approval.** A contract may be awarded without competitive bidding with the express written authorization of the federal agency or state pass-through agency that awarded the federal funds so long as awarding the contract without competition is consistent with state law.



FEDERAL FISCAL COMPLIANCE POLICY – Uniform Guidance

The City shall ensure federal funds received are administered in accordance with federal requirements, including but not limited to the federal Uniform Grant Guidance.

The Mayor or designee, in collaboration with the Finance Director and/or Department Head, shall establish and maintain a sound financial management system to include internal controls and federal grant management standards covering the receipt of both direct and state-administered federal grants, and to track costs and expenditures of funds associated with grant awards.

Guidelines

The City's financial management system shall be designed with strong internal controls, a high level of transparency and accountability, and documented procedures to ensure that all financial management system requirements are met.

Financial management standards and procedures shall assure that the following responsibilities are fulfilled:

1. Identification – the City must identify, in its accounts, all federal awards received and expended, and the federal programs under which they were received.
2. Financial Reporting – Accurate, current, and complete disclosure of the financial results of each federal award or program must be made in accordance with the financial reporting requirements of the grant program.
3. Accounting Records – the City must maintain records which adequately identify the source and application of funds provided for federally-assisted activities.
4. Internal Controls – Effective control and accountability must be maintained for all funds, real and personal property and other assets. The City must adequately safeguard all such property and must assure that it is used solely for authorized purposes.
5. Budget Control – Actual expenditures or outlays must be compared with budgeted amounts for each federal award. Procedures shall be developed to establish determination for allowability of costs for federal funds.
6. Cash Management – The City shall maintain written procedures to implement the cash management requirements found in the grant agreement.
 - a. Reimbursement grants - Reimbursement will be submitted on the appropriate form per the grant agreement. All reimbursements are based on actual disbursements, not on obligations. Consistent with state and federal requirements, the City will maintain source documentation supporting the federal expenditures (invoices, time sheets, payroll stubs, etc.) and will make such documentation available for the grant agency to review upon request. Reimbursements of actual expenditures do not involve interest calculations.



- b. Advance grants - When the City receives advance payments of federal grant funds, it must minimize the time elapsing between the transfer of funds to the City and the expenditure of those funds on allowable costs of the applicable federal program. (2 CFR Sec. 200.305(b)). The City shall attempt to expend all advances of federal funds within seventy-two (72) hours of receipt. When applicable, the City shall use existing resources available within a program before requesting additional advances. Such resources include program income, rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds. (2 CFR Sec. 305(b)(5)). The City shall hold federal advance payments in insured, interest-bearing accounts. The City is permitted to retain for administrative expense up to \$500 per year of interest earned on federal grant cash balances. Regardless of the federal awarding agency, interest earnings exceeding \$500 per year shall be remitted annually to the awarding agency. (2 CFR Sec. 200.305(b)(9)). Pursuant to federal guidelines, interest earnings shall be calculated from the date that the federal funds are drawn down until the date on which those funds are disbursed by the City. Consistent with state guidelines, interest accruing on total federal grant cash balances shall be calculated on cash balances per grant and applying the actual or average interest rate earned.

7. Allowability of Costs – The City shall ensure that allowability of all costs charged to each federal award is accurately determined and documented.

a. General allowability determination factors include the following:

- i. **Be Necessary and Reasonable for the performance of the federal award.** A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision to incur the cost was made. For example, **reasonable** means that sound business practices were followed, and purchases were comparable to market prices.

When determining reasonableness of a cost, consideration must be given to:

- Whether the cost is a type generally recognized as ordinary and necessary for the operation of the City or the proper and efficient performance of the federal award.
- The restraints or requirements imposed by factors, such as: sound business practices; arm's-length bargaining; federal, state and other laws and regulations; and terms and conditions of the federal award.
- Market prices for comparable goods or services for the geographic area.
- Whether the individual incurring the cost acted with prudence in the circumstances considering responsibilities to the City, its employees, the public at large, and the federal government.
- Whether the City significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the federal award's cost. (2 CFR Sec. 200.404)

Whether a cost is **necessary** will be determined based on the needs of the program. Specifically, the expenditure must be necessary to achieve an important program objective. A key aspect in determining whether a cost is necessary is



whether the City can demonstrate that the cost addresses an existing need, and can prove it.

When determining whether a cost is necessary, consideration may be given to:

- Whether the cost is needed for the proper and efficient performance of the federal award program.
- Whether the cost is identified in the approved budget or application.
- Whether there is an educational benefit associated with the cost.
- Whether the cost aligns with identified needs based on results and findings from a needs assessment.
- Whether the cost addresses program goals and objectives and is based on program data.

- ii. **Allocable to the federal award.** A cost is allocable to the federal award if the goods or services involved are chargeable or assignable to the federal award in accordance with the relative benefit received. This means that the federal grant program derived a benefit in proportion to the funds charged to the program. (2 CFR Sec. 200.405)
- iii. **Consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the City.**
- iv. **Conform to any limitations or exclusions set forth as cost principles in Part 200 or in the terms and conditions of the federal award.**
- v. **Consistent treatment.** A cost cannot be assigned to a federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been assigned as an indirect cost under another award.
- vi. **Adequately documented.** All expenditures must be properly documented.
- vii. **Be calculated in accordance with generally accepted accounting principles (GAAP), unless provided otherwise in Part 200.**
- viii. **Not included as a match or cost-share, unless the specific federal program authorizes federal costs to be treated as such.** Some federal program statutes require the nonfederal entity to contribute a certain amount of nonfederal resources to be eligible for the federal program.
- ix. **Be the net of all applicable credits.** The term "applicable credits" refers to those receipts or reduction of expenditures that operate to offset or reduce expense items allocable to the federal award. Typical examples of such transactions are: purchase discounts; rebates or allowances; recoveries or indemnities on losses; and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the state relate to the federal award, they shall be credited to the federal award, either as a cost reduction or a cash refund, as appropriate. (2 CFR Sec. 200.406)

City personnel responsible for spending federal grant funds and for determining allowability must be familiar with and refer to the Part 200 selected items of cost section. These rules must be followed when charging these specific expenditures to a federal grant. When applicable, employees must check costs against the selected items of cost requirements to ensure the cost is allowable, and also check state, City and program-specific rules.



Standards of Conduct

The City shall maintain standards of conduct covering conflicts of interest and the actions of employees and City Administration engaged in the selection, award and administration of contracts.

All employees shall be informed of conduct that is required for federal fiscal compliance and the disciplinary actions that may be applied for violation of Council policies, administrative regulations, rules and procedures.

Employees - Time and Effort Reporting

All City employees paid with federal funds shall document the time they expend in work performed in support of each federal program, in accordance with law. Time and effort reporting requirements do not apply to contracted individuals.

City employees shall be reimbursed for travel costs incurred in the course of performing services related to official business as a federal grant recipient.

The City shall establish and maintain employee policies on hiring, benefits and leave and outside activities, as approved by the Council.

Record Keeping

The City shall develop and maintain a Records Management Plan and related Council policy and administrative regulations for the retention, retrieval and disposition of manual and electronic records, including emails.

The City shall ensure the proper maintenance of federal fiscal records documenting:

1. Amount of federal funds.
2. How funds are used.
3. Total cost of each project.
4. Share of total cost of each project provided from other sources.
5. Other records to facilitate an effective audit.
6. Other records to show compliance with federal program requirements.
7. Significant project experiences and results.

All records must be retrievable and available for programmatic or financial audit.

The City shall provide the federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives, the right of access to any documents, papers, or other City records which are pertinent to the federal award. The City shall also permit timely and reasonable access to the City's personnel for the purpose of interview and discussion related to such documents.

Records shall be retained for a minimum of five (5) years from the date on which the final Financial Status Report is submitted, or as otherwise specified in the requirements of the federal award, unless a written extension is provided by the awarding agency, cognizant agency for audit, oversight agency for audit or cognizant agency for indirect costs.



If any litigation, claim or audit is started before the expiration of the standard record retention period, the records shall be retained until all litigation, claims or audits have been resolved and final action taken.

As part of the Records Management Plan, the City shall develop and maintain a records retention schedule, which shall delineate the record retention format, retention period and method of disposal.

The Records Management Plan shall include identification of staff authorized to access records, appropriate training, and preservation measures to protect the integrity of records and data.

The City shall ensure that all personally identifiable data protected by law or regulations is handled in accordance with the requirements of applicable law, regulations, Council policy and administrative regulations.

Sub-recipient Monitoring

In the event that the City awards sub-grants, the City shall establish procedures to:

1. Assess the risk of noncompliance.
2. Monitor grant sub-recipients to ensure compliance with federal, state, and local laws and Council policy and procedures.
3. Ensure the City's record retention schedule addresses document retention on assessment and monitoring.

Compliance Violations

Employees and contractors involved in federally funded programs and sub-recipients shall be made aware that failure to comply with federal law, regulations or terms and conditions of a federal award may result in the federal awarding agency or pass-through entity imposing additional conditions or terminating the award in whole or in part.

Direct and Indirect Costs

Direct costs – costs that can be identified specifically with a particular final cost objective, such as a federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy.

Indirect costs – costs incurred for a common or joint purpose benefiting more than one (1) cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved.

Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect costs. (2 CFR Sec. 200.405, 200.413)

Identification with the federal award rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect costs.

Direct and indirect costs shall be determined in accordance with law, regulations, the terms and conditions of the federal award, and the City's negotiated indirect cost rate.



The City shall use the use the de minimis indirect cost rate allowed by the Uniform Guidance or develop an indirect cost rate proposal and cost allocation plan in accordance with law; regulations and the terms and conditions of the federal award.

Timely Obligation of Funds

Obligations – orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the City during the same or a future period.

All obligations must occur between the beginning and ending dates of the federal award project, which is known as the period of performance. The period of performance is dictated by law and regulations and will be indicated in the federal award. Specific requirements for carryover funds may be specified in the federal award and must be adhered to by the City. (2 CFR Sec. 200.77, 200.309)

The City will handle obligations and carryover of state-administered and direct grants in accordance with state and federal law and regulations, and the terms and conditions of the federal award. The City may exercise an extension of the period of performance under a direct grant in accordance with law, regulations and the terms and conditions of the federal award when written notice is provided to the federal awarding agency at least ten (10) calendar days prior to the end of the period of performance. (2 CFR Sec. 200.308(d)(2)).

The City must seek approval from the federal awarding agency for an extension of the period of performance when the extension is not contrary to federal law or regulations, and the following conditions apply:

1. The terms and conditions of the federal award prohibit the extension;
2. The extension requires additional federal funds; or
3. The extension involves any change in the approved objectives or scope of the project. (2 CFR Sec. 200.308.

Management of Property Acquired With Federal Funds

Contract and Purchasing Administration –

The City maintains internal controls, administrative regulations and procedures to ensure that contractors deliver goods and services in accordance with the terms, conditions and specifications of the designated contract, purchase order or requisition.

Inventory Control/Management -

All property purchased with federal funds, regardless of cost, will be inventoried as a safeguard.

Inventory will be received by the department or program requesting the item; designated staff will inspect the property, compare it to the applicable purchase order or requisition, and ensure it is appropriately logged and tagged in the City's property management system.

Items acquired will be physically labeled by source of funding and acquisition date.



Inventory records of equipment and computing devices must be current and available for review and audit, and may include the following information as required by the federal awarding agency:

1. Description of the item, including any manufacturer's model number.
2. Manufacturer's serial number or other identification number.
3. Identification of funding source.
4. Acquisition date and unit cost.
5. Source of items, such as company name.
6. Percentage of federal funds used in the purchase.
7. Present location, use, condition of item, and date information was reported.
8. Pertinent information on the ultimate transfer, replacement or disposition of the item and sale price of the property.

Inventory will be updated as items are sold, lost or stolen, or cannot be repaired, and new items are purchased.

Physical Inventory -

Physical inventory of property will be completed by designated City staff in accordance with applicable federal and state law and regulation and Council policy.

The physical inventory of items will be conducted as required by the federal award, and the results will be reconciled with the inventory records and reported to the federal awarding agency.

Maintenance -

The City establishes adequate maintenance procedures to ensure that property is maintained in good condition in accordance with law, regulation and Council policy.

Safeguards -

The City ensures that adequate safeguards are in place to prevent loss, damage or theft of property:

1. Any loss, damage or theft will be reported to the Mayor, Finance Director or Department Head and investigated and fully documented, and may be reported to local law enforcement.
2. If stolen items are not recovered, the City will submit copies of the investigative report and insurance claim to the federal awarding agency.
3. The City may be responsible for replacing or repairing lost, damaged, destroyed or stolen items.
4. Replaced equipment is property of the originally funded program and should be inventoried accordingly.
5. City property may only be loaned in accordance with Council policy and administrative regulations.

Disposition of Property Acquired with Federal Funds -

When the City determines that real property, including land, land improvements structures and accessories thereto, acquired under a federal award is no longer needed for the originally authorized purpose, the City must obtain disposition instructions from the federal awarding agency or pass-through entity administering the program, in accordance with applicable law and regulations. (2 CFR Sec. 200.311)

When the City determines that equipment or supplies acquired under a federal award are no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, the Mayor, Finance Director or Department Head will contact the federal



awarding agency or pass-through entity administering the program to obtain disposition instructions, based on the fair market value of the equipment or supplies.

Generally, items with a fair market value of \$5,000 or less that are no longer effective may be retained, sold, purged, or transferred to the City. For items with a fair market value greater than \$5,000, the federal awarding agency is entitled to the federal share of the current market value or sales proceeds.

If the City will be replacing the equipment or supplies, the City may use the existing equipment or supplies as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property. The Mayor, Finance Director or Department Head will be responsible for contacting the federal awarding agency and determining the process for disposition of equipment or supplies.

The City may use the following methods in disposing of unnecessary equipment or supplies acquired with federal funds:

- Public auction and/or online sale – generally conducted by a licensed auctioneer.
- Salvage – scrap sold to local dealers.
- Negotiated sale – normally used when disposing of items of substantial value.
- Sealed bid – normally used for items of substantial value or unique qualities.
- Pre-priced sale – large quantities of obsolete or surplus equipment or supplies may be sold by this method.
- Donation to charitable organizations, for equipment or supplies with little to no value.
- Disposition to trash for equipment or supplies with no value.

The Mayor, Finance Director or Department Head will be responsible for maintaining records of obsolete and surplus property disposed of, and will report to the federal awarding agency when required.