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City of Montgomery, Alabama

September 28, 2021

Council Members
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RE: Interim Grant and Federal Funding Policies and Procedures Manual

There is a history of the City of Montgomery not pursuing outside funding; especially, from the Federal government. Our vision for a new Montgomery calls for creating opportunity for everyone in our community. A place where everyone has the freedom to live, learn and earn. Creating such opportunity requires a more aggressive posture in pursuing both philanthropic and Federal funding. In creating a more efficient and responsive city the Grants Department was formed to address the critical needs of the citizens.

This administration has led the effort to increase funding for Montgomery's public schools by organizing a cross-community, broad, and diverse coalition of supporters, including community and business leaders to educators, activists, and parents. This support was crucial to more adequately invest in education and ensure a brighter future for Montgomery. The sentiment will be echoed in pursuing outside funding not only for education but in community development, economic development, infrastructure, workforce, social disparities, recreation, cultural arts, entertainment, and health and human services.

Attached is the Interim Grants and Federal Funding Policies and Procedures. This policies and procedures manual is the primary resource for managing and administering grant awards. It shall be referenced in conjunction with additional awarding agency requirements, special conditions detailed in the grant terms and condition, and any other regulatory guidance. It is imperative that a copy of the manual be distributed to every department and made publicly available to all stakeholders. Should you have any questions, please contact the Grants Department at (334) 625-3563.

Sincerely,

Steven L. Reed



City of **Montgomery**
CAPITAL OF DREAMS.

Steven L. Reed, Mayor

**Grants and Federal Funding Policy and
Procedures Manual**

Table of Contents

Introduction..... 6

The Grants Department Responsibilities 7

City Departments Responsibilities 7

City Council Responsibilities..... 8

Chapter 1: Pre-Award..... 9

1.1 Planning and Design..... 9

 1.1.1 Grant-Seeking Plan..... 9

 1.1.2 Intent to Apply..... 9

1.2 Application.....10

 1.2.1 Application Submission 10

1.3 Award and Acceptance of Funding10

 1.3.1 AWARD NOTIFICATION AND REVIEW PROCEDURE..... 10

Chapter 2: Post Award: Implementation & Administration..... 12

2.1 Performance Measures.12

2.1.1 Modifications to Period of Performance.12

 2.2.1 Retention requirements for records..... 12

2.3 Financial Management.....13

 2.3.1 Cost-sharing or matching..... 13

 2.3.2 Revision of budget and program plans..... 13

2.4 Program Income.....14

2.5 Cost Principles.....15

 2.5.1 Factors affecting allowability of costs..... 16

 2.5.2 Reasonable costs..... 16

 2.5.3 Allocable costs..... 16

 2.5.4 Direct costs..... 17

2.6 Procurement17

 2.6.1 Methods of procurement to be followed..... 18

 2.6.2 Formal Procurement Procedures..... 19

 2.6.3 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms..... 21

 2.6.4 Bonding Requirements..... 22

 2.6.5 Bid Proceeding..... 22

2.7 Property Standards 23

2.7.1 Insurance coverage.. 24

2.7.2 Real property..... 24

2.7.3 Federally owned and exempt property. 24

2.7.4 Equipment..... 24

2.7.5 Supplies..... 26

2.7.6 Intangible property..... 26

2.8 Remedies for Noncompliance..... 27

2.9 Technical Assistance 27

Chapter 3. Grant and Federal Funding Oversight..... 29

3.1 Subrecipient and Contract Oversight. 29

3.1.1 Pre-Award 29

3.1.2 Post-Award..... 29

3.1.3 Closeout..... 30

3.2 Reporting.....31

3.2.1 Program performance reports..... 31

3.2.2 Non-construction performance reports..... 31

3.2.3 Construction performance reports..... 31

3.2.4 Significant developments..... 31

3.2.5 Public access to Federal award information..... 32

3.2.6 Reporting on real property..... 32

3.2.7 Term and Condition for Recipient Integrity and Performance Matters 32

3.3 Monitoring..... 34

Chapter 4: Termination & Closeout 35

4.1 Termination. 35

4.1.1 Notification of termination requirement..... 36

4.1.2 Opportunities to object, hearings, and appeals..... 36

4.1.3 Effects of suspension and termination..... 36

4.2 Closeout..... 36

4.2.1 Post-closeout adjustments and continuing responsibilities..... 37

4.2.2 Collection of amounts due..... 38

Appendix I: Contract Clauses 39

Appendix II: Allowable Cost 44

Advertising and public relations. 44

Advisory councils. 44

Alcoholic beverages. 45

Audit services. 45

Bad debts. 45

Bonding costs..... 45

Collections of improper payments. 45

Compensation - personal services..... 45

Compensation - fringe benefits..... 48

Conferences..... 52

Contingency provisions..... 52

Contributions and donations. 52

Depreciation..... 53

Entertainment costs. 54

Equipment and other capital expenditures. 54

Exchange rates..... 55

Fines, penalties, damages, and other settlements. 55

Fundraising and investment management costs. 55

Gains and losses on disposition of depreciable assets..... 56

General costs of government..... 56

Goods or services for personal use..... 57

Idle facilities and idle capacity. 57

Insurance and indemnification..... 58

Intellectual property..... 60

Interest. 61

Lobbying. 63

Losses on other awards or contracts..... 64

Maintenance and repair costs. 64

Materials and supplies costs, including costs of computing devices. 65

Memberships, subscriptions, and professional activity costs..... 65

Organization costs. 65

Participant support costs. 66

Plant and security costs. 66

Pre-award costs. 66

Professional service costs..... 66

Proposal costs. 67

Publication and printing costs..... 67

Rearrangement and reconversion costs..... 67

Recruiting costs. 68

Selling and marketing costs..... 68
Taxes (including Value Added Tax)..... 68
Telecommunication costs and video surveillance costs..... 69
Termination costs. 69
Training and education costs. 70
Transportation costs. 70
Travel costs. 70
Appendix III: Acronyms..... 73
Appendix IV: Definitions..... 75

Introduction

Purpose.

The purpose of the Grants and Federal Funding Policies and Procedures, hereinafter as known as the “Policy” is to establish uniform administrative requirements, internal controls, and procurement procedures to maintain financial integrity and compliances as established by the terms and conditions of the grant awards. The process of grants administration and management is a critical and important function to the success of the City of Montgomery. The financial integrity of the City of Montgomery is of utmost importance, and adopting these policies is a key element to maintain this integrity. The regulatory provisions under which the Grants Department monitors for fiscal accountability and compliance are:

- The 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- Title 41 of the Alabama Code 41-16-1 to 41-16-144 Alabama Competitive Bid.
- Title 39 of the Alabama Code 39-1-1 to 39-6-2 Public Works Law.
- Terms and conditions of the assistance agreement.

Authority.

This Interim Grant and Federal Funding Policies and Procedure was adopted by the Grants Department on 09/30/2021. This policy will be updated quarterly until the final adoption effective 09/30/2022 and biennially thereafter. Updates in local, state, or federal regulation, will result in a policy letter being issued to remain in compliance, until the related update may be added at the subsequent revision.

Mission.

These policies are intended to foster exceptional stewardship of the public trust through rigorous adherence to ethical and professional standards associated with related grant activity. Adherence to these policies and procedures will promote efficiency, better transparency, greater accountability, a strategic approach to funding opportunities, and generally place the City in a more competitive position for securing grant funds.

Goals.

The goals of the Grants Department are to increase the City’s capacity to compete for grants and federal funding, promotion of collaborative efforts between citizens, departments, nonprofits, businesses, contractors, sub-recipients, and stakeholders, increase grant-related revenue, limit the City’s exposure to any grant-related legal liability, and improve the efficiency and impact of programs and services funded through grant dollars.

The Grants Department Responsibilities

The Grant Department is responsible for major grant-related functions:

1. Locating grant funding based on plans submitted to the department.
2. Acting as a central hub and liaison for the coordination of efforts amongst stakeholders.
3. Identify match and in-kind match funding sources.
4. Conduct monitoring, evaluations, risk assessments, technical assistance, and tracking to ensure fiscal and programmatic compliance.
5. Maintain Federal Funding Accountability and Transparency Act reporting.
6. Approve or deny grant and Federal funding procurement justifications.
7. Assistance with administering grants and Federal Funding for departments without appropriate management staff.
8. Update the public on grant-related matters.
9. Write and assist with grant applications to secure federal, state, local and, other sources of grant funding.
10. Maintain the grant database for all grants executed by the City.
11. Manage all Grants and Federal Funding.

City Departments Responsibilities

City Departments (“departments”) that apply for and utilize grant funds are responsible for all aspects of the grant process including:

1. Plan for grant acquisition, preparation, and submission of grant proposals.
2. Grant writing for department-specific or recurring grants.
3. Proper administration, implementation, management, and closeout of grant funding.
4. Prepare City Council agenda items required by the grant agreement or application.
5. Conduct public hearings and execute citizen participation to recognize the needs of citizens.
6. Prepare budget and programmatic revision requests
7. Preparing and submitting reports to Federal Awarding Agencies and the Grants Department
8. Provide all required and requested documentation related to the department and grants.
9. Remedy the outcomes of monitoring, risk assessments, and evaluations.
10. Retain grant documentation for five (5) years.

City Council Responsibilities

Based on documented citizen participation efforts, City Councilmembers may request consideration in the grant application process, to do so members must hold a public hearing then submit the following to the Director of Finance:

1. Letter of Consideration
 - a. Source documentation of pledged match or in-kind funds
2. Proof of advertisement for the public hearing
3. Public hearing minutes
4. Sign-in sheets from the public hearing
5. Supporting documentation of the citizen needs
6. Housing Rehabilitation Form (if applicable)
7. Consideration Summary Form
8. Beneficiary Survey (applicable if, area's census data does not reflect status)
9. Certification Form
10. Assurances Form
11. Estimated Cost

Chapter 1: Pre-Award

1.1 Planning and Design.

To coordinate grant activities effectively to support the City's strategic plans, departments must have a plan of prioritized needs that can potentially be met through grants or Federal funding. If no such departmental plan exists, the department must review the active comprehensive plan and initiatives set by the Mayor to create a grant-seeking plan.

1.1.1 Grant-Seeking Plan. The development of a departmental grant-seeking plan is to promote a strategic approach to locate grants. This knowledge will allow departments to identify the potential for parallel submissions, collaborate among departments, plan for submission of proposals to recurring grant opportunities, and assist with pre-positioning departments for the submission of applications to funding opportunities when they arise. The best practice is to utilize the results of the City's Comprehensive Plan to determine the needs to be addressed for your department.

Procedure:

- a. Each City department that seeks grant funding must produce a prioritized plan of department or division needs to the Grants Department that can potentially be met through grant funding annually.
- b. The plan must include:
 - a) Needs to be addressed,
 - b) proposed solutions and alternatives to resolve the needs,
 - c) estimated costs,
 - d) collaborators,
 - e) past efforts and results related to the plan,
 - f) audit and monitoring findings, and
 - g) action plans to resolve to findings.

1.1.2 Intent to Apply. A pre-application assessment and review should be conducted before pursuing a new or previously failed grant opportunity. The pre-application assessment shall be submitted at least five (5) business days in advance of the grant submission due date to avoid last-minute delays or problems that could cause the grant deadline to be missed.

Procedure:

- a. Notify the Grants Department of the intent to apply for a grant.
- b. Financial Pre-Application Assessment must include
 - i. Total anticipated project cost
 - ii. Match requirements and sources (if applicable)
 - iii. Program income (if applicable)
 - iv. Staffing requirements (including salary and benefits increases for multi-year grants)
 - v. Documentation of a clear continuation plan.
- c. Programmatic Pre-Application Assessment
 - i. Alignment with City's strategic priorities and the department's plan

- ii. Provision or expansion of services to address critical needs
- iii. Department's capacity to administer the financial and administrative aspects of the grant
- iv. Performance measures

1.2 Application.

The application process is described by the awarding agency. Non-governmental entities will provide in length the process to apply, administer, and closeout an award. Federal Agencies utilize standards as prescribed by the Office of Management and Budget (OMB), Federal Acquisition Regulations, and Federal regulations as described herein. The procedures must be combined with state and local laws and executed through the most restrictive rule of law.

1.2.1 Application Submission. The purpose of this policy is to ensure that each grant application submitted on behalf of the City is tracked through the grants management database. The department submitting the grant application is responsible for ensuring that pre-application assessment factors noted above have been evaluated and completed prior to submission.

Procedure:

- a. Application submissions must be reported to the Grants Department within five (5) business days.
- b. The Grants Department will confirm that the grant is recorded in the Grants Management Database.
- c. Departments must inform the Grants Department of application status updates as they become available.

1.3 Award and Acceptance of Funding

The City carries a significant legal and ethical responsibility when accepting grant funding. It is the City's responsibility to carry out the activities associated with a grant to accomplish its objectives while adhering to all the terms and conditions prescribed by the grantor. Failure to do so increases the City's exposure to legal liability and compromises current and future grant funding. The award notification, review, and acceptance process are as follows:

1.3.1 AWARD NOTIFICATION AND REVIEW PROCEDURE

- a. All departments that receive a grant award of any amount shall forward a copy of the award notification, the grant agreement or contract, and any associated memoranda of understanding to the Grants Department within five (5) business days of receipt.
- b. The recipient department is responsible for obtaining legal review and City Council approval if required.
- c. If funds awarded by the granting entity are reduced from those requested in the original grant application, or factors previously evaluated at the time of application have changed, departments must ensure that the goals, objectives and, evaluative components of the grant can still be accomplished within the prescribed timeframe set by the grantor.

- d. If award terms need to be amended before the grant award can be accepted, the department must negotiate with the grantor and obtain changes to the grant award in writing.
 - i. When the changes have been received in writing from the grantor, the department must submit the grant agreement or contract, any memoranda of understanding, and written changes from the grantor to the Grants Department within five (5) business days of receipt.
 - ii. If the award terms cannot be negotiated to the department's satisfaction, the Department Director must prepare a letter to the granting entity declining the award and provide a copy of the letter to the Grants Department. The letter should express the City's regret in declining the award and clearly articulate the specific reason(s) the award is being declined.
- e. Departments must ensure that grant records in the Grants Management Database are updated and complete at the time of the award.

Chapter 2: Post Award: Implementation & Administration

2.1 Performance Measures. The City must measure and report the performance of grant awards. Where appropriate, an award may include specific program goals, indicators, targets, baseline data, data collection, or expected outcomes with an expected timeline for accomplishment and reporting requirements. Performance measurements must be used to adapt the best practices for implementing grant activities. The awarding agency may also impose special conditions before or during the contract period based on performance and reporting, departments are responsible for satisfying these conditions. Refer to the terms and conditions of the award to determine performance measurement requirements.

2.1.1 Modifications to Period of Performance. If a Federal awarding agency or pass-through entity approves an extension, the period of performance will be amended to end at the completion of the extension. If termination occurs, the period of performance will be amended to end upon the effective date of termination. If a renewal award is issued, a distinct period of performance will begin. The Grants Department must be notified of any modifications to the period of performance.

2.2 Department File Management and Access

The Grants Department, Finance Director, City Council, as approved by the Mayor, auditors, and the funding agency may review the files associated with all activities, equipment, and facilities, and interview relevant personnel and contracted entities of any grant activities. Department files must maintain the following documentation:

- a. Award Terms and conditions
- b. Financial documentation
- c. Sub-recipient awards
- d. Environmental concurrences
- e. Environmental Assessments
- f. Monitoring results and findings
- g. Reporting documentation
- h. Equipment condition and location
- i. Disposition documentation
- j. Termination and Closeout information
- k. All grant documentation must be retained for five (5) years after the last action completed

2.2.1 Retention requirements for records.

Financial records, supporting documents, statistical records, and all other City records 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 City. The only exceptions are the following:

1. 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 is taken.
2. When the City 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.
3. Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.
4. 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 City.
5. 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 city's fiscal year in which the program income is earned.

2.3 Financial Management.

The City's financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award.

2.3.1 Cost-sharing or matching.

For all awards dependent on cost-sharing or match including cash and third-party in-kind contributions, documentation must be submitted to the Grants Department for approval, prior to obligation. Sources must be:

1. Verifiable from the city's records,
2. Are not included as contributions for any other Federal award,
3. Are necessary and reasonable for accomplishment of project or program objectives,
4. Are allowable,
5. Are not paid by the Federal Government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost-sharing requirements of other Federal programs; and
6. Are provided for in the approved budget when required by the awarding agency.

2.3.2 Revision of budget and program plans.

The approved budget for the grant award summarizes the financial aspects of the grant activities as approved in the award process. When changes revisions are vital, departments are required to

submit modifications of the budget, project scope, or objectives within five (5) business days after approvals from awarding agencies.

For non-construction Federal awards, recipient department must request prior approvals from Federal awarding agencies for the following program or budget-related reasons:

1. Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).
2. Change in a key person specified in the application or the Federal award.
3. The disengagement from the project for more than three months, or a twenty-five percent (25%) reduction in time devoted to the project, by the Department Director.
4. The inclusion, unless waived by the Federal awarding agency, of costs that require prior approval as applicable.
5. The transfer of funds budgeted for participant support costs to other categories of expense.
6. Unless described in the application and funded in the approved Federal awards, the sub awarding, transferring, or contracting out of any work under a Federal award. This provision does not apply to the acquisition of supplies, material, equipment, or general support services.
7. Changes in the approved cost-sharing or matching provided.
8. The need arises for additional Federal funds to complete the project.

For construction Federal awards, the recipient department must request prior written approval promptly from the Federal awarding agency for budget revisions whenever this section applies:

1. The revision results from changes in the scope or the objective of the project or program.
2. The need arises for additional Federal funds to complete the project.
3. A revision is desired which involves specific costs for which prior written approval requirements may be imposed.
4. When a Federal awarding agency makes a Federal award that provides support for construction and non-construction work, the Federal awarding agency may require the recipient department to obtain prior approval from the Federal awarding agency before making any fund or budget transfers between the two types of work supported.

2.4 Program Income

General. Departments are encouraged to earn income to defray program costs where appropriate.

Cost of generating program income. If authorized by Federal regulations or the Federal award, costs incidental to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the Federal award.

Governmental revenues. Taxes, special assessments, levies, fines, and other such revenues raised by the City are not program income unless the revenues are specifically identified in the Federal award or Federal awarding agency regulations as program income.

Property. Proceeds from the sale of real property, equipment, or supplies are not program income; such proceeds will be handled in accordance with the requirements of the Property Standards, or as specifically identified in Federal statutes, regulations, or the terms and conditions of the Federal award.

Use of program income. If the Federal awarding agency does not specify in its regulations or the terms and conditions of the Federal award or give prior approval for how program income is to be used, the following may apply:

Deduction. Ordinarily, program income must be deducted from total allowable costs to determine the net allowable costs. Program income must be used for current costs unless the Federal awarding agency authorizes otherwise. Program income that the City did not anticipate at the time of the Federal award must be used to reduce the Federal award and City contributions rather than to increase the funds committed to the project.

Addition. With prior approval of the Federal awarding agency program income may be added to the Federal award by the Federal agency and the City. The program income must be used for the purposes and under the conditions of the Federal award.

Cost-sharing or matching. With prior approval of the Federal awarding agency, program income may be used to meet the cost-sharing or matching requirement of the Federal award. The amount of the Federal award remains the same.

Income after the period of performance. There are no Federal requirements governing the disposition of income earned after the end of the period of performance for the Federal award unless the Federal awarding agency regulations or the terms and conditions of the Federal award provide otherwise.

2.5 Cost Principles

The department must perform a cost or price analysis in connection with every procurement action more than the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis are dependent on the facts surrounding the procurement situation, but as a starting point, the City must make independent estimates before receiving bids or proposals.

The department 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.

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. The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

The application of these cost principles is based on the fundamental premises that Departments:

- a. Are responsible for the efficient and effective administration of the Federal award through the application of sound management practices.
- b. Assumes responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award.
- c. In recognition of its own unique combination of staff, facilities, and experience, has the primary responsibility for employing whatever form of sound organization and management techniques necessary to assure proper and efficient administration of the Federal award.
- d. May not earn or keep any profit resulting from Federal financial assistance, unless explicitly authorized by the terms and conditions of the Federal award.

2.5.1 Factors affecting allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria to be allowable under Federal awards:

- a. Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- b. Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- c. Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the City.
- d. Be rendered consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances have been allocated to the Federal award as an indirect cost.
- e. Be determined in accordance with generally accepted accounting principles (GAAP)
- f. Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period.
- g. Be adequately documented.
- h. The cost must be incurred during the approved budget period.

Appendix II: Allowable Cost specifies the conditions in which specific costs are allowable.

2.5.2 Reasonable costs.

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 usual circumstances at the time. In determining the reasonableness of a given cost, consideration must be given to:

- a. Whether the cost is of a type generally recognized as ordinary and necessary for the operation and efficient performance of the Federal award.
- b. Market prices for comparable goods or services for the geographic area.
- c. Whether the Department significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.

2.5.3 Allocable and Allowable of Costs.

A cost is allocable to a Federal award if the goods or services involved are chargeable or assignable to that Federal award in accordance with relative benefits received. This standard is met if the costs:

- a. Are incurred specifically for the Federal award,
- b. Benefits both the Federal award and other work of the City and can be distributed in proportions that may be approximated using reasonable methods; and
- c. Are necessary to the overall operation of the department and is assignable in part to the Federal award in accordance with the principles in this subpart.

2.5.4 Direct costs.

General. Direct costs are costs that can be identified specifically with a final cost objective or costs that can be directly assigned to a grant related activity relatively easily with a high degree of accuracy.

Application to Federal awards. 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 of Federal awards. The salaries of administrative and clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate only if all the following conditions are met:

- a. Administrative or clerical services are integral to a project or activity.
- b. Individuals involved can be specifically identified with the project or activity.
- c. Such costs are explicitly included in the budget or have the prior written approval of the Federal awarding agency; and
- d. The costs are not also recovered as indirect costs.

Interagency service. The cost of services provided by one department to another within the City may include allowable direct costs of the service plus a pro-rated share of indirect costs. A standard indirect cost allowance equal to ten percent of the direct salary and wage cost of providing the service (excluding overtime and fringe benefits) may be used in lieu of determining the actual indirect costs of the service. These services do not include centralized services.

2.6 Procurement

To protect the integrity of the City, procurement procedures must be conducted fairly and ethically. All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open competition consistent with the standards of this section.

To ensure objective contractor performance and eliminate an unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids, and requests for proposals must be excluded from competing for such procurements. Restrictions of competition are not allowed. Some restrictions of competition include but are not limited to:

- a. Placing unreasonable requirements on firms for them to qualify to do business.
- b. Requiring unnecessary experience and excessive bonding.
- c. Noncompetitive pricing practices between firms or affiliated companies.
- d. Noncompetitive contracts to consultants that are on retainer contracts.
- e. Organizational conflicts of interest.
- f. Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- g. Any arbitrary action in the procurement process.

The City must conduct procurement 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. When contracting for architectural and engineering 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.

Also, architectural/engineering (A/E) contracts must be awarded via qualifications-based procurement whereby the offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where the price is not used as a selection factor, can only be used in the procurement of A/E professional services. It cannot be used to purchase other types of services through A/E firms that are a potential source to perform the proposed effort.

The procedures for procurement transactions must ensure that all solicitations:

Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. The description may include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

The City must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Departments must not preclude potential bidders from qualifying during the solicitation period.

2.6.1 Methods of procurement to be followed.

- a. **Informal procurement methods.** When the value of the procurement for property or services under a Federal award does not exceed the simplified acquisition threshold (SAT) of \$15,000, formal procurement methods are not required. The informal methods used for procurement of property or services at or below the SAT include:

1. **Micro-purchase awards** are awards under \$5,000. Micro-purchases may be awarded without soliciting competitive price or rate quotations.
 2. **Small purchase procedures.** Are awards between \$5,000-\$15,000. If small purchase procedures are used, price or rate quotations must be obtained from 3 qualified sources and submitted to the Grants Department with the invoice.
 3. Purchases may not be divided to reduce amounts to avoid the proper procurement procedure.
- b. **Formal procurement methods.** When the value of the procurement for any property or services under a Federal award exceeds the SAT of \$15,000, formal procurement methods are required and shall follow *Section 2.6.2 Formal Procurement Procedures*. The following formal methods of procurement are to be used:
1. **Request for (sealed) bids.** A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction.
 2. **Request for proposal.** A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids.
- c. **Non-competitive procurement.** There are specific circumstances in which noncompetitive procurement may be used. A written justification of noncompetitive procurement procedures must be approved by the Grants Department prior to procurement. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:
1. The item is available only from a single source.
 2. The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation.
 3. The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the City; or
 4. After solicitation of several sources, competition is determined inadequate.

2.6.2 Formal Procurement Procedures

1. **Request for Bid.** For sealed bidding to be feasible, the following conditions should be present:
 - a. Advertise open and competitive bids.
 1. Advertisement for Sealed Bids shall be advertised in The Montgomery Advertiser newspaper at least fourteen (14) days prior to the bid opening.
 2. Bids shall also be solicited by mailing notices to all persons who have filed a request stating that they are listed for solicitation on bids for the contracts indicated in the request. A copy of the current prevailing wage determination issued by the Department of Labor shall be included in each solicitation, if applicable.
 3. For all public works contracts involving an estimated amount of more than five hundred thousand dollars (\$500,000), Departments shall advertise for sealed bids at least once in three newspapers of general circulation throughout the state. The following newspapers will satisfy the requirement: Mobile Press-Register, The Birmingham News, TimesDaily, The Tuscaloosa News, The Dothan Eagle, The Decatur Daily, The Gadsden Times, and The Anniston Star.

4. The advertisements shall briefly describe:
 - i. Scope of the work,
 - ii. Plans and specifications location (physical and online),
 - iii. Procedure for obtaining plans and specifications,
 - iv. Time and place of bid opening,
 - v. Identify prequalification requirements, and
 - vi. Time and location of the public opening of the bid.
- b. Complete, adequate, and realistic plans, specifications, and prequalification information are available for prospective bidders.
- c. **Bid Opening.** All bids must be opened at the time and place prescribed in the solicitation for bids, minutes must be taken at the meeting. If a Pre-Bid meeting is held, it must be conducted at least seven (7) days prior to the bid opening.
- d. Two or more responsible bidders are willing and able to compete effectively for the business; and
- e. The procurement lends itself to a firm fixed-price contract and the selection of the successful bidder can be made principally based on price.

Contract Awarding. A firm fixed-price contract award must coincide with the advertisement of the Request for Bid and be made in writing to the lowest responsive and responsible bidder. Any or all bids may be rejected if there is a sound documented reason. Applicable contract provisions and clauses must be included in the contract. (See *Appendix I: Contract Clauses and Provisions*)

2. **Request for Proposal.** If proposals are used, the following advertisement requirements apply:
 - a. Advertise Request for proposals.
 1. Advertisement for proposals shall be advertised in The Montgomery Advertiser newspaper at least fourteen (14) days prior to the proposal due date.
 2. Proposals shall also be solicited by mailing notices to all persons who have filed a request stating that they are listed for solicitation on proposals for the contracts indicated in the request.
 3. For all public works contracts involving an estimated amount of more than five hundred thousand dollars (\$500,000), Departments shall advertise for proposals at least once in three newspapers of general circulation throughout the state. The following newspapers will satisfy the requirement: Mobile Press-Register, The Birmingham News, TimesDaily, The Tuscaloosa News, The Dothan Eagle, The Decatur Daily, The Gadsden Times, and The Anniston Star.
 4. The advertisements shall briefly describe:
 - i. Scope of work,
 - ii. Technical evaluations location (physical and online),
 - iii. Procedure for obtaining plans and specifications,
 - iv. Due date and location in which proposals shall be received and opened, and
 - v. Identify whether prequalification is required and where all written prequalification information is available for review.
 - b. Complete, adequate, and realistic plans and prequalification information is available.

- c. Two or more responsible contractors are willing and able to compete effectively for the business; and
- d. The procurement lends itself to a firm-fixed price contract and the selection of the successful proposal must be made based on the quality of services to be provided.

Contract Awarding. Contracts are awarded in accordance with the following requirements:

1. The results of the technical evaluations as described in the Request for Proposals.
2. Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the awarding department, with price and other factors considered; and
3. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination.
4. Applicable contract provisions and clauses must be included in the contract. (See *Appendix I: Contract Clauses and Provisions*)

Technical Evaluations. Contracts are awarded based on the technical evaluations presented to prospective contractors. The evaluations must measure the following:

1. Specialized expertise, capabilities, and technical competence, as demonstrated by the proposed approach and methodology to meet project requirements,
2. Resources available to perform the work, including any specialized services within the specified time limits for the project,
3. Record of past performance, quality of work, ability to meet schedules, cost control, and contract administration,
4. Availability to and familiarity with the project locale,
5. Proposed project management techniques, and
6. Ability and proven history in handling special project contracts.

2.6.3 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

Departments and 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. As a part of the Small and Minority Business Initiative, the adoption of Resolutions 63-2021, an administrative plan for adopting a 30% Minimum Goal for Disadvantaged, Minority, and Women-owned Business Enterprise participation in the City of Montgomery Government Construction and Professional Services Contracts.

Affirmative steps necessary to assure compliance include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists; Alabama Office of Minority Business Enterprise (OMBE)
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources, Alabama Small Business Development Center, Alabama Department of Transportation Disadvantaged Business Enterprise Program.
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 this section.
7. Providing the City of Montgomery, Alabama Equal Employment Opportunity Contractor Compliance Policy to prospective contractors.
8. Contractors must sign the City of Montgomery Equal Employment Opportunity Certification form.

2.6.4 Bonding Requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold of \$15,000, the minimum bid requirements are:

- a. A bid guarantee from each bidder is 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.
- b. A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure the fulfillment of all the contractor's requirements under such contract.
- c. A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by the law for all persons supplying labor and material in the execution of the work provided for in the contract.

2.6.5 Bid Proceeding.

Approval of bonds and completion of execution of contracts by awarding departments.

The awarding department shall approve the contractor's bonds and evidence of insurance, as well as complete the execution of the contract, within 20 days after their presentation by the contractor unless the successful contractor agrees in writing to a longer period.

Issuance of proceeding orders by awarding departments.

A proceed order shall be issued by the awarding authority within 15 days after the final execution of the contract by the awarding department.

Effect of errors and discrepancies in prices in bids.

In case of an error in quoted prices in a bid, the unit price will govern. In case of discrepancy between the prices shown in the figures and words, the words will govern.

Proceedings upon failure of successful bidders to execute contracts and furnish bonds.

Should the successful bidder or bidders to whom a contract is awarded fail to execute a contract and furnish acceptable contract securities and evidence of insurance as required by law within the period, the awarding department shall retain from the proposal guaranty, if it is a cashier's check, or recover from the principal or the sureties if the guaranty is a bid bond, the difference between the amount of the contract as awarded and the amount of the proposal of the next lowest bidder. If no other bids are received, the full amount of the proposal guaranty shall be so retained or recovered as liquidated damages for such default. Any sums so retained or recovered shall be the property of the City of Montgomery.

Death of a low bidder.

In the event of the death of a low bidder between the date of the bid opening and fifteen (15) days after the date of the contract award, the awarding department shall return the proposal guaranty intact to the estate of the deceased low bidder.

Effect of failure of awarding department to complete execution of contracts and issue proceed orders.

Failure by the awarding department to complete the execution of a contract and to issue a proceed order shall just cause, unless both parties agree in writing to a stipulated extension in time for issuance of a proceed order, for the withdrawal of the contractor's bid and contract without forfeiture of the certified check or bond.

Withdrawal of low bid upon discovery of a mistake.

If the low bidder discovers a mistake in its bid rendering a price substantially out of proportion to that of other bidders, the low bidder may seek withdrawal of its bid without forfeiture upon written notice to the awarding authority within three (3) business days after the opening of bids whether the award has been made. If the low bidder offers clear and convincing documentary evidence, that it made such a mistake due to calculation or clerical error, an inadvertent omission, or a typographical error, as soon as possible, but no later than three (3) business days after the bid opening, the awarding department shall permit withdrawal without forfeiture. The decision of the awarding department shall be made within ten (10) days after receiving evidence. In no event shall a mistake of law, judgment, or opinion constitute a valid ground for the withdrawal of a bid without forfeiture. Upon withdrawal of bid without forfeiture, the bidder shall be prohibited from:

- (1) doing any work on the contract, either as a subcontractor or in any other capacity, and
- (2) bidding on the same project if it is re-advertised for letting.

2.7 Property Standards

This section will cover property that is Federally owned-exempt, intangible, equipment, and requirements of insurance, and disposition.

2.7.1 Insurance coverage. The City must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds to property owned by the City. Federally owned property need not be insured unless required by the terms and conditions of the Federal award.

2.7.2 Real property.

Title. Subject to the requirements and conditions outlined in this section, title to real property acquired or improved under a Federal award will vest upon acquisition in the City.

Use. Except as otherwise provided by Federal statutes or by the Federal awarding agency, real property will be used for the originally authorized purpose if needed for that purpose, during which time the City must not dispose of or encumber its title or other interests.

Disposition. When real property is no longer needed for the originally authorized purpose, the City must obtain disposition instructions from the Federal awarding agency or pass-through entity. Departments must submit a Disposition Form to the Grants Department and Procurement Department prior to disposition. Possibilities for disposition include:

1. Retain title after compensating the awarding agency.
2. Sell the property and compensate the awarding agency.
3. Transfer title to the awarding agency or a third party designated/approved by the awarding agency.

2.7.3 Federally owned and exempt property.

Title to the federally owned property remains vested in the Federal Government. Departments must submit annually an inventory listing of federally-owned property in its custody to the Federal awarding agency every fiscal year ending on September 30th, by October 10th. Upon completion of the Federal award or when the property is no longer needed, Departments must report the property to the Federal awarding agency for further Federal agency utilization.

Exempt property means property acquired under a Federal award where the Federal awarding agency has chosen to vest title to the property to the City without further responsibility to the Federal Government, based upon the explicit terms and conditions of the Federal award.

2.7.4 Equipment.

Title. Subject to the requirements and conditions outlined in this section, title to equipment acquired under a Federal award will vest upon acquisition in the City. Unless a statute specifically authorizes the Federal agency to vest title in the City without further responsibility to the Federal Government, and the Federal agency elects to do so, the title must be conditional. Title must vest in the City subject to the following conditions:

1. Use the equipment for the authorized purposes of the project during the period of performance, or until the property is no longer needed for the project.

2. Not encumber the property without approval of the Federal awarding agency or pass-through entity.
3. Use and dispose of the property per this section.

Use. Equipment must be used by the City in the program or project for which it was acquired if needed, whether the project or program continues to be supported by the Federal award, and the City must not encumber the property without prior approval of the Federal awarding agency. When no longer needed for the original program or project, the equipment may be used in other activities supported by the Federal awarding agency, in the following order of priority:

1. Activities under a Federal award from the same Federal awarding agency which funded the original program or project, then
2. Activities under Federal awards from other Federal awarding agencies. This includes consolidated equipment for information technology systems.

Replacement. When acquiring replacement equipment, the City may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

Management requirements. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award, until disposition takes place will, as a minimum, meet the following requirements:

1. Property records must be maintained using the Inventory and Reporting Form and Disposition Form.
2. A physical inventory of the property must be taken by the Grants Department, and the results reconciled with the property records at least once every two years.
3. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.

Disposition. Otherwise provided in Federal statutes, regulations, or Federal awarding agency disposition instructions, the City must request disposition instructions from the Federal awarding agency if required by the terms and conditions of the Federal award. Disposition of the equipment will be made as follows, per the Federal awarding agency disposition instructions:

1. Items of equipment with a current per unit fair market value of \$5,000 or less may be retained, sold, or otherwise disposed of with no further responsibility to the Federal awarding agency.
2. If the Federal awarding agency fails to provide requested disposition instructions within 120 days, items of equipment with a current per-unit fair market value of more than \$5,000 may be retained by the City or sold. The Federal awarding agency is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the Federal awarding agency's percentage of participation in the cost of the original purchase. If the equipment is sold, the Federal awarding agency may permit the City to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses.
3. The City may transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the City must be entitled to compensation for its attributable percentage of the current fair market value of the property.

2.7.5 Supplies.

Title. 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.

2.7.6 Intangible property.

Title. Title to intangible property acquired under Federal awards vest upon acquisition in the City. The City must use that property for the originally authorized purpose and must not encumber the property without approval of the Federal awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property must occur in the same manner as the disposition of equipment

Use. The City may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. The Federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

The City is subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at [37 CFR part 401](#), “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Awards, Contracts and Cooperative Agreements.”

The Federal Government has the right to:

1. Obtain, reproduce, publish, or otherwise use the data produced under a Federal award; and
2. Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

In response to a Freedom of Information Act (FOIA) request for research data relating to published research findings produced under a Federal award that were used by the Federal Government in developing an agency action that has the force and effect of law, the Federal awarding agency must request, and the City must provide, within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA.

Published research findings mean when:

1. Research findings are published in a peer-reviewed scientific or technical journal; or
2. A Federal agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law. “Used by the Federal Government in developing an agency action that has the force and effect of law” is defined as when an agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law.

Research data means the recorded factual material commonly accepted in the scientific community as necessary to validate research findings, but not any of the following: Preliminary analyses, drafts of scientific papers, plans for future research, peer reviews, or communications with colleagues. This “recorded” material excludes physical objects (*e.g.*, laboratory samples). Research data also do not include:

1. Trade secrets, commercial information, materials necessary to be held confidential by a researcher until they are published, or similar information which is protected under law; and
2. Personnel and medical information and similar information the disclosure of which would constitute an unwarranted invasion of personal privacy, such as information that could be used to identify a person in a research study.

2.8 Remedies for Noncompliance.

If the City fails to comply with the U.S. Constitution, Federal statutes, State regulations or the terms and conditions of the award, the Federal awarding agency or pass-through entity may impose additional conditions. If the Federal awarding agency or pass-through entity determines that non-compliance cannot be remedied by imposing additional conditions, the Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

- a. Temporarily withhold cash payments pending correction of the deficiency by the City or more severe enforcement action by the awarding agency or pass-through entity.
- b. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- c. Wholly or partly suspend or terminate the Federal award.
- d. Initiate suspension or debarment proceedings and Federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).
- e. Withhold further Federal awards for the project or program.
- f. Take other remedies that may be legally available.

2.9 Technical Assistance

Technical assistance (TA) is a resource to aid in building departmental capacity to implement and manage grants and Federal funds to ensure compliance. Technical assistance may be requested by departments or required by the Grants Department due to discoveries of noncompliance. Technical assistance includes but is not limited to the following areas:

1. Noncompliance based on:
 - a. Audit findings,
 - b. Monitoring findings,
 - c. Missed or late reporting,
 - d. Lack of property management,
 - e. Risk assessments,

- f. Subrecipients;
- 2. Assistance for:
 - a. Previously failed grant applications,
 - b. Planning and design,
 - c. Implementation and management; and
- 3. Any area concerning the administration of grant and federal funding.

Chapter 3. Grant and Federal Funding Oversight

The purpose of this policy is to ensure that all grant-funded programs or projects are managed according to the terms and conditions of the grant agreement, applicable local, state, and Federal regulations. The grant oversight process has three components:

1. Subrecipient and contract oversight,
2. monitoring, and
3. reporting.

3.1 Subrecipient and Contract Oversight.

All grant recipient departments acting as a pass-through entity are responsible for the oversight of subrecipients and contractors throughout the period of performance to ensure compliance. This oversight includes but is not limited to:

1. Ensure compliance with applicable laws, regulations, and terms and conditions of the award accepted by the department.
2. Attainment of performance and financial goals.
3. Timely and adequate financial and performance reporting.
4. Monitoring for improvement of performance, efficiency, and outcomes.

3.1.1 Pre-Award

Risk Assessment. Departments must 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 in this section, which may include consideration of such factors as:

- a. The subrecipient's prior experience with the same or similar subawards.
- b. The results of previous audits including whether the subrecipient receives a Single Audit, and the extent to which the same or similar subaward has been audited as a major program;
- c. Whether the subrecipient has new personnel or organization structure, substantially changed accounting systems, inadequate internal controls;
- d. The extent and results of Federal awarding agency monitoring (*e.g.*, if the subrecipient also receives Federal awards directly from a Federal awarding agency); and
- e. Consider imposing specific subaward conditions upon a subrecipient if appropriate.

3.1.2 Post-Award

Monitoring. Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and those subaward performance goals are achieved. Pass-through department monitoring of the subrecipient must include:

- a. Reviewing and tracking financial and performance procedures and results to ensure compliance.
- b. Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the award provided to the subrecipient from the pass-through department detected through audits, on-site reviews, and written confirmation from the subrecipient, highlighting the status of actions planned or taken to address Single Audit findings related to the subaward.
- c. Depending upon the pass-through department's assessment of the risk posed by the subrecipient, the following monitoring tools may be useful for the pass-through department to ensure proper accountability and compliance with program requirements and achievement of performance goals:
 1. Providing subrecipients with training and technical assistance on program-related matters;
 2. Performing on-site reviews of the subrecipient's program operations; and
 3. Arranging for agreed-upon-procedures engagements.
- d. Verify that every subrecipient is audited as required when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold.
- e. Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through department's own records.
- f. Consider taking enforcement action against non-compliant subrecipients.

Noncompliance. If the subrecipient or contractor fails to comply with the U.S. Constitution, Federal statutes, State regulations, or the terms and conditions of the award, the department may impose additional conditions. If the department determines that non-compliance cannot be remedied by imposing additional conditions, one or more of the following actions may be taken, as appropriate in the circumstances:

- a. Temporarily withhold cash payments pending correction of the deficiency by the City or more severe enforcement action by the awarding agency or pass-through entity.
- b. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- c. Wholly or partly suspend or terminate the award.
- d. Initiate suspension or debarment proceedings and awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).
- e. Withhold further awards for the project or program.
- f. Take other remedies that may be legally available.

Reporting. In accordance with statutory requirements for Federal spending transparency (*e.g.*, FFATA), departments must announce all Federal awards publicly and publish the required information on the publicly available OMB-designated governmentwide website. (See 3.2.5 Public access to Federal award information.)

3.1.3 Closeout.

A subrecipient must submit to the pass-through department, no later than 90 calendar days (or an earlier date as agreed upon by the pass-through department and subrecipient) after the end date of the period of performance, all financial, performance, and other reports and documentation as required by the terms and conditions of the Federal award. Departments must obtain final performance reports and retain source documentation as required by law.

3.2 Reporting.

3.2.1 Program performance reports. When providing financial and performance reporting information, departments must relate financial data and accomplishments to performance goals and objectives of the award, and when required by the terms and conditions of the award, recipients must provide cost information to demonstrate cost-effective practices.

3.2.2 Non-construction performance reports. The City must submit performance reports at the interval required by the awarding agency or pass-through entity to best inform improvements in program outcomes and productivity. Intervals must be no less frequent than annually nor more frequent than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the award or could significantly affect program outcomes.

As appropriate in accordance with the above-mentioned performance reporting, these reports will contain, for each award, brief information on the following, unless other data elements are requested:

1. A comparison of actual accomplishments to the objectives of the award established for the period. Where the accomplishments of the award can be quantified, a computation of the cost (for example, related to units of accomplishment) may be required if that information will be useful.
2. The reasons why established goals were not met, if appropriate.
3. Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

3.2.3 Construction performance reports. For the most part, onsite technical inspections and certified percentage of completion data are relied on heavily by awarding agencies and pass-through entities to monitor progress under awards for construction. The awarding agency may require additional performance reports only when considered necessary.

3.2.4 Significant developments. Events may occur between the scheduled performance reporting dates that have a significant impact upon the supported activity. In such cases, the City must inform the 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 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.

3.2.5 Public access to Federal award information.

1. In accordance with statutory requirements for Federal spending transparency (*e.g.*, FFATA), departments must announce all Federal awards publicly and publish the required information on the publicly available OMB-designated governmentwide website. This requirement is met by providing the following prime and sub awardee information to the Grants Department within five (5) business days of the subrecipient award for reporting:
 - a. FAIN (Federal Award Identifier Number)
 - b. Name of subrecipient
 - c. Amount awarded to subrecipient
 - d. Date the amount was awarded
 - e. Project description
 - f. DUNS
 - g. DUNS +4
 - h. Place of performance address
 - i. Include the nine-digit zip-code to identify the Congressional District
 - i. Compensation of the top 5 highly compensated officers of the entity, if:
 - i. 80% or more of the annual gross revenues are from federal contracts, subcontracts, loans, grants, sub-grants, and cooperative agreements, and
 - ii. The entity has \$25,000,000 or more in annual gross revenues from Federal contracts, subcontracts, loans, grants, sub-grants, and cooperative agreements.
2. Signed certifications must be on file.
3. The City must disclose, 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. The City is required to report certain civil, criminal, or administrative proceedings to SAM.

3.2.6 Reporting on real property.

The City must 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 awarding agency or pass-through entity, at its option, may require the City to report at various multi-year frequencies (*e.g.*, every two years or every three years, not to exceed a five-year reporting period, or an 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).

3.2.7 Term and Condition for Recipient Integrity and Performance Matters

A. Reporting of Matters Related to Recipient Integrity and Performance

1. **General Reporting Requirement.** If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information

System (FAPIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

2. **Proceedings About Which You Must Report.** Submit the information required about each proceeding that:
 - a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government.
 - b. Reached its final disposition during the most recent five-year period; and
 - c. Is one of the following:
 - i. A criminal proceeding that resulted in a conviction.
 - ii. A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.
 - iii. An administrative proceeding, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages more than \$100,000; or
 - iv. Any other criminal, civil, or administrative proceeding if:
 - a) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
 - b) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.
3. **Reporting Procedures.** Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.
4. **Reporting Frequency.** During any period when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five-year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.
5. **Definitions.** For purposes of this award term and condition:
 - a. Administrative Proceeding means a non-judicial process that is adjudicatory in nature to decide of fault or liability (*e.g.*, Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals Proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with the performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

- b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea and includes a conviction entered upon a plea of nolo contendere.
- c. The total value of currently active grants, cooperative agreements, and procurement contracts includes -
 - i. Only the Federal share of the funding under any Federal award with a recipient cost share or match; and
 - ii. The value of all expected funding increments under a Federal award and options, even if not yet exercised.

3.3 Monitoring.

Departments are responsible for oversight of the operations of the Federal award-supported activities. The Departments must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the Department must cover each program, function, or activity. Every Department that receives Federal Funding will be monitored by the Grants Department, to ensure compliance, check internal controls, assess risks, and improve Best Practices. Inefficiencies in the departments must be addressed within 3 months, depending on the severity of the inefficiency.

Chapter 4: Termination & Closeout

4.1 Termination.

1. The Federal award may be terminated in whole or in part as follows:
 - a. By the Federal awarding agency or pass-through entity if:
 - i. The City fails to comply with the terms and conditions of a Federal award,
 - ii. To the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities,
 - iii. With the consent of the City, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated, or
 - iv. In pursuant to termination provisions included in the Federal award.
 - b. By the City upon sending to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entirety.
2. When a Federal awarding agency terminates an award prior to the end of the period of performance due to the city's material failure to comply with the award terms and conditions, the awarding agency will report the termination to the OMB-designated integrity and performance system accessible through SAM.
 - a. The information is not to be reported to the designated integrity and performance system until the City either:
 - i. Has exhausted its opportunities to object or challenge the decision, or
 - ii. Has not, within 30 calendar days after being notified of the termination, informed the Federal awarding agency that it intends to appeal the Federal awarding agency's decision to terminate.
 - b. If a Federal awarding agency, after entering information into the designated integrity and performance system about a termination, subsequently:
 - i. Learns that any of that information is erroneous, the Federal awarding agency must correct the information in the system within three business days.
 - ii. Obtains an update to that information that could be helpful to other Federal awarding agencies, the Federal awarding agency is strongly encouraged to amend the information in the system to incorporate the update in a timely way.
 - c. If the City asserts within seven (7) calendar days to the Federal awarding agency who posted the information, that some of the information made publicly available is covered by a disclosure exemption under the Freedom of Information Act, the Federal awarding agency who posted the information must remove the posting within seven (7) calendar days of receiving the assertion. Prior to reposting the releasable information, the Federal agency must resolve the issue in accordance with the agency's Freedom of Information Act procedures.
 - d. When a Federal award is terminated or partially terminated, both the Federal awarding agency or pass-through entity and the City remain responsible for compliance.

4.1.1 Notification of termination requirement.

1. The Federal agency or pass-through entity must provide to the City notice of termination.
2. If the Federal award is terminated for the city's material failure to comply with the U.S. Constitution, Federal statutes, regulations, or terms and conditions of the Federal award, the notification must state that -
 - a. The termination decision will be reported to the OMB-designated integrity and performance system accessible through SAM.
 - b. The information will be available in the OMB-designated integrity and performance system for a period of five years from the date of the termination, then archived.
 - c. Federal awarding agencies that consider making a Federal award to the City during that five-year period must consider that information in judging whether the City is qualified to receive the Federal award when the Federal share of the Federal award is expected to exceed the simplified acquisition threshold over the period of performance;
 - d. The City may submit comments through SAM, on any information the OMB-designated integrity and performance system contains about the City for future consideration by Federal awarding agencies.
 - e. Federal awarding agencies will consider City comments when determining whether the City is qualified for a future Federal award.

4.1.2 Opportunities to object, hearings, and appeals.

Upon taking any remedy for non-compliance, the City has an opportunity to object and provide information and documentation challenging the suspension or termination action, in accordance with written processes and procedures published by the Federal awarding agency.

4.1.3 Effects of suspension and termination.

Costs to the City resulting from financial obligations incurred by the City during a suspension or after the termination of a Federal award or subaward are not allowable unless the Federal awarding agency or pass-through entity expressly authorizes them in the notice of suspension or termination or subsequently. However, costs during suspension or after termination are allowable if:

1. The costs result from financial obligations which were properly incurred by the City before the effective date of suspension or termination, are not in anticipation of it; and
2. The costs would be allowable if the Federal award was not suspended or expired normally at the end of the period of performance in which the termination takes effect.

4.2 Closeout.

The Federal awarding agency or pass-through entity will close out the Federal award when it determines that all applicable administrative actions and all required work of the Federal award have been completed by the City. If the City fails to complete the requirements, the Federal awarding agency or pass-through entity will proceed to close out the Federal award with the information available. This section specifies the actions the City and Federal awarding agency or pass-through entity must take to complete this process at the end of the period of performance.

1. The city must submit, no later than 120 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award.
2. Unless the Federal awarding agency or pass-through entity authorizes an extension, the City must liquidate all financial obligations incurred under the Federal award no later than 120 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award.
3. The Federal awarding agency or pass-through entity must make prompt payments to the City for costs meeting the requirements under the Federal award being closed out.
4. The City must promptly refund any balances of unobligated cash that the Federal awarding agency or pass-through entity paid in advance or paid and that are not authorized to be retained by the City for use in other projects.
5. Consistent with the terms and conditions of the Federal award, the Federal awarding agency or pass-through entity must make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.
6. The City must account for any real and personal property acquired with Federal funds or received from the Federal Government.
7. When the City completes all closeout requirements, the Federal awarding agency or pass-through entity must promptly complete all closeout actions for Federal awards.
8. If the City does not submit all reports in accordance with this section and the terms and conditions of the Federal Award, the Federal awarding agency must proceed to close out with the information available within one year of the period of performance end date.
9. If the City does not submit all reports in accordance with this section within one year of the period of performance end date, the Federal awarding agency must report the city's material failure to comply with the terms and conditions of the award with the OMB-designated integrity and performance system (currently FAPIIS).
10. The City must certify in writing to the Federal awarding agency or pass-through entity at the end of the Federal award that the project or activity was completed, or the level of effort was expended. If the required level of activity or effort was not carried out, the amount of the Federal award must be adjusted.

4.2.1 Post-closeout adjustments and continuing responsibilities.

1. The closeout of a Federal award does not affect any of the following:
 - a. The right of the Federal awarding agency or pass-through entity to disallow costs and recover funds based on a later audit or another review. The Federal awarding agency or pass-through entity must make any cost disallowance determination and notify the City within the record retention period.
 - b. The requirement for the City to return any funds due because of later refunds, corrections, or other transactions including final indirect cost rate adjustments.
 - c. The ability of the Federal awarding agency to make financial adjustments to a previously closed award such as resolving indirect cost payments and making final payments.
 - d. Audit requirements.
 - e. Property management and disposition requirements.
 - f. Records retention as required by the grant.

2. After closeout of the Federal award, a relationship created under the Federal award may be modified or ended in whole or in part with the consent of the Federal awarding agency or pass-through entity and the City, provided the responsibilities of the City referred to in paragraph (a) of this section, including those for property management as applicable, are considered and provisions made for continuing responsibilities of the City, as appropriate.

4.2.2 Collection of amounts due.

1. Any funds paid to the City more than the amount to which the City 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:
 - a. Making an administrative offset against other requests for reimbursements.
 - b. Withholding advance payments otherwise due to the City; or
 - c. Other action permitted by Federal statute.
2. 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.

Appendix I: Contract Clauses.

In addition to other provisions required by the Federal agency, all contracts made by and to the City under the Federal award must contain clauses covering the following, as applicable.

The Age Discrimination Act of 1975. Prohibits discrimination based on age in programs and activities receiving federal financial assistance. The Act, which applies to all ages, permits the use of certain age distinctions and factors other than age that meet the Act's requirements.

The Age Discrimination in Employment Act of 1967(\$2,000 or more). Prohibits employment discrimination against persons 40 years of age or older.

Amendment Clause. This clause stated that a contract may be amended only by mutual agreement in writing, signed by the Department head and the Contractor, and processed through and approved by all necessary authorities.

Anti-Kickback Act. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act, as supplemented by Department of Labor regulations, ("Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

Audits. Requirements per the awarding agency.

The Beason-Hammon Alabama Taxpayer & Citizen Protection Act (Act 2011-535). Requires that beginning April 1, 2012, all employers within the State of Alabama verify the legal presence of their employees, departments must maintain a copy of the Certification of Compliance.

Byrd Anti-Lobbying Amendment. Contractors that apply for or receive an award 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. 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. Anti-Lobbying certification must be signed and on file with the contract, proposal, or bid.

Certification of Non-segregated Facilities. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilets and necessary changing facilities shall be provided to assure privacy between the sexes.

Civil Rights Requirements. A. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. ("Title VI") Title VI prohibits discrimination based on race, color, or national origin in any program or activity that receives Federal funds or other Federal financial assistance.

Clean Air Act and the Federal Water Pollution Control Act. Contracts and subgrants of amounts more than \$100,000 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 and the Federal Water Pollution Control Act as amended.

Conflict of interest. The Federal awarding agency must establish conflict of interest policies for Federal awards. 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.

Contract Work Hours and Safety Standards Act. Where applicable, all contracts awarded by the City more than \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with the Act, each contractor must be required to compute the wages of every mechanic and laborer based on a standard workweek of 40 hours. Work more than the standard workweek 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 more than 40 hours in the workweek. The requirements are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions that 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.

Davis-Bacon Act. When required by Federal program legislation, all prime construction contracts more than \$2,000 awarded by City must include a provision for compliance with the Davis-Bacon Act, in accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week

Debarment and Suspension. A contract must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines that implement Executive Orders 12549, "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Active SAM.gov registration and DUNS number documentation must be on file before contracting.

Discrimination Clause. The contractor will comply with Titles IV, VI, and VII of the Civil Rights Act of 1964, the Federal Age Discrimination in Employment Act, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and all applicable Federal and State laws, rules and regulations implementing the foregoing statutes with respect to nondiscrimination on the basis of race, creed, color, religion, national origin, age, sex, or disability, as defined in the above laws and regulations. The contractor shall not discriminate against any otherwise qualified disabled applicant for, or recipient of aid, benefits, or services or any employee or person based on physical or mental disability in accordance with the Rehabilitation Act of 1973 or the Americans With Disabilities Act of 1990.

Domestic Preferences for Procurements. As appropriate and to the extent consistent with law, the City should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States

(including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

E-Verify MOU. Title IV, Subtitle A, of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996; The Federal Acquisition Regulation (FAR) Subpart 22.18, “Employment Eligibility Verification” and Executive Order 12989, as amended, provide authority for Federal contractors and subcontractors to use E-Verify to verify the employment eligibility of certain employees working on Federal contracts.

Equal Employment Opportunity. All contracts must include the equal opportunity clause provided, 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, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

The Executive Order 11246. Prohibits federal contractors and federally-assisted construction contractors and subcontractors, who do over \$10,000 in Government business in one year from discriminating in employment decisions based on race, color, religion, sex, sexual orientation, gender identity, or national origin. The Executive Order also requires Government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment. Additionally, Executive Order 11246 prohibits federal contractors and subcontractors from, under certain circumstances, taking adverse employment actions against applicants and employees for asking about, discussing, or sharing information about their pay or the pay of their co-workers.

Fair Labor Standards Provisions. The FLSA sets minimum wage, overtime pay, recordkeeping, and youth employment standards for employment subject to its provisions. Unless exempt, covered employees must be paid according to the Wage Determination for the project and not less than one and one-half times their regular rates of pay for overtime hours worked.

Goals for Minority and Female Participation Equal Opportunity Clauses. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract more than \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted. Female participation goal is always 6.9%.

Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain.
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As

described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions, and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

Retention Requirements for Records. Financial records, supporting documents, statistical records, audits, inspections, access to records, and all other City records pertinent to a Federal award must be retained for a period of five 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.

Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” and the City 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, “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.

Section 3 Compliance and Plan. The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent possible, provide training, employment, contracting, and other economic opportunities to low- and very low-income persons, especially recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons. If a recipient of government assistance for housing or if a household income falls below HUD's income limits, the may qualify as a Section 3 resident or Section 3 business concern.

Section 109 of the Housing & Community Development (HCD) Act of 1974, Title I. Prohibits discrimination based on race, color, national origin, disability, age, religion, and sex within Community Development Block Grant (CDBG) programs or activities.

Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974. Prohibits discrimination against any employee or applicant for employment because he or she is a Special Disabled or Vietnam Era Veteran regarding any position for which the employee or applicant for employment is qualified.

Section 504 of the Rehabilitation Act of 1973 (\$2,500 or more). It prohibits discrimination against people with disabilities in programs that receive federal financial assistance and set the stage for the enactment of the Americans with Disabilities Act.

Solid Waste Disposal Act. The City 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) 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.

Termination for Cause (Breach of Contract), and Termination for Convenience. All contracts more than \$10,000 must address termination for cause and termination for convenience by the City including how it will be affected and the basis for settlement.

The Uniformed Services Employment and Reemployment Rights Act (USERRA). Requires employers to provide to employees notice of their rights, benefits, and obligations under USERRA. Employers may provide the required notice by distributing it or posting it where employee notices are customarily placed.

Appendix II: Allowable Cost

Advertising and public relations.

The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television, direct mail, exhibits, electronic or computer transmittals, and the like. The only allowable advertising costs are those which are solely for:

1. The recruitment of personnel required by the City for the performance of a Federal award.
2. The procurement of goods and services for the performance of a Federal award.
3. The disposal of scrap or surplus materials acquired in the performance of a Federal award except when the City is reimbursed for disposal costs at a predetermined amount; or
4. Program outreach and other specific purposes necessary to meet the requirements of the Federal award.

The term “public relations” includes community relations and means those activities dedicated to maintaining the image of the City or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public. The only allowable public relations costs are:

1. Costs specifically required by the Federal award.
2. Costs of communicating with the public and press pertaining to specific activities or accomplishments which result from the performance of the Federal award (these costs are considered necessary as part of the outreach effort for the Federal award); or
3. Costs of conducting general liaison with news media and government public relations officers, to the extent that such activities are limited to communication and liaison necessary to keep the public informed on matters of public concern, such as notices of funding opportunities, financial matters, etc.

Unallowable advertising and public relations costs include the following:

1. Costs of meetings, conventions, convocations, or other events related to other activities of the entity including:
 - a. Costs of displays, demonstrations, and exhibits.
 - b. Costs of meeting rooms, hospitality suites, and other special facilities used in conjunction with shows and other special events; and
 - c. Salaries and wages of employees engaged in setting up and displaying exhibits, making demonstrations, and providing briefings.
2. Costs of promotional items and memorabilia, including models, gifts, and souvenirs.
3. Costs of advertising and public relations designed solely to promote the City.

Advisory councils.

Costs incurred by advisory councils or committees are unallowable unless authorized by statute, the Federal awarding agency, or as an indirect cost where allocable to Federal awards

Alcoholic beverages.

Costs of alcoholic beverages are unallowable.

Audit services.

A reasonably proportionate share of the costs of audits required by, and performed in accordance with, the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507), as implemented by requirements of this part, are allowable.

Bad debts.

Bad debts (debts which have been determined to be uncollectable), including losses (whether actual or estimated) arising from uncollectable accounts and other claims, are unallowable. Related collection costs, and related legal costs, arising from such debts after they have been determined to be uncollectable are also unallowable.

Bonding costs.

Bonding costs arise when the Federal awarding agency requires assurance against financial loss to itself or others by reason of the act or default of the City. They arise also in instances where the City requires similar assurance, including bonds as bid, performance, payment, advance payment, infringement, and fidelity bonds for employees and officials.

Costs of bonding required pursuant to the terms and conditions of the Federal award are allowable.

Costs of bonding required by the City in the general conduct of its operations are allowable as an indirect cost to the extent that such bonding is in accordance with sound business practices and the rates and premiums are reasonable under the circumstances.

Collections of improper payments.

The costs incurred by the City to recover improper payments are allowable as either direct or indirect costs, as appropriate. Amounts collected may be used by the City in accordance with cash management standards.

Compensation - personal services.

General. 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. 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; and

(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.

Reasonableness. Compensation for employees engaged in work on Federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the City. In cases where the kinds of employees required for Federal awards are not found in the other activities of the City, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the City competes for the kind of employees involved.

Professional activities outside the City. Unless an arrangement is specifically authorized by a Federal awarding agency, the City must follow its written policies and practices concerning the permissible extent of professional services that can be provided outside the City for non-organizational compensation. Where such 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) City 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.

Unallowable costs.

(1) Costs which are unallowable under other sections of these principles must not be allowable under this section solely on the basis that they constitute personnel compensation.

(2) The allowable compensation for certain employees is subject to a ceiling in accordance with the following statutes. For the ceiling for cost-reimbursement contracts, the covered compensation subject to the ceiling, the covered employees, and other relevant provisions. See 10 U.S.C. 2324(c)(1)(P), and 41 U.S.C. 1127 and 4304(a)(16). For other types of Federal awards, other statutory ceilings may apply.

Special considerations. Special considerations in determining the allowability of compensation will be given to any change in the City's compensation policy resulting in a substantial increase in its employees' level of compensation (particularly when the change was concurrent with an increase in the ratio of Federal awards to other activities) or any change in the treatment of allowability of specific types of compensation due to changes in Federal policy.

Incentive compensation. Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc., is allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the City and the employees before the services

were rendered, or pursuant to an established plan followed by the City so consistently as to imply, in effect, an agreement to make such payment.

Standards for Documentation of Personnel Expenses

Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:

- (i) Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated.
- (ii) Be incorporated into the official records of the City.
- (iii) Reasonably reflect the total activity for which the employee is compensated by the City, not exceeding 100% of compensated activities.
- (iv) Encompass federally assisted, and all other activities compensated by the City on an integrated basis but may include the use of subsidiary records as defined in the city's written policy.

Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one Federal award; a Federal award and non-Federal award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity.

Budget estimates (i.e., estimates determined before the services are performed) alone do not qualify as support for charges to Federal awards, but may be used for interim accounting purposes, provided that:

- (A) The system for establishing the estimates produces reasonable approximations of the activity performed.
- (B) Significant changes in the corresponding work activity (as defined by the city's written policies) are identified and entered into the records in a timely manner. Short term (such as one or two months) fluctuation between workload categories need not be considered if the distribution of salaries and wages is reasonable over the longer term; and
- (C) The City's system of internal controls includes processes to review after-the-fact interim charges made to a Federal award based on budget estimates. All necessary adjustments must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.

(2) For records that meet the standards required in paragraph (i)(1) of this section, the City will not be required to provide additional support or documentation for the work performed, other than that referenced in paragraph (i)(3) of this section.

(3) In accordance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR part 516), charges for the salaries and wages of non-exempt employees, in addition to the supporting documentation described in this section, must also be supported by records indicating the total number of hours worked each day.

(4) Salaries and wages of employees used in meeting cost sharing or matching requirements on Federal awards must be supported in the same manner as salaries and wages claimed for reimbursement from Federal awards.

(5) For states, local governments, and Indian tribes, substitute processes or systems for allocating salaries and wages to Federal awards may be used in place of or in addition to the records described in paragraph (1) if approved by the cognizant agency for indirect cost. Such systems may include, but are not limited to, random moment sampling, “rolling” time studies, case counts, or other quantifiable measures of work performed.

(7) For Federal awards of similar purpose activity or instances of approved blended funding, the City may submit performance plans that incorporate funds from multiple Federal awards and account for their combined use based on performance-oriented metrics, provided that such plans are approved in advance by all involved Federal awarding agencies. In these instances, the City must submit a request for waiver of the requirements based on documentation that describes the method of charging costs, relates the charging of costs to the specific activity that is applicable to all fund sources and is based on quantifiable measures of the activity in relation to time charged.

(8) For the City where the records do not meet the standards described in this section, the Federal Government may require personnel activity reports, including prescribed certifications, or equivalent documentation that support the records as required in this section.

Compensation - fringe benefits.

(a) **General.** Fringe benefits are allowances and services provided by employers to their employees as compensation in addition to regular salaries and wages. Fringe benefits include, but are not limited to, the costs of leave (vacation, family-related, sick, or military), employee insurance, pensions, and unemployment benefit plans. Except as provided elsewhere in these principles, the costs of fringe benefits are allowable provided that the benefits are reasonable and are required by law, City employee agreement, or an established policy of the City.

(b) **Leave.** 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 all the following criteria are met:

(1) They are provided under established written leave policies.

(2) The costs are equitably allocated to all related activities, including Federal awards; and,

(3) The accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the City or specified grouping of employees.

(i) When the City uses the cash basis of accounting, the cost of leave is recognized in the period that the leave is taken and paid for. Payments for unused leave when an employee retires or terminates employment are allowable in the year of payment.

(ii) The accrual basis may be only used for those types of leave for which a liability as defined by GAAP exists when the leave is earned. When the City uses the accrual basis of accounting, allowable leave costs are the lesser of the amount accrued or funded.

(c) **Fringe benefits.** 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; pension plan costs; 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.

(d) **Cost objectives.** Fringe benefits may be assigned to cost objectives by identifying specific benefits to specific individual employees or by allocating based on entity-wide salaries and wages of the employees receiving the benefits. When the allocation method is used, separate allocations must be made to selective groupings of employees, unless the City demonstrates that costs in relationship to salaries and wages do not differ significantly for different groups of employees.

(e) **Insurance.**

(1) Provisions for a reserve under a self-insurance program for unemployment compensation or workers' compensation are allowable to the extent that the provisions represent reasonable estimates of the liabilities for such compensation, and the types of coverage, the extent of coverage, and rates and premiums would have been allowable had insurance been purchased to cover the risks. However, provisions for self-insured liabilities which do not become payable for more than one year after the provision is made must not exceed the present value of the liability.

(2) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibility are allowable only to the extent that the insurance represents additional compensation. The costs of such insurance when the City is named as beneficiary are unallowable.

(3) Actual claims paid to or on behalf of employees or former employees for workers' compensation, unemployment compensation, severance pay, and similar employee benefits (*e.g.*, post-retirement health benefits), are allowable in the year of payment provided that the City follows a consistent costing policy.

(f) **Automobiles.** That portion of automobile costs furnished by the City that relates to personal use by employees (including transportation to and from work) is unallowable as fringe benefit or

indirect (F&A) costs regardless of whether the cost is reported as taxable income to the employees.

(g) **Pension plan costs.** Pension plan costs which are incurred in accordance with the established policies of the City are allowable, provided that:

- (1) Such policies meet the test of reasonableness.
- (2) The methods of cost allocation are not discriminatory.
- (3) Except for State and Local Governments, the cost assigned to each fiscal year should be determined in accordance with GAAP.
- (4) The costs assigned to a given fiscal year are funded for all plan participants within six months after the end of that year. However, increases to normal and past service pension costs caused by a delay in funding the actuarial liability beyond 30 calendar days after each quarter of the year to which such costs are assignable are unallowable.
- (5) Pension plan termination insurance premiums paid pursuant to the Employee Retirement Income Security Act (ERISA) of 1974 (29 U.S.C. 1301-1461) are allowable. Late payment charges on such premiums are unallowable. Excise taxes on accumulated funding deficiencies and other penalties imposed under ERISA are unallowable.
- (6) Pension plan 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.
 - (i) For pension plans financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries.
 - (ii) Pension costs calculated using an actuarial cost-based method recognized by GAAP are allowable for a given fiscal year if they are funded for that year within six months after the end of that year. Costs funded after the six-month period (or a later period agreed to by the cognizant agency for indirect costs) are allowable in the year funded. The cognizant agency for indirect costs may agree to an extension of the six-month period if an appropriate adjustment is made to compensate for the timing of the charges to the Federal Government and related Federal reimbursement and the city's contribution to the pension fund. Adjustments may be made by cash refund or other equitable procedures to compensate the Federal Government for the time value of Federal reimbursements more than contributions to the pension fund.
 - (iii) Amounts funded by the City more than the actuarially determined amount for a fiscal year may be used as the city's contribution in future periods.
 - (iv) When the City converts to an acceptable actuarial cost method, as defined by GAAP, and funds pension costs in accordance with this method, the unfunded liability at the time of conversion are allowable if amortized over a period of years in accordance with GAAP.

(v) The Federal Government must receive an equitable share of any previously allowed pension costs (including earnings thereon) which revert or inure to the City in the form of a refund, withdrawal, or other credit.

(I) Severance pays.

(1) Severance pay, also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages, by City to workers whose employment is being terminated. Costs of severance pay are allowable only to the extent that in each case, it is required by

(I) Law.

(ii) Employer-employee agreement.

(iii) Established policy that constitutes, in effect, an implied agreement on the city's part; or

(iv) Circumstances of employment.

(2) Costs of severance payments are divided into two categories as follows:

(i) Actual normal turnover severance payments must be allocated to all activities; or, where the City provides for a reserve for normal severances, such method will be accepted if the charge to current operations is reasonable considering payments actually made for normal severances over a representative past period, and if amounts charged are allocated to all activities of the City.

(ii) Measurement of costs of abnormal or mass severance pay by means of an accrual will not achieve equity to both parties. Thus, accruals for this purpose are not allowable. However, the Federal Government recognizes its responsibility to participate, to the extent of its fair share, in any specific payment. Prior approval by the Federal awarding agency or cognizant agency for indirect cost, as appropriate, is required.

(3) Costs incurred in certain severance pay packages which are in an amount more than the normal severance pay paid by the City to an employee upon termination of employment and are paid to the employee contingent upon a change in management control over, or ownership of, the city's assets, are unallowable.

(4) Severance payments to foreign nationals employed by the City outside the United States, to the extent that the amount exceeds the customary or prevailing practices for the City in the United States, are unallowable unless they are necessary for the performance of Federal programs and approved by the Federal awarding agency.

(5) Severance payments to foreign nationals employed by the City outside the United States due to the termination of the foreign national because of the closing of, or curtailment of activities by, the City in that country, are unallowable unless they are necessary for the performance of Federal programs and approved by the Federal awarding agency.

Conferences.

A conference is defined as a meeting, retreat, seminar, symposium, workshop, or event whose primary purpose is the dissemination of technical information beyond the City and is necessary and reasonable for successful performance under the Federal award. Allowable conference costs paid by the City as a sponsor or host of the conference may include rental of facilities, speakers' fees, costs of meals and refreshments, local transportation, and other items incidental to such conferences unless further restricted by the terms and conditions of the Federal award. As needed, the costs of identifying, but not providing, locally available dependent-care resources are allowable. Conference hosts/sponsors must exercise discretion and judgment in ensuring that conference costs are appropriate, necessary, and managed in a manner that minimizes costs to the Federal award.

Contingency provisions.

(a) Contingency is that part of a budget estimate of future costs (typically of large construction projects, IT systems, or other items as approved by the Federal awarding agency) which is associated with possible events or conditions arising from causes the precise outcome of which is indeterminable at the time of estimate, and that experience shows will likely result, in aggregate, in additional costs for the approved activity or project. Amounts for major project scope changes, unforeseen risks, or extraordinary events may not be included.

(b) It is permissible for contingency amounts other than those excluded in paragraph (a) of this section to be explicitly included in budget estimates, to the extent they are necessary to improve the precision of those estimates. Amounts must be estimated using broadly accepted cost estimating methodologies, specified in the budget documentation of the Federal award, and accepted by the Federal awarding agency. As such, contingency amounts are to be included in the Federal award. For actual costs incurred to be allowable, they must comply with the cost principles and other requirements in this; be necessary and reasonable for proper and efficient accomplishment of project or program objectives, and be verifiable from the city's records.

(c) Payments made by the Federal awarding agency to the city's "contingency reserve" or any similar payment made for events the occurrence of which cannot be foretold with certainty as to the time or intensity, or with an assurance of their happening, are unallowable,

Contributions and donations.

(a) Costs of contributions and donations, including cash, property, and services, from the City to other entities, are unallowable.

(b) The value of services and property donated to the City may not be charged to the Federal award either as a direct or indirect (F&A) cost. The value of donated services and property may be used to meet cost sharing or matching requirements. Depreciation on donated assets is permitted, if the donated property is not counted towards cost sharing or matching requirements.

(c) Services donated or volunteered to the City may be furnished to the City by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services

may not be charged to the Federal award either as a direct or indirect cost. However, the value of donated services may be used to meet cost sharing or matching requirements.

(f) Fair market value of donated services must be computed.

(g) Personal Property and Use of Space.

Depreciation.

(a) Depreciation is the method for allocating the cost of fixed assets to periods benefitting from asset use. The City may be compensated for the use of its buildings, capital improvements, equipment, and software projects capitalized in accordance with GAAP, if they are used, needed in the city's activities, and properly allocated to Federal awards. Such compensation must be made by computing depreciation.

(c) Depreciation is computed applying the following rules. The computation of depreciation must be based on the acquisition cost of the assets involved. For an asset donated to the City by a third party, its fair market value at the time of the donation must be considered as the acquisition cost. Such assets may be depreciated or claimed as matching but not both. For the computation of depreciation, the acquisition cost will exclude:

(1) The cost of land.

(2) Any portion of the cost of buildings and equipment borne by or donated by the Federal Government, irrespective of where the title was originally vested or where it is presently located.

(3) Any portion of the cost of buildings and equipment contributed by or for the City that is already claimed as matching or where law or agreement prohibits recovery.

(4) Any asset acquired solely for the performance of a non-Federal award; and

(d) When computing depreciation charges, the following must be observed:

(1) The period of useful service or useful life established in each case for usable capital assets must take into consideration such factors as the type of construction, nature of the equipment, technological developments in the area, historical data, and the renewal and replacement policies followed for the individual items or classes of assets involved.

(2) The depreciation method used to charge the cost of an asset (or group of assets) to accounting periods must reflect the pattern of consumption of the asset during its useful life. In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater in the early portions than in the later portions of its useful life, the straight-line method must be presumed to be the appropriate method. Depreciation methods once used may not be changed unless approved in advance by the cognizant agency. The depreciation methods used to calculate the depreciation amounts for indirect (F&A) rate purposes must be the same methods used by the City for its financial statements.

(3) The entire building, including the shell and all components, may be treated as a single asset, and depreciated over the single useful life. A building may also be divided into multiple components. Each component item may then be depreciated over its estimated useful life. The building components must be grouped into three general components of a building: building shell (including construction and design costs), building services systems (e.g., elevators, HVAC, plumbing system and heating and air-conditioning system) and, fixed equipment (e.g., sterilizers, casework, fume hoods, cold rooms, and glassware/washers). In exceptional cases, a cognizant agency may authorize the City to use more than these three groupings. When the City elects to depreciate its buildings by its components, the same depreciation methods must be used for indirect (F&A) purposes and financial statements purposes.

(4) No depreciation may be allowed on any assets that have outlived their depreciable lives.

(5) Where the depreciation method is introduced to replace the use allowance method, depreciation must be computed as if the asset had been depreciated over its entire life (i.e., from the date the asset was acquired and ready for use to the date of disposal or withdrawal from service). The total amount of use allowance and depreciation for an asset (including imputed depreciation applicable to periods prior to the conversion from the use allowance method as well as depreciation after the conversion) may not exceed the total acquisition cost of the asset.

(e) Charges for depreciation must be supported by adequate property records, and physical inventories must be taken at least once every two years to ensure that the assets exist and are usable, used, and needed. Statistical sampling techniques may be used in taking these inventories. In addition, adequate depreciation records showing the amount of depreciation must be maintained.

Entertainment costs.

Costs of entertainment, including amusement, diversion, and social activities and any associated costs are unallowable, except where specific costs that might otherwise be considered entertainment have a programmatic purpose and are authorized either in the approved budget for the Federal award or with the prior written approval of the Federal awarding agency.

Equipment and other capital expenditures.

The following rules of allowability must apply to equipment and other capital expenditures:

(1) Capital expenditures for general purpose equipment, buildings, and land are unallowable as direct charges, except with the prior written approval of the Federal awarding agency or pass-through entity.

(2) Capital expenditures for special purpose equipment are allowable as direct costs of items with a unit cost of \$5,000 or more have the prior written approval of the Federal awarding agency or pass-through entity.

(3) Capital expenditures for improvements to land, buildings, or equipment that materially increase their value or useful life are unallowable as a direct cost except with the prior written approval of the Federal awarding agency, or pass-through entity.

(4) When approved as a direct charge, capital expenditures will be charged in the period in which the expenditure is incurred, or as otherwise determined appropriate and negotiated with the Federal awarding agency.

(5) The unamortized portion of any equipment written off because of a change in capitalization levels may be recovered by continuing to claim the otherwise allowable depreciation on the equipment, or by amortizing the amount to be written off over a period of years negotiated with the Federal cognizant agency for indirect cost.

(6) Cost of equipment disposal. If the City is instructed by the Federal awarding agency to otherwise dispose of or transfer the equipment the costs of such disposal or transfer are allowable.

Exchange rates.

(a) Cost increases for fluctuations in exchange rates are allowable costs subject to the availability of funding. Prior approval of exchange rate fluctuations is required only when the change results in the need for additional Federal funding, or the increased costs result in the need to significantly reduce the scope of the project. The Federal awarding agency must however ensure that adequate funds are available to cover currency fluctuations to avoid a violation of the Anti-Deficiency Act.

(b) The City is required to make reviews of local currency gains to determine the need for additional federal funding before the expiration date of the Federal award. Subsequent adjustments for currency increases may be allowable only when the City provides the Federal awarding agency with adequate source documentation from a commonly used source in effect at the time the expense was made, and to the extent that sufficient Federal funds are available.

Fines, penalties, damages, and other settlements.

Costs resulting from City violations of, alleged violations of, or failure to comply with, Federal, state, tribal, local, or foreign laws and regulations are unallowable, except when incurred because of compliance with specific provisions of the Federal award, or with the prior written approval of the Federal awarding agency.

Fundraising and investment management costs.

(a) Costs of organized fundraising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions are unallowable. Fundraising costs for the purposes of meeting the Federal program objectives are allowable with prior written approval from the Federal awarding agency.

- (b) Costs of investment counsel and staff and similar expenses incurred to enhance income from investments are unallowable except when associated with investments covering pension, self-insurance, or other funds which include Federal participation allowed by this part.
- (c) Costs related to the physical custody and control of monies and securities are allowable.
- (d) Both allowable and unallowable fund-raising and investment activities must be allocated as an appropriate share of indirect costs.

Gains and losses on disposition of depreciable assets.

- (a) Gains and losses on the sale, retirement or other disposition of depreciable property must be included in the year in which they occur as credits or charges to the asset cost grouping(s) in which the property was included. The amount of the gain or loss to be included as a credit or charge to the appropriate asset cost grouping(s) is the difference between the amount realized on the property and the undepreciated basis of the property.
- (b) Gains and losses from the disposition of depreciable property must not be recognized as a separate credit or charge under the following conditions:
 - (1) The gain or loss is processed through a depreciation account and is reflected in the allowable depreciation methods.
 - (2) The property is given in exchange as part of the purchase price of a similar item and the gain or loss is considered in determining the depreciation cost basis of the new item.
 - (3) A loss results from the failure to maintain permissible insurance.
 - (4) Compensation for the use of the property was provided through use allowances in lieu of depreciation.
 - (5) Gains and losses arising from mass or extraordinary sales, retirements, or other dispositions must be considered on a case-by-case basis.
- (c) Gains or losses of any nature arising from the sale or exchange of property other than the property covered in paragraph (a) of this section, e.g., land, must be excluded in computing Federal award costs.

General costs of government.

- (a) For states, local governments, and Indian Tribes, the general costs of government are unallowable. Unallowable costs include:
 - (1) Salaries and expenses of the Office of the Governor of a state or the chief executive of a local government or the chief executive of an Indian tribe.

- (2) Salaries and other expenses of a state legislature, tribal council, or similar local governmental body, such as a county supervisor, city council, school board, etc., whether incurred for purposes of legislation or executive direction.
- (3) Costs of the judicial branch of a government.
- (4) Costs of prosecutorial activities unless treated as a direct cost to a specific program if authorized by statute or regulation; and
- (5) Costs of other general types of government services normally provided to the public, such as fire and police, unless provided for as a direct cost under a program statute or regulation.

Goods or services for personal use.

- (a) Costs of goods or services for the personal use of the city's employees are unallowable regardless of whether the cost is reported as taxable income to the employees.
- (b) Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances, and personal living expenses are only allowable as direct costs regardless of whether reported as taxable income to the employees. In addition, to be allowable direct costs must be approved in advance by a Federal awarding agency.

Idle facilities and idle capacity.

- (a) As used in this section the following terms have the meanings set forth in this section:
 - (1) Facilities means land and buildings or any portion thereof, equipment individually or collectively, or any other tangible capital asset, wherever located, and whether owned or leased by the City.
 - (2) Idle facilities mean completely unused facilities that are excess to the City's current needs.
 - (3) Idle capacity means the unused capacity of partially used facilities. It is the difference between:
 - (i) That which a facility could achieve under 100 percent operating time on a one-shift basis fewer operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays and.
 - (ii) The extent to which the facility was used to meet demands during the accounting period. A multi-shift basis should be used if it can be shown that this amount of usage would normally be expected for the type of facility involved.
 - (4) Cost of idle facilities or idle capacity means costs such as maintenance, repair, housing, rent, and other related costs, e.g., insurance, interest, and depreciation. These costs could include the costs of idle public safety emergency facilities, telecommunications, or information technology

system capacity that is built to withstand major fluctuations in load, (e.g., consolidated data centers).

(b) The costs of idle facilities are unallowable except to the extent that:

(1) They are necessary to meet workload requirements which may fluctuate and are allocated appropriately to all benefiting programs; or

(2) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, efforts to achieve more economical operations, reorganization, termination, or other causes which could not have been reasonably foreseen. Under the exception stated in this subsection, costs of idle facilities are allowable for a reasonable period, ordinarily not to exceed one year, depending on the initiative taken to use, lease, or dispose of such facilities.

(c) The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or indirect cost rates from period to period. Such costs are allowable, provided that the capacity is reasonably anticipated to be necessary to carry out the purpose of the Federal award or was originally reasonable and is not subject to reduction or elimination by use on other Federal awards, subletting, renting, or sale, in accordance with sound business, economic, or security practices. Widespread idle capacity throughout an entire facility or among a group of assets having substantially the same function may be considered idle facilities.

Insurance and indemnification.

(a) Costs of insurance required or approved and maintained, pursuant to the Federal award, are allowable.

(b) Costs of other insurance in connection with the general conduct of activities are allowable subject to the following limitations:

- (i) Types and extent and cost of coverage are in accordance with the city's policy and sound business practice.
- (ii) Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, Federal Government property is unallowable except to the extent that the Federal awarding agency has specifically required or approved such costs.
- (iii) Costs allowed for business interruption or other similar insurance must exclude coverage of management fees.
- (iv) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibilities are allowable only to the extent that the insurance represents additional compensation. The cost of such insurance when the City is identified as the beneficiary is unallowable.
- (v) Insurance against defects. Costs of insurance with respect to any costs incurred to correct defects in the city's materials or workmanship are unallowable.

(c) Actual losses which could have been covered by permissible insurance (through a self-insurance program or otherwise) are unallowable unless expressly provided for in the Federal

award. However, costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable.

(d) Contributions to a reserve for certain self-insurance programs including workers' compensation, unemployment compensation, and severance pay are allowable subject to the following provisions:

(1) The type of coverage and the extent of coverage and the rates and premiums would have been allowed had insurance (including reinsurance) been purchased to cover the risks. However, provision for known or reasonably estimated self-insured liabilities, which do not become payable for more than one year after the provision is made, must not exceed the discounted present value of the liability. The rate used for discounting the liability must be determined by considering such factors as the City's settlement rate for those liabilities and its investment rate of return.

(2) Earnings or investment income on reserves must be credited to those reserves.

(3)

(i) Contributions to reserves must be based on sound actuarial principles using historical experience and reasonable assumptions. Reserve levels must be analyzed and updated at least biennially for each major risk being insured and consider any reinsurance, coinsurance, etc. Reserve levels related to employee-related coverages will normally be limited to the value of claims:

(A) Submitted and adjudicated but not paid.

(B) Submitted but not adjudicated; and

(C) Incurred but not submitted.

(ii) Reserve levels more than the amounts based on the above must be identified and justified in the cost allocation plan or indirect cost rate proposal.

(4) Accounting records, actuarial studies, and cost allocations (or billings) must recognize any significant differences due to types of insured risk and losses generated by the various insured activities or agencies of the City. If individual departments or agencies of the City experience significantly different levels of claims for risk, those differences are to be recognized using separate allocations or other techniques resulting in an equitable allocation.

(5) Whenever funds are transferred from a self-insurance reserve to other accounts (e.g., general fund or unrestricted account), refunds must be made to the Federal Government for its share of funds transferred, including earned or imputed interest from the date of transfer and debt interest, if applicable, chargeable in accordance with applicable Federal cognizant agency for indirect cost, claims collection regulations.

- (e) Insurance refunds must be credited against insurance costs in the year the refund is received.
- (f) Indemnification includes securing the City against liabilities to third persons and other losses not compensated by insurance or otherwise. The Federal Government is obligated to indemnify the City only to the extent expressly provided for in the Federal award, except as provided in paragraph (c) of this section.

Intellectual property.

(a) Patent costs.

(1) The following costs related to securing patents and copyrights are allowable:

- (i) Costs of preparing disclosures, reports, and other documents required by the Federal award, and of searching the art to the extent necessary to make such disclosures.
- (ii) Costs of preparing documents and any other patent costs in connection with the filing and prosecution of a United States patent application where title or a royalty-free license is required by the Federal Government to be conveyed to the Federal Government; and
- (iii) General counseling services relating to patent and copyright matters, such as advice on patent and copyright laws, regulations, clauses, and employee intellectual property agreements.

(2) The following costs related to securing patents and copyrights are unallowable:

- (i) Costs of preparing disclosures, reports, and other documents, and of searching the art to make disclosures not required by the Federal award.
- (ii) Costs in connection with filing and prosecuting any foreign patent application, or any United States patent application, where the Federal award does not require conveying title or a royalty-free license to the Federal Government.

(b) Royalties and other costs for use of patents and copyrights.

(1) Royalties on a patent or copyright or amortization of the cost of acquiring by purchase a copyright, patent, or rights thereto, necessary for the proper performance of the Federal award are allowable unless:

- (i) The Federal Government already has a license or the right to free use of the patent or copyright.
- (ii) The patent or copyright has been adjudicated to be invalid or has been administratively determined to be invalid.
- (iii) The patent or copyright is unenforceable.
- (iv) The patent or copyright is expired.

(2) Special care should be exercised in determining reasonableness where the royalties may have been arrived at because of less-than-arm's-length bargaining, such as:

- (i) Royalties paid to persons, including corporations, affiliated with the City.
- (ii) Royalties paid to unaffiliated parties, including corporations, under an agreement entered in contemplation that a Federal award would be made.
- (iii) Royalties paid under an agreement entered after a Federal award is made to the City.

(3) In any case involving a patent or copyright formerly owned by the City, the amount of royalty allowed must not exceed the cost which would have been allowed had the City retained title thereto.

Interest.

(a) **General.** Costs incurred for interest on borrowed capital, temporary use of endowment funds, or the use of the city's own funds, however represented, are unallowable. Financing costs (including interest) to acquire, construct, or replace capital assets are allowable, subject to the conditions in this section.

(b) **Capital assets.**

(1) An asset cost includes (as applicable) acquisition costs, construction costs, and other costs capitalized in accordance with GAAP.

(2) For City fiscal years beginning on or after January 1, 2016, intangible assets include patents and computer software. For software development projects, only interest attributable to the portion of the project costs capitalized in accordance with GAAP is allowable.

(c) **Conditions.**

(1) The City uses the capital assets in support of Federal awards.

(2) The allowable asset costs to acquire facilities and equipment are limited to a fair market value available to the City from an unrelated (arm's length) third party.

(3) The City obtains the financing via an arm's length transaction (that is, a transaction with an unrelated third party); or claims reimbursement of actual interest cost at a rate available via such a transaction.

(4) The City limits claims for Federal reimbursement of interest costs to the least expensive alternative. For example, a lease contract that transfers ownership by the end of the contract may be determined less costly than purchasing through other types of debt financing, in which case reimbursement must be limited to the amount of interest determined if leasing had been used.

- (5) The City expenses or capitalizes allowable interest cost in accordance with GAAP.
- (6) Earnings generated by the investment of borrowed funds pending their disbursement for the asset costs are used to offset the current period's allowable interest cost, whether that cost is expensed or capitalized. Earnings subject to being reported to the Federal Internal Revenue Service under arbitrage requirements are excludable.
- (7) The following conditions must apply to debt arrangements over \$1 million to purchase or construct facilities unless the City makes an initial equity contribution to the purchase of 25 percent or more. For this purpose, "initial equity contribution" means the amount or value of contributions made by the City for the acquisition of facilities prior to occupancy.
- (i) The City must reduce claims for reimbursement of interest cost by an amount equal to imputed interest earnings on excess cash flow attributable to the portion of the facility used for Federal awards.
- (ii) The City must impute interest on excess cash flow as follows:
- (A) Annually, the City must prepare a cumulative (from the inception of the project) report of monthly cash inflows and outflows, regardless of the funding source. For this purpose, inflows consist of Federal reimbursement for depreciation, amortization of capitalized construction interest, and annual interest cost. Outflows consist of initial equity contributions, debt principal payments (less the pro-rata share attributable to the cost of land), and interest payments.
- (B) To compute monthly cash inflows and outflows, the City must divide the annual amounts determined in step (i) by the number of months in the year (usually 12) that the building is in service.
- (C) For any month in which cumulative cash inflows exceed cumulative outflows, interest must be calculated on the excess inflows for that month and be treated as a reduction to allowable interest cost. The rate of interest to be used must be the three-month Treasury bill closing rate as of the last business day of that month.
- (8) Interest attributable to a fully depreciated asset is unallowable.
- (d) Additional conditions for states, local governments, and Indian tribes. For costs to be allowable, the City must have incurred the interest costs for buildings after October 1, 1980, or for land and equipment after September 1, 1995.
- (1) The requirement to offset the interest earned on borrowed funds against current allowable interest cost (paragraph (c)(5), above) also applies to earnings on debt service reserve funds.
- (2) The City will negotiate the amount of allowable interest cost related to the acquisition of facilities with asset costs of \$1 million or more, as outlined in paragraph (c)(7) of this section. For this purpose, the City must consider only cash inflows and outflows attributable to that portion of the real property used for Federal awards.

Lobbying.

(a) The cost of certain influencing activities associated with obtaining grants, contracts, or cooperative agreements, or loans is an unallowable cost. Lobbying with respect to certain grants, contracts, cooperative agreements, and loans is governed by relevant statutes, including among others, the provisions of 31 U.S.C. 1352, as well as the common rule, “New Restrictions on Lobbying” published on February 26, 1990, including definitions, and the Office of Management and Budget “Governmentwide Guidance for New Restrictions on Lobbying” and notices published on December 20, 1989, June 15, 1990, January 15, 1992, and January 19, 1996.

(b) **Executive lobbying costs.** Costs incurred in attempting to improperly influence either directly or indirectly, an employee or officer of the executive branch of the Federal Government to give consideration or to act regarding a Federal award or a regulatory matter are unallowable. Improper influence means any influence that induces or tends to induce a Federal employee or officer to give consideration or to act regarding a Federal award or regulatory matter on any basis other than the merits of the matter.

(2) The following activities are excepted from the coverage of paragraph (c)(1) of this section:

(i) Technical and factual presentations on topics directly related to the performance of a grant, contract, or other agreement (through hearing testimony, statements, or letters to the Congress or a state legislature, or subdivision, member, or cognizant staff member thereof), in response to a documented request (including a Congressional Record notice requesting testimony or statements for the record at a regularly scheduled hearing) made by the city’s legislative body or a subdivision, or a cognizant staff member thereof, provided such information is readily obtainable and can be readily put in a deliverable form, and further provided that costs under this section for travel, lodging or meals are unallowable unless incurred to offer testimony at a regularly scheduled Congressional hearing pursuant to a written request for such presentation made by the Chairman or Ranking Minority Member of the Committee or Subcommittee conducting such hearings;

(ii) Any lobbying made unallowable by paragraph (c)(1)(iii) of this section to influence state legislation in order to directly reduce the cost or to avoid material impairment of the city’s authority to perform the grant, contract, or other agreement; or

(iii) Any activity specifically authorized by statute to be undertaken with funds from the Federal award.

(iv) Any activity excepted from the definitions of “lobbying” or “influencing legislation” by the Internal Revenue Code provisions that require nonprofit organizations to limit their participation in direct and “grassroots” lobbying activities to retain their charitable deduction status and avoid punitive excise taxes, I.R.C. §§ 501(c)(3), 501(h), 4911(a), including:

(A) Nonpartisan analysis, study, or research reports.

(B) Examinations and discussions of broad social, economic, and similar problems; and

(C) Information provided upon request by a legislator for technical advice and assistance, as defined by I.R.C. § 4911(d)(2) and 26 CFR 56.4911-2(c)(1)-(c)(3).

(v) When the City seeks reimbursement for indirect (F&A) costs, total lobbying costs must be separately identified in the indirect (F&A) cost rate proposal, and thereafter treated as other unallowable activity costs.

(vi) The City must submit as part of its annual indirect (F&A) cost rate proposal a certification that the requirements and standards of this section have been complied with.

(vii)

(A) Time logs, calendars, or similar records are not required to be created for purposes of complying with the recordkeeping requirements with respect to lobbying costs during any calendar month when:

(1) The employee engages in lobbying (as defined in paragraphs (c)(1) and (c)(2) of this section) 25 percent or less of the employee's compensated hours of employment during that calendar month; and

(2) Within the preceding five-year period, the City has not materially misstated allowable or unallowable costs of any nature, including legislative lobbying costs.

(B) When conditions in paragraph (c)(2)(vii)(A)(1) and (2) of this section are met, the city is not required to establish records to support the allowability of claimed costs in addition to records already required or maintained. Also, when conditions in paragraphs (c)(2)(vii)(A)(1) and (2) of this section are met, the absence of time logs, calendars, or similar records will not serve as a basis for disallowing costs by contesting estimates of lobbying time spent by employees during a calendar month.

(viii) The Federal awarding agency must establish procedures for resolving in advance, in consultation with OMB, any significant questions or disagreements concerning the interpretation or application of this section. Any such advance resolutions must be binding in any subsequent settlements, audits, or investigations with respect to that grant or contract for purposes of interpretation of this part, provided, however, that this must not be construed to prevent a contractor or City from contesting the lawfulness of such a determination.

Losses on other awards or contracts.

Any excess of costs over income under any other award or contract of any nature is unallowable. This includes, but is not limited to, the city's contributed portion by reason of cost-sharing agreements or any under-recoveries through negotiation of flat amounts for indirect (F&A) costs. Also, any excess of costs over authorized funding levels transferred from any award or contract to another award or contract is unallowable. All losses are not allowable indirect (F&A) costs and are required to be included in the appropriate indirect cost rate base for the allocation of indirect costs.

Maintenance and repair costs.

Costs incurred for utilities, insurance, security, necessary maintenance, janitorial services, repair, or upkeep of buildings and equipment (including Federal property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable. Costs incurred for improvements that add to the permanent value of the buildings and equipment or appreciably prolong their intended life must be treated as capital expenditures. These costs are only allowable to the extent not paid through rental or other agreements.

Materials and supplies costs, including costs of computing devices.

- (a) Costs incurred for materials, supplies, and fabricated parts necessary to carry out a Federal award are allowable.
- (b) Purchased materials and supplies must be charged at their actual prices, net of applicable credits. Withdrawals from general stores or stockrooms must be charged at their actual net cost under any recognized method of pricing inventory withdrawals, consistently applied. Incoming transportation charges are a proper part of materials and supplies costs.
- (c) Materials and supplies used for the performance of a Federal award may be charged as direct costs. In the specific case of computing devices, charging as direct costs is allowable for devices that are essential and allocable, but not solely dedicated, to the performance of a Federal award.
- (d) Where federally donated or furnished materials are used in performing the Federal award, such materials will be used without charge.

Memberships, subscriptions, and professional activity costs.

- (a) Costs of the city's membership in business, technical, and professional organizations are allowable.
- (b) Costs of the city's subscriptions to business, professional, and technical periodicals are allowable.
- (c) Costs of membership in any civic or community organization are allowable with prior approval by the Federal awarding agency or pass-through entity.
- (d) Costs of membership in any country club or social or dining club or organization are unallowable.
- (e) Costs of membership in organizations whose primary purpose is lobbying are unallowable

Organization costs.

Costs such as incorporation fees, brokers' fees, fees to promoters, organizers or management consultants, attorneys, accountants, or investment counselors, whether employees of the City in connection with the establishment or reorganization of an organization, are unallowable except with prior approval of the Federal awarding agency.

Participant support costs.

Participant support costs are allowable with the prior approval of the Federal awarding agency.

Plant and security costs.

Necessary and reasonable expenses incurred for the protection and security of facilities, personnel, and work products are allowable. Such costs include, but are not limited to, wages and uniforms of personnel engaged in security activities; equipment; barriers; protective (non-military) gear, devices, and equipment; contractual security services; and consultants.

Pre-award costs.

Pre-award costs are those incurred prior to the effective date of the Federal award or subaward directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award and only with the written approval of the Federal awarding agency. If charged to the award, these costs must be charged to the initial budget period of the award, unless otherwise specified by the Federal awarding agency or pass-through entity.

Professional service costs.

(a) Costs of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill, and who are not officers or employees of the City, are allowable, subject to paragraphs (b) and (c) of this section when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Federal Government.

(b) In determining the allowability of costs in a particular case, no single factor or any special combination of factors is necessarily determinative. However, the following factors are relevant:

- (1) The nature and scope of the service rendered in relation to the service required.
- (2) The necessity of contracting for the service, considering the city's capability in the area.
- (3) The past pattern of such costs, particularly in the years prior to Federal awards.
- (4) The impact of Federal awards on the city's business (i.e., what new problems have arisen).
- (5) Whether the proportion of Federal work to the city's total business is such as to influence the City in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Federal awards.
- (6) Whether the service can be performed more economically by direct employment rather than contracting.

(7) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-federally funded activities.

(8) Adequacy of the contractual agreement for the service (e.g., description of the service, an estimate of the time required, rate of compensation, and termination provisions).

(c) In addition to the factors in paragraph (b) of this section, to be allowable, retainer fees must be supported by evidence of bona fide services available or rendered.

Proposal costs.

Proposal costs are the costs of preparing bids, proposals, or applications on potential Federal and non-Federal awards or projects, including the development of data necessary to support the city's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect (F&A) costs and allocated currently to all activities of the City. No proposal costs of past accounting periods will be allocable to the current period.

Publication and printing costs.

(a) Publication costs for electronic and print media, including distribution, promotion, and general handling are allowable. If these costs are not identifiable with a particular cost objective, they should be allocated as indirect costs to all benefiting activities of the City.

(b) Page charges for professional journal publications are allowable where:

(1) The publications report work supported by the Federal Government; and

(2) The charges are levied impartially on all items published by the journal, whether under a Federal award.

(3) The City may charge the Federal award during closeout for the costs of publication or sharing of research results if the costs are not incurred during the period of performance of the Federal award. If charged to the award, these costs must be charged to the final budget period of the award, unless otherwise specified by the Federal awarding agency.

Rearrangement and reconversion costs.

(a) Costs incurred for ordinary and normal rearrangement and alteration of facilities are allowable as indirect costs. Special arrangements and alterations costs incurred specifically for a Federal award are allowable as a direct cost with the prior approval of the Federal awarding agency or pass-through entity.

(b) Costs incurred in the restoration or rehabilitation of the city's facilities to approximately the same condition existing immediately prior to commencement of Federal awards, fewer costs related to normal wear and tear, are allowable.

Recruiting costs.

(a) Subject to paragraphs (b) and (c) of this section, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of “help wanted” advertising, operating costs of an employment office necessary to secure and maintain adequate staff, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees, are allowable to the extent that such costs are incurred pursuant to the city’s standard recruitment program. Where the City uses employment agencies, costs not more than standard commercial rates for such services are allowable.

(b) Special emoluments, fringe benefits, and salary allowances incurred to attract professional personnel that does not meet the test of reasonableness or do not conform with the established practices of the City are unallowable.

(c) Where relocation costs incurred incident to recruitment of a new employee has been funded in whole or in part to a Federal award, and the newly hired employee resigns for reasons within the employee's control within 12 months after hire, the City will be required to refund or credit the Federal share of such relocation costs to the Federal Government.

(d) Short-term, travel visa costs (as opposed to longer-term, immigration visas) are generally allowable expenses that may be proposed as a direct cost. Since short-term visas are issued for a specific period and purpose, they can be clearly identified as directly connected to work performed on a Federal award. For these costs to be directly charged to a Federal award, they must:

- (1) Be critical and necessary for the conduct of the project.
- (2) Be allowable under the applicable cost principles.
- (3) Be consistent with the city’s cost accounting practices and City policy; and
- (4) Meet the definition of “direct cost” as described in the applicable cost principles.

Selling and marketing costs.

Costs of selling and marketing any products or services of the City are unallowable, except as direct costs, with prior approval by the Federal awarding agency when necessary for the performance of the Federal award.

Taxes (including Value Added Tax).

(a) For states, local governments, and Indian tribes:

- (1) Taxes that a governmental unit is legally required to pay are allowable, except for self-assessed taxes that disproportionately affect Federal programs or changes in tax policies that disproportionately affect Federal programs.

(2) Gasoline taxes, motor vehicle fees, and other taxes that are in effect user fees for benefits provided to the Federal Government are allowable.

(3) This provision does not restrict the authority of the Federal awarding agency to identify taxes where Federal participation is inappropriate. Where the identification of the amount of unallowable taxes would require an inordinate amount of effort, the cognizant agency for indirect costs may accept a reasonable approximation thereof.

Telecommunication costs and video surveillance costs.

(a) Costs incurred for telecommunications and video surveillance services or equipment such as phones, internet, video surveillance, cloud servers are allowable.

Termination costs.

Termination of a Federal award generally gives rise to the incurrence of costs, or the need for special treatment of costs, which would not have arisen had the Federal award not been terminated. Cost principles covering these items are set forth in this section. They are to be used in conjunction with the other provisions of this part in termination situations.

(a) The cost of items reasonably usable on the city's other work must not be allowable unless the City submits evidence that it would not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the City, the Federal awarding agency should consider the city's plans and orders for a current and scheduled activity. Contemporaneous purchases of common items by the City must be regarded as evidence that such items are reasonably usable on the city's other work. Any acceptance of common items as allocable to the terminated portion of the Federal award must be limited to the extent that the quantities of such items on hand, in transit, and on order are more than the reasonable quantitative requirements of other work.

(b) If in a case, despite all reasonable efforts by the City, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this part, except that any such costs continuing after termination due to the negligent or willful failure of the City to discontinue such costs must be unallowable.

(c) Loss of useful value of special tooling, machinery, and equipment is generally allowable if:

(1) Such special tooling, special machinery, or equipment is not reasonably capable of use in the other work of the City,

(2) The interest of the Federal Government is protected by transfer of title or by other means deemed appropriate by the Federal awarding agency, and

(3) The loss of useful value for anyone terminated Federal award is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the Federal award bears to the entire terminated Federal award and other Federal awards for which the special tooling, machinery, or equipment was acquired.

(d) Rental costs under unexpired leases are generally allowable when clearly shown to have been reasonably necessary for the performance of the terminated Federal award less the residual value of such leases, if:

- (1) The amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the Federal award and such further period as may be reasonable, and
- (2) The City makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease. There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the Federal award, and of reasonable restoration required by the provisions of the lease.

(e) Settlement expenses including the following are generally allowable:

- (1) Accounting, legal, clerical, and similar costs reasonably necessary for:
 - (i) The preparation and presentation to the Federal awarding agency of settlement claims and supporting data with respect to the terminated portion of the Federal award, unless the termination is for a cause; and
 - (ii) The termination and settlement of subawards.
- (2) Reasonable costs for the storage, transportation, protection, and disposition of property provided by the Federal Government or acquired or produced for the Federal award.

(f) Claims under subawards, including the allocable portion of claims which are common to the Federal award and to other work of the City, are generally allowable. An appropriate share of the city's indirect costs may be allocated to the number of settlements with contractors and/or subrecipients, provided that the amount allocated is otherwise consistent with the basic guidelines. The indirect costs so allocated must exclude the same and similar costs claimed directly or indirectly as settlement expenses.

Training and education costs.

The cost of training and education provided for employee development is allowable.

Transportation costs.

Costs incurred for freight, express, cartage, postage, and other transportation services relating either to goods purchased, in process, or delivered, are allowable. When such costs can readily be identified with the items involved, they may be charged directly as transportation costs or added to the cost of such items. Where identification with the materials received cannot readily be made, inbound transportation costs may be charged to the appropriate indirect (F&A) cost accounts if the City follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms and conditions of the Federal award, should be treated as a direct cost.

Travel costs.

(a) **General.** 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 the City's written travel reimbursement policies. 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.

(b) **Lodging and subsistence.** 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 the City's established travel policy.

(c)

(1) Temporary dependent care costs (as a dependent is defined in 26 U.S.C. 152) above and beyond regular dependent care that directly results from travel to conferences is allowable provided that:

- (i) The costs are a direct result of the individual's travel for the Federal award.
- (ii) The costs are consistent with the city's documented travel policy for all entity travel; and
- (iii) Are only temporary during the travel period.

(2) Travel costs for dependents are unallowable, except for travel of duration of six months or more with prior approval of the Federal awarding agency.

(d) In the absence of an acceptable, written City policy regarding travel costs, the rates and amounts established under 5 U.S.C. 5701-11, ("Travel and Subsistence Expenses; Mileage Allowances"), or by the Administrator of General Services, or by the President (or his or her designee) pursuant to any provisions of such subchapter must apply to travel under Federal awards (48 CFR 31.205-46(a)).

(e) **Commercial air travel.**

(1) Airfare costs more than the basic least expensive unrestricted accommodations class offered by commercial airlines are unallowable except when such accommodations would:

- (I) Require circuitous routing.

- (ii) Require travel during unreasonable hours.
 - (iii) Excessively prolong travel.
 - (iv) Result in additional costs that would offset the transportation savings; or
 - (v) Offer accommodations not reasonably adequate for the traveler's medical needs. The City must justify and document these conditions on a case-by-case basis for the use of first-class or business-class airfare to be allowable in such cases.
- (2) Unless a pattern of avoidance is detected, the Federal Government will generally not question the City's determinations that customary standard airfare or other discount airfare is unavailable for specific trips if the City can demonstrate that such airfare was not available in the specific case.
- (f) **Air travel by other than commercial carrier.** Costs of travel by City-owned, -leased, or -chartered aircraft include the cost of a lease, charter, operation (including personnel costs), maintenance, depreciation, insurance, and other related costs. The portion of such costs that exceed the cost of airfare as provided for in paragraph (d) of this section, is unallowable.

Appendix III: Acronyms.

Acronym Term

CAS Cost Accounting Standards

CFR Code of Federal Regulations

CMIA Cash Management Improvement Act

COG Councils of Governments

COSO Committee of Sponsoring Organizations of the Treadway Commission

EPA Environmental Protection Agency

ERISA Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301-1461)

EUI Energy Usage Index

F&A Facilities and Administration

FAC Federal Audit Clearinghouse

FAIN Federal Award Identification Number

FAPIIS Federal Awardee Performance and Integrity Information System

FAR Federal Acquisition Regulation

FFATA Federal Funding Accountability and Transparency Act of 2006 or Transparency Act - Public Law 109-282, as amended by section 6202(a) of Public Law 110-252 (31 U.S.C. 6101)

FICA Federal Insurance Contributions Act

FOIA Freedom of Information Act

FR Federal Register

FTE Full-time equivalent

GAAP Generally Accepted Accounting Principles

GAGAS Generally Accepted Government Auditing Standards

GAO Government Accountability Office

GOCO Government owned, contractor operated

GSA General Services Administration

IBS Institutional Base Salary

IHE Institutions of Higher Education

IRC Internal Revenue Code

ISDEAA Indian Self-Determination and Education and Assistance Act

MTC Modified Total Cost

MTDC Modified Total Direct Cost

NFE City

OMB Office of Management and Budget

PII Personally Identifiable Information

PMS Payment Management System

PRHP Post-retirement Health Plans

PTE Pass-through Entity

REUI Relative Energy Usage Index

SAM System for Award Management

SFA Student Financial Aid

SNAP Supplemental Nutrition Assistance Program

SPOC Single Point of Contact

TANF Temporary Assistance for Needy Families

TFM Treasury Financial Manual

U.S.C. United States Code

VAT Value Added Tax

Appendix IV: Definitions.

These are the definitions for terms used in this part. Different definitions may be found in Federal statutes or regulations that apply more specifically to programs or activities. These definitions could be supplemented by additional instructional information provided in government-wide standard information collections. For purposes of this part, the following definitions apply:

Acquisition cost - the cost of the asset including the cost to ready the asset for its intended use. Acquisition cost for equipment, for example, the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Acquisition costs for software include those development costs capitalized in accordance with generally accepted accounting principles (GAAP). Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation may be included in or excluded from the acquisition cost in accordance with the city's regular accounting practices.

Advance payment - a payment that a Federal awarding agency or pass-through entity makes by any appropriate payment mechanism, including a predetermined payment schedule, before the City disburses the funds for program purposes.

Allocation - the process of assigning a cost, or a group of costs, to one or more cost objective(s), in reasonable proportion to the benefit provided or other equitable relationship. The process may entail assigning a cost(s) directly to a final cost objective or through one or more intermediate cost objectives.

Assistance listings - the publicly available listing of Federal assistance programs managed and administered by the General Services Administration, formerly known as the Catalog of Federal Domestic Assistance (CFDA).

Assistance listing number - a unique number assigned to identify a Federal Assistance Listings, formerly known as the CFDA Number.

Assistance listing program title - the title that corresponds to the Federal Assistance Listings Number, formerly known as the CFDA program title.

Audit finding - deficiencies which the auditor is required to report in the schedule of findings and questioned costs.

Auditor - an auditor who is a public accountant or a Federal, State, local government, or Indian tribe audit organization, which meets the general standards specified for external auditors in generally accepted government auditing standards (GAGAS). The term auditor does not include internal auditors of nonprofit organizations.

Budget - the financial plan for the Federal award that the Federal awarding agency or pass-through entity approves during the Federal award process or in subsequent amendments to the Federal award. It may include the Federal and non-Federal share or only the Federal share, as determined by the Federal awarding agency or pass-through entity.

Budget period - the time interval from the start date of a funded portion of an award to the end date of that funded portion during which recipients are authorized to expend the funds awarded, including any funds carried forward or other revisions.

Capital assets -:

(1) Tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with GAAP. Capital assets include:

(i) Land, buildings (facilities), equipment, and intellectual property (including software) whether acquired by purchase, construction, manufacture, exchange, or through a lease accounted for as financed purchase under Government Accounting Standards Board (GASB) standards or a finance lease under Financial Accounting Standards Board (FASB) standards; and

(ii) Additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life (not ordinary repairs and maintenance).

(2) For purpose of this part, capital assets do not include intangible right-to-use assets (per GASB) and right-to-use operating lease assets (per FASB). For example, assets capitalized that recognize a lessee's right to control the use of property and/or equipment for a period under a lease contract.

Capital expenditures - expenditures to acquire capital assets or expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life.

Central service cost allocation plan - the documentation identifying, accumulating, and allocating or developing billing rates based on the allowable costs of services provided by a State or local government or Indian tribe on a centralized basis to its departments and agencies. The costs of these services may be allocated or billed to users.

Claim -, depending on the context, either:

(1) A written demand or written assertion by one of the parties to a Federal award seeking as a matter of right:

(i) The payment of money in a sum certain.

(ii) The adjustment or interpretation of the terms and conditions of the Federal award; or

(iii) Other relief arising under or relating to a Federal award.

(2) A request for payment that is not in dispute when submitted.

Class of Federal awards - a group of Federal awards either awarded under a specific program or group of programs or to a specific type of City or group of non-federal entities to which specific provisions or exceptions may apply.

Closeout - the process by which the Federal awarding agency or pass-through entity determines that all applicable administrative actions and all required work of the Federal award have been completed and takes actions as described in the Terms and conditions of the award.

Cluster of programs - a grouping of closely related programs that share common compliance requirements. The types of clusters of programs are research and development (R&D), student financial aid (SFA), and other clusters. "Other clusters" are as defined by OMB in the compliance supplement or as designated by a State for Federal awards the State provides to its subrecipients that meet the definition of a cluster of programs. When designating an "other cluster," a State must identify the Federal awards included in the cluster and advise the subrecipients of compliance requirements applicable to the cluster. A cluster of programs must be considered as one program for determining major programs except for R&D, whether a program-specific audit may be elected.

Computing devices - machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or "peripherals") for printing, transmitting, and receiving, or storing electronic information. See also the definitions of *supplies* and *information technology systems* in this section.

Contract - for Federal financial assistance, a legal instrument by which a recipient or subrecipient purchases property or services needed to carry out the project or program under a Federal award.

Contractor - an entity that receives a contract as defined in this section.

Cooperative agreement - a legal instrument of financial assistance between a Federal awarding agency and a recipient or a pass-through entity and a subrecipient that:

- (1) Is used to enter a relationship the principal purpose of which is to transfer anything of value to carry out a public purpose authorized by a law of the United States; not to acquire property or services for the Federal Government or pass-through entity's direct benefit or use;
- (2) Is distinguished from a grant in that it provides for substantial involvement of the Federal awarding agency in carrying out the activity contemplated by the Federal award.
- (3) The term does not include:
 - (i) A cooperative research and development agreement; or
 - (ii) An agreement that provides only:
 - (A) Direct United States Government cash assistance to an individual.
 - (B) A subsidy.
 - (C) A loan.
 - (D) A loan guarantee; or

(E) Insurance.

Cooperative audit resolution - the use of audit follow-up techniques that promote prompt corrective action by improving communication, fostering collaboration, promoting trust, and developing an understanding between the Federal agency and the City. This approach is based upon:

- (1) A strong commitment by Federal agency and City leadership to program integrity.
- (2) Federal agencies strengthening partnerships and working cooperatively with City and their auditors; the City and their auditors working cooperatively with Federal agencies.
- (3) A focus on current conditions and corrective action going forward.
- (4) Federal agencies offering appropriate relief for past noncompliance when audits show prompt corrective action has occurred; and
- (5) Federal agency leadership sending a clear message that continued failure to correct conditions identified by audits that are likely to cause improper payments, fraud, waste, or abuse is unacceptable and will result in sanctions.

Corrective action – the action taken by the auditee that:

- (1) Corrects identified deficiencies.
- (2) Produces recommended improvements; or
- (3) Demonstrates that audit findings are either invalid or do not warrant auditee action.

Cost objective - a program, function, activity, award, organizational subdivision, contract, or work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capital projects, etc. A cost objective may be a major function of the City, a service or project, a Federal award, or an indirect (Facilities & Administrative (F&A)) cost activity. See also the definitions of *final cost objective* and *intermediate cost objective* in this section.

Cost-sharing or matching - the portion of project costs not paid by Federal funds or contributions (unless otherwise authorized by Federal statute).

Cross-cutting audit finding - an audit finding where the same underlying condition or issue affects all Federal awards (including Federal awards of more than one Federal awarding agency or pass-through entity).

Disallowed costs - those charges to a Federal award that the Federal awarding agency or pass-through entity determines to be unallowable, in accordance with the applicable Federal statutes, regulations, or the terms and conditions of the Federal award.

Discretionary award - an award in which the Federal awarding agency, in keeping with specific statutory authority that enables the agency to exercise judgment (“discretion”), selects the recipient

and/or the amount of Federal funding awarded through a competitive process or based on the merit of proposals. A discretionary award may be selected on a non-competitive basis, as appropriate.

Equipment - tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the City for financial statement purposes, or \$5,000.

Expenditures - charges made by the City to a project or program for which a Federal award was received.

- (1) The charges may be reported on a cash or accrual basis if the methodology is disclosed and is consistently applied.
- (2) For reports prepared on a cash basis, expenditures are the sum of:
 - (i) Cash disbursements for direct charges for property and services.
 - (ii) The amount of indirect expense charged.
 - (iii) The value of third-party in-kind contributions applied; and
 - (iv) The amount of cash advance payments and payments made to subrecipients.
- (3) For reports prepared on an accrual basis, expenditures are the sum of:
 - (i) Cash disbursements for direct charges for property and services.
 - (ii) The amount of indirect expense incurred.
 - (iii) The value of third-party in-kind contributions applied; and
 - (iv) The net increase or decrease in the amounts owed by the City for:
 - (A) Goods and other property received.
 - (B) Services performed by employees, contractors, subrecipients, and other payees; and
 - (C) Programs for which no current services or performance are required such as annuities, insurance claims, or other benefit payments.

Federal agency - an “agency” as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f), could be the following:

- (1) The Congress.
- (2) The courts of the United States.

- (3) The governments of the territories or possessions of the United States.
- (4) The government of the District of Columbia.
- (5) Agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them.
- (6) Courts- martial and military commissions; or
- (7) Military authority exercised in the field in times of war or in occupied territory

Federal Audit Clearinghouse (FAC) - the clearinghouse designated by OMB as the repository of record where the City is required to transmit the information.

Federal award has the meaning, depending on the context, in either paragraph (1) or (2) of this definition:

- (1)
 - (i) The Federal financial assistance that a recipient receives directly from a Federal awarding agency or indirectly from a pass-through entity, or
 - (ii) The cost-reimbursement contract under the Federal Acquisition Regulations that the City receives directly from a Federal awarding agency or indirectly from a pass-through entity.
- (2) The instrument setting forth the terms and conditions. The instrument is the grant agreement, cooperative agreement, other agreement for assistance covered in paragraph (2) of the definition of *Federal financial assistance* in this section, or the cost-reimbursement contract awarded under the Federal Acquisition Regulations.
- (3) Federal award does not include other contracts that a Federal agency uses to buy goods or services from a contractor or a contract to operate Federal Government-Owned, Contractor-Operated facilities (GOCOs).
- (4) See also definitions of Federal financial assistance, grant agreement, and cooperative agreement.

Federal award date - the date when the Federal award is signed by the authorized official of the Federal awarding agency.

Federal awarding agency - the Federal agency that provides a Federal award directly to the City.

Federal financial assistance -

- (1) Assistance that City receive or administer in the form of:
 - (I) Grants.

- (ii) Cooperative agreements.
- (iii) Non-cash contributions or donations of property (including donated surplus property).
- (iv) Direct appropriations.
- (v) Food commodities; and
- (vi) Other financial assistance (except assistance listed in paragraph (2) of this definition).

(2) Federal financial assistance also includes assistance that the City receive or administer in the form of:

- (i) Loans.
- (ii) Loan Guarantees.
- (iii) Interest subsidies; and
- (iv) Insurance.

(3) Federal financial assistance includes assistance that the City receive or administer in the form of:

- (i) Grants.
- (ii) Cooperative agreements.
- (iii) Loans; and
- (iv) Loan Guarantees.

(4) Federal financial assistance does not include amounts received as reimbursement for services rendered to individuals.

Federal interest - when used in connection with the acquisition or improvement of real property, equipment, or supplies under a Federal award, the dollar amount that is the product of the:

- (1) The percentage of Federal participation in the total cost of the real property, equipment, or supplies; and
- (2) Current fair market value of the property, improvements, or both, to the extent the costs of acquiring or improving the property were included as project costs.

Federal program -:

- (1) All Federal awards which are assigned a single Assistance Listings Number.

(2) When no Assistance Listings Number is assigned, all Federal awards from the same agency made for the same purpose must be combined and considered one program.

(3) Notwithstanding paragraphs (1) and (2) of this definition, a cluster of programs. The types of clusters of programs are:

- (i) Research and development (R&D).
- (ii) Student financial aid (SFA); and
- (iii) "Other clusters," as described in the definition of a *cluster of programs* in this section.

Federal share - the portion of the Federal award costs that are paid using Federal funds.

Final cost objective - a cost objective which has allocated to it both direct and indirect costs and, in the city's accumulation system, is one of the final accumulation points, such as an award, internal project, or other direct activity of the City. See also the definitions of *cost objective* and *intermediate cost objective* in this section.

Financial obligations - when referencing a recipient's or subrecipient's use of funds under a Federal award, means orders placed for property and services, contracts and subawards made, and similar transactions that require payment.

Fixed amount awards - a type of grant or cooperative agreement under which the Federal awarding agency or pass-through entity provides a specific level of support without regard to actual costs incurred under the Federal award. This type of Federal award reduces some of the administrative burden and record-keeping requirements for both the City and Federal awarding agency or pass-through entity. Accountability is based primarily on performance and results.

Foreign organization - an entity that is:

- (1) A public or private organization located in a country other than the United States and its territories that is subject to the laws of the country in which it is located, irrespective of the citizenship of project staff or place of performance;
- (2) A private nongovernmental organization located in a country other than the United States that solicits and receives cash contributions from the public.
- (3) A charitable organization located in a country other than the United States that is nonprofit and tax-exempt under the laws of its country of domicile and operation, and is not a university, college, accredited degree-granting institution of education, private foundation, hospital, organization engaged exclusively in research or scientific activities, church, synagogue, mosque, or other similar entities organized primarily for religious purposes; or
- (4) An organization located in a country other than the United States is not recognized as a foreign public entity.

Foreign public entity -:

- (1) A foreign government or foreign governmental entity.
- (2) A public international organization, which is an organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (22 U.S.C. 288-288f);
- (3) An entity owned (in whole or in part) or controlled by a foreign government; or
- (4) Any other entity consisting wholly or partially of one or more foreign governments or foreign governmental entities.

General purpose equipment - equipment that is not limited to research, medical, scientific, or other technical activities. Examples include office equipment and furnishings, modular offices, telephone networks, information technology equipment and systems, air conditioning equipment, reproduction and printing equipment, and motor vehicles.

Generally Accepted Accounting Principles (GAAP) has the meaning specified in accounting standards issued by the GASB and the FASB.

Generally Accepted Government Auditing Standards (GAGAS), also known as the Yellow Book, - generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits.

Grant agreement - a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and the City that:

- (1) Is used to enter a relationship the principal purpose of which is to transfer anything of value to carry out a public purpose authorized by a law of the United States and not to acquire property or services for the Federal awarding agency or pass-through entity's direct benefit or use;
- (2) Is distinguished from a cooperative agreement in that it does not provide for substantial involvement of the Federal awarding agency in carrying out the activity contemplated by the Federal award.
- (3) Does not include an agreement that provides only:
 - (i) Direct United States Government cash assistance to an individual.
 - (ii) A subsidy.
 - (iii) A loan.
- (vi) A loan guarantee; or
- (v) Insurance.

Highest level owner - the entity that owns or controls an immediate owner of the offeror, or that owns or controls one or more entities that control an immediate owner of the offeror. No entity owns or exercises control of the highest-level owner as defined in the Federal Acquisition Regulations (FAR) (48 CFR 52.204-17).

Hospital - a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

Improper payment -:

(1) Any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements.

(i) Incorrect amounts are overpayments or underpayments that are made to eligible recipients (including inappropriate denials of payment or service, any payment that does not account for credit for applicable discounts, payments that are for an incorrect amount, and duplicate payments). An improper payment also includes any payment that was made to an ineligible recipient or for an ineligible good or service, or payments for goods or services not received (except for such payments authorized by law).

Note 1 to paragraph (1)(i) of this definition. Applicable discounts are only those discounts where it is both advantageous and within the agency's control to claim them.

(ii) When an agency's review is unable to discern whether a payment was proper because of insufficient or lack of documentation, this payment should also be considered an improper payment. When establishing documentation requirements for payments, agencies should ensure that all documentation requirements are necessary and should refrain from imposing additional burdensome documentation requirements.

(iii) Interest or other fees that may result from an underpayment by an agency are not considered an improper payment if the interest was paid correctly. These payments are generally separate transactions and may be necessary under certain statutory, contractual, administrative, or other legally applicable requirements.

(iv) A “questioned cost” (as defined in this section) should not be considered an improper payment until the transaction has been completely reviewed and is confirmed to be improper.

(v) The term “payment” in this definition - any disbursement or transfer of Federal funds (including a commitment for future payment, such as cash, securities, loans, loan guarantees, and insurance subsidies) to any non-Federal person, City, or Federal employee, that is made by a Federal agency, a Federal contractor, a Federal grantee, or a governmental or other organization administering a Federal program or activity.

(vi) The term “payment” includes disbursements made pursuant to prime contracts awarded under the Federal Acquisition Regulation and Federal awards subject to this part that are expended by recipients.

(2) See definition of improper payment in OMB Circular A-123 Appendix C, part I A (1) “What is an improper payment?” Questioned costs, including those identified in audits, are not an improper payment until reviewed and confirmed to be improper as defined in OMB Circular A-123 Appendix C.

Indian tribe - any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. Chapter 33), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians (25 U.S.C. 450b(e)). See annually published Bureau of Indian Affairs list of Indian Entities Recognized and Eligible to Receive Services.

Indirect (facilities & administrative (F&A)) costs - those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish several pools of indirect (F&A) costs. Indirect (F&A) cost pools must be distributed to benefitted cost objectives on a basis that will produce an equitable result in consideration of relative benefits derived.

Indirect cost rate proposal - the documentation prepared by the City to substantiate its request for the establishment of an indirect cost rate.

Information technology systems - computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources.

Intangible property - property having no physical existence, such as trademarks, copyrights, patents, and patent applications and property, such as loans, notes, and other debt instruments, lease agreements, stock, and other instruments of property ownership (whether the property is tangible or intangible).

Intermediate cost objective - a cost objective that is used to accumulate indirect costs or service center costs that are subsequently allocated to one or more indirect cost pools or final cost objectives.

Internal controls for City -:

(1) Processes designed and implemented by City to provide reasonable assurance regarding the achievement of objectives in the following categories:

- (i) Effectiveness and efficiency of operations.
- (ii) Reliability of reporting for internal and external use; and
- (iii) Compliance with applicable laws and regulations.

(2) Federal awarding agencies are required to follow internal control compliance requirements in OMB Circular No. A-123, Management's Responsibility for Enterprise Risk Management and Internal Control.

Loan - a Federal loan or loan guarantee received or administered by the City, except as used in the definition of *program income* in this section.

(1) The term “direct loan” - a disbursement of funds by the Federal Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. The term includes the purchase of, or participation in, a loan made by another lender and financing arrangements that defer payment for more than 90 days, including the sale of a Federal Government asset on credit terms. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims or the price support loans of the Commodity Credit Corporation.

(2) The term “direct loan obligation” - a binding agreement by a Federal awarding agency to make a direct loan when specified conditions are fulfilled by the borrower.

(3) The term “loan guarantee” - any Federal Government guarantee, insurance, or other pledges with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

(4) The term “loan guarantee commitment” - a binding agreement by a Federal awarding agency to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

Major program - a Federal program determined by the auditor to be a major program or a program identified as a major program by a Federal awarding agency or pass-through entity.

Management decision - the Federal awarding agency's or pass-through entity's written determination, provided to the auditee, of the adequacy of the auditee's proposed corrective actions to address the findings, based on its evaluation of the audit findings and proposed corrective actions.

Micro-purchase - a purchase of supplies or services, the aggregate amount of which does not exceed the micro-purchase threshold. Micro-purchases comprise a subset of the City's small purchases.

Micro-purchase threshold - the dollar amount at or below which the City may purchase property or services using micro-purchase procedures. Generally, the micro-purchase threshold for procurement activities administered under Federal awards is not to exceed the amount set by the FAR at [48 CFR part 2, subpart 2.1](#), unless a higher threshold is requested by the City and approved by the cognizant agency for indirect costs.

Modified Total Direct Cost (MTDC) - all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital

expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs, and the portion of each subaward more than \$25,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs, and with the approval of the cognizant agency for indirect costs.

Non-discretionary award - an award made by the Federal awarding agency to specific recipients in accordance with statutory, eligibility, and compliance requirements, such that in keeping with specific statutory authority the agency has no ability to exercise judgement (“discretion”). A non-discretionary award amount could be determined specifically or by formula.

Nonprofit organization - any corporation, trust, association, cooperative, or other organization, not including IHEs, that:

- (1) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest.
- (2) Is not organized primarily for profit; and
- (3) Uses net proceeds to maintain, improve, or expand the operations of the organization.

Notice of funding opportunity - a formal announcement of the availability of Federal funding through a financial assistance program from a Federal awarding agency. The notice of funding opportunity provides information on the award, who is eligible to apply, the evaluation criteria for selection of an awardee, required components of an application, and how to submit the application. The notice of funding opportunity is any paper or electronic issuance that an agency uses to announce a funding opportunity, whether it is called a “program announcement,” “notice of funding availability,” “broad agency announcement,” “research announcement,” “solicitation,” or some other term.

Office of Management and Budget (OMB) - the Executive Office of the President, Office of Management and Budget.

Participant support costs - direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences, or training projects.

Pass-through entity (PTE) - the City that provides a subaward to a subrecipient to carry out part of a Federal program.

Performance goal - a target level of performance expressed as a tangible, measurable objective, against which actual achievement can be compared, including a goal expressed as a quantitative standard, value, or rate. In some instances (*e.g.*, discretionary research awards), this may be limited to the requirement to submit technical performance reports (to be evaluated in accordance with agency policy).

Period of performance - the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions or budget periods.

Identification of the period of performance in the Federal award does not commit the awarding agency to fund the award beyond the currently approved budget period.

Personal property - property other than real property. It may be tangible, having physical existence, or intangible.

Personally, Identifiable Information (PII) - information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. Some information that is PII is available in public sources such as telephone books, public websites, and university listings. This type of information is Public PII and includes, for example, first and last name, address, work telephone number, email address, home telephone number, and general educational credentials. The definition of PII is not anchored to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified. Non-PII can become PII whenever additional information is made publicly available, in any medium and from any source, that, when combined with other available information, could be used to identify an individual.

Program income - gross income earned by the City that is directly generated by a supported activity or earned because of the Federal award during the period of performance. Program income includes but is not limited to income from fees for services performed, the use or rental or real of personal property acquired under Federal awards, the sale of commodities or items fabricated under a Federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal statutes, regulations, or the terms and conditions of the Federal award, program income does not include rebates, credits, discounts, and interest earned on any of them.

Project cost - total allowable costs incurred under a Federal award and all required cost-sharing and voluntarily committed cost-sharing, including third-party contributions.

Property - real property or personal property. See also the definitions of *real property* and *personal property* in this section.

Protected Personally Identifiable Information (Protected PII) - 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 the definition of *Personally Identifiable Information (PII)* in this section.

Questioned cost - a cost that is questioned by the auditor because of an audit finding:

- (1) Which resulted from a violation or possible violation of a statute, regulation, or the terms and conditions of a Federal award, including for funds used to match Federal funds;
- (2) Where the costs, at the time of the audit, are not supported by adequate documentation; or

(3) Where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.

(4) Questioned costs are not an improper payment until reviewed and confirmed to be improper as defined in OMB Circular A-123 Appendix C. (See also the definition of *Improper payment* in this section).

Real property - land, including land improvements, structures, and appurtenances thereto, but excludes moveable machinery and equipment.

Recipient - an entity, usually but not limited to the department that receives a Federal award directly from a Federal awarding agency. The term recipient does not include subrecipients or individuals that are beneficiaries of the award.

Renewal award - an award made after an expiring Federal award for which the start date is contiguous with, or closely follows, the end of the expiring Federal award. A renewal award's start date will begin a distinct period of performance.

Research and Development (R&D) - all research activities, both basic and applied, and all development activities that are performed by the City. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function. "Research" is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. "Development" is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including the design and development of prototypes and processes.

Simplified acquisition threshold - the dollar amount of \$15,000 or less which the City may purchase property or services using small purchase methods.

Special purpose equipment - equipment that is used only for research, medical, scientific, or other technical activities. Examples of special purpose equipment include microscopes, x-ray machines, surgical instruments, and spectrometers. See also the definitions of *equipment* and *general-purpose equipment* in this section.

Subaward - an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Subrecipient - an entity, usually but not limited to City, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

Subsidiary - an entity in which more than 50 percent of the entity is owned or controlled directly by a parent corporation or through another subsidiary of a parent corporation.

Supplies - all tangible personal property other than those described in the definition of *equipment* in this section. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the City for financial statement purposes or \$5,000, regardless of the length of its useful life. See also the definitions of *computing devices* and *equipment* in this section.

Telecommunications cost - the cost of using communication and telephony technologies such as mobile phones, landlines, and the internet.

Termination - the ending of a Federal award, in whole or in part at any time prior to the planned end of the period of performance. A lack of available funds is not a termination.

Third-party in-kind contributions - the value of non-cash contributions (*i.e.*, property or services) that -

- (1) Benefit a federally-assisted project or program; and
- (2) Are contributed by non-Federal third parties, without charge, to the City under a Federal award.

Unliquidated financial obligations -, for financial reports prepared on a cash basis, financial obligations incurred by the City that have not been paid (liquidated). For reports prepared on an accrual expenditure basis, these are financial obligations incurred by the City for which an item of expenditure has not been recorded.

Unobligated balance - the number of funds under a Federal award that the City has not obligated. The amount is computed by subtracting the cumulative amount of the city's unliquidated financial obligations and expenditures of funds under the Federal award from the cumulative amount of the funds that the Federal awarding agency or pass-through entity authorized the City to obligate.

Voluntary committed cost sharing - cost sharing specifically pledged on a voluntary basis in the proposal's budget on the part of the City and that becomes a binding requirement of Federal award.