

## **SUBJECT: Uniform Grant Guidance Compliance for Federal Awards: Procurement, Suspension and Debarment**

2 CFR Part 200, Subparts A-F (*Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards*) (hereinafter “Uniform Guidance”) requires organizations receiving Federal awards to establish and maintain effective internal controls when procuring goods and services needed to carry out such Federal awards.

### General Policy Statement

The requirements for procurements using Federal awards are contained in the Uniform Guidance, program legislation, Federal awarding agency regulations, and the terms and conditions of the award.

To comply with Uniform Guidance, the District implements policies and procedures, including, but not limited to:

1. The District will use its own documented procurement procedures which reflect applicable State, local and tribal laws and regulations, provided that the procurements conform to applicable Federal law and Uniform Guidance. As such, the District procurements related to Federal grants will be subject to New York State General Municipal Law, this policy, and Uniform Guidance Requirements.
2. Contract files will document the significant history of the procurement, including the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis of contract price.
3. The District will utilize one of the five acceptable procurement methodologies detailed in §200.320 which include:
  1. a. micro purchases
  - b. small purchase procedures;
  - c. sealed bids;
  - d. competitive proposals; and
  - e. non-competitive proposals (sole source).

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4. Procurements will provide for full and open competition as set forth in the Uniform Guidance and State and local procurement thresholds.
5. Conflict of Interest Provisions:
  1.
    - a. No Board member, employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the Board member, employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The Board member, officers, employees, and agents can neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. If the financial interest is not substantial or the gift is an unsolicited item of nominal value, no further action will be taken. However, disciplinary actions will be applied for violations of such standards otherwise.
    - b. The district, under the direction of the Superintendent, shall disclose in writing any and all potential conflicts of interest to the relevant Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.
    - c. The Superintendent shall maintain all necessary and relevant documentation to comply with the provisions of this section.
    - d. If the district has, or in the future should have, a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the district shall implement and maintain written standards of conduct covering organizational conflicts of interest. "Organizational conflicts of interest means" that because of relationships with a parent company, affiliate, or subsidiary organization, the district is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.
6. The District will avoid acquisition of unnecessary or duplicative items. Consideration will be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives and any other appropriate analysis to determine the most economical procurement approach. The District will also analyze other means, as described in §200.318 of the Uniform Guidance, to ensure appropriate and economical acquisitions.

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7. The District will enter into State and local intergovernmental agreements or inter-entity agreements, where appropriate.
8. The District will utilize Time and Materials contracts only when it has been determined, in writing, that no other contract type is suitable, and the contract includes a ceiling price that the contractor exceeds at its own risk.
9. Vendors/Contractors that develop or draft specifications, requirements, statements of work, or invitation to bids or requests for proposals must be excluded from competing for such procurements.
10. The District will make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition.
11. The District is prohibited from contracting with or making sub-awards under covered transactions to parties that are suspended, debarred or otherwise excluded from or ineligible for participation in federal assistance programs or activities, or whose principals are suspended or debarred. "Covered Transactions" include those procurement contracts for goods and services awarded under a non-procurement transaction (e.g., grant or cooperative agreement) that are expected to equal or exceed \$25,000. All non-procurement transactions, irrespective of award amount, are considered covered transactions, except for those transactions identified in 2 CFR § 180.215.
12. The District will include a suspension/debarment clause in all written contracts in which the vendor/contractor will certify that it is not suspended or debarred. The contract will also contain language requiring the vendor/contractor to notify the District immediately upon becoming suspended or debarred. This will serve as adequate documentation as long as the contract remains in effect.

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13. The District's departments will be required to notify the Assistant Superintendent for Business and/or the School Purchasing Agent that Federal funding will be used for a certain procurement/contract. When requesting a written contract and prior to the issuance of a purchase order using federal funds, the Assistant Superintendent for Business or his/her designee (under the supervision of the Assistant Superintendent for Business) will be responsible for running the name of the vendor/contractor through the System for Award Management (SAM) to determine any exclusions. A copy of the SAM search will be included with the contract request. If a vendor/contractor is found to be suspended or debarred, the District will immediately cease to do business with the vendor/contractor.
14. The District will not use 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 geographical preference.
15. The District will take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor area surplus firms are used when possible. Affirmative steps must include: (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists; (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises; (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises; (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and (6) Requiring the prime contractor, if subcontracts are to be let, to take affirmative steps listed (1) through (5).
16. The District will procure recovered materials in compliance with §200.322.

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17. The District will perform a cost or price analysis relating to every procurement more than the Simplified Acquisition Threshold as defined in §200.88 and will otherwise comply with §200.323 as necessary.
18. The District will require appropriate bonding requirements as per §200.325.
19. The District will only award contracts to Responsible Vendors/Contractors capable of performing successfully under the terms and conditions of a proposed procurement and will document, in writing, such determination.
20. The District contracts will contain the applicable provisions described in Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.
21. The District will maintain oversight to ensure that contractors perform in accordance with the contract terms, conditions, and specifications, as well as applicable federal requirements and performance expectations under the federal award for each program, function or activity.
22. Copies of executed contracts will be maintained in the Purchasing Department and purchase orders will be maintained in the District’s financial management system.
23. The District’s financial management system will provide for the following, in accordance with §200.302: (1) Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received, and, as applicable, the CFDA title and number, Federal award identification number and year, name of the Federal agency, and name of the pass-through entity, if any; (2) accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements set forth in § 200.327 (Financial reporting) and § 200.328 (Monitoring and reporting program performance); (3) Records that identify adequately the source and application of funds for federally-funded activities,

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which will contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation; (4) Effective control over, and accountability for, all funds, property, and other assets and that the District will adequately safeguard all assets and assure that they are used solely for authorized purposes; (5) Comparison of expenditures with budget amounts for each Federal award; (6) Written procedures to implement the requirements of § 200.305 (Payment); and (7) Written procedures for determining the allowability of costs in accordance with Subpart E—Cost Principles of this part and the terms and conditions of the Federal award.

24. In order to implement the requirements of § 200.305 “Payments”, the District adopts the following written procedures:

1.

- a. The District’s payment method will minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the District whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means.
- b. The District will require recipients to use only OMB–approved standard governmentwide information collection requests to request payment. The District will be paid in advance, provided it maintains or demonstrates the willingness to maintain both written procedures that: (i) minimize the time elapsing between the transfer of funds and disbursement by the District; (ii) financial management systems that meet the standards for fund control and accountability as established in this part, advanced payments will be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the District in carrying out the purpose of the approved program or project; (iii) The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the District for direct program or project costs and the proportionate share of any allowable indirect costs; and (iv) The District must make timely payment to contractors in accordance with the contract provisions.
- c. Whenever possible, advance payments will be consolidated to cover anticipated cash needs for all Federal awards made by the District to recipients.
- d. To the extent available, the District will disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments.
- e. Pursuant to §200.305(b)(6), unless otherwise required by Federal statutes, payments for allowable costs by the District will not be withheld at any time during the period of

performance unless the conditions of § 200.207, § 200.338, or one or more of the following applies: (i) The District has failed to comply with the project objectives, Federal statutes, regulations, or the terms and conditions of the Federal award; (ii) The District is delinquent in a debt to the United States as defined in OMB Guidance A-129, “Policies for Federal Credit Programs and Non-Tax Receivables” (under such conditions, the Federal awarding agency or pass-through entity may, upon reasonable notice, inform the District that payments must not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal government is liquidated); (iii) A payment withheld for failure to comply with Federal award conditions, but without suspension of the Federal award, must be released to the District upon subsequent compliance (when a Federal award is suspended, payment adjustments will be made in accordance with § 200.342);(iv) A payment will not be made to the District for amounts that are withheld by the District from payment to contractors to assure satisfactory completion of work. A payment must be made when the District actually disburses the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.

- f. Pursuant to §200.305(7), the District will not maintain separate depository accounts for funds provided to the District or establish any eligibility requirements for depositories for funds provided to the District. However, the District will account for the receipt, obligation and expenditure of funds. Advance payments of Federal funds will be deposited and maintained in insured accounts whenever possible.
- g. The District will maintain advance payments of Federal awards in interest-bearing accounts, unless the following apply: (i) The District receives less than \$120,000 in Federal awards per year; (ii) The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances; (iii) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources; (iv) A foreign government or banking system prohibits or precludes interest bearing accounts.
- h. Interest earned amounts up to \$500 per year may be retained by the District for administrative expense. Any additional interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services Payment Management System (PMS) through an electronic medium using either Automated Clearing House (ACH) network or a Fedwire Funds Service payment in accordance with § 200.305(b)(9).

25. In order to implement the requirements of § 200.302(b)(7), the District adopts the following written procedures to determine the allowability of costs in accordance with 2 CFR Part 200, Subpart E Cost Principle:

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1.

- a. Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under a Federal award: (i) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles; (ii) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items; (iii) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the District; (iv) Be accorded 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 has been allocated to the Federal award as an indirect cost; (v) Be determined in accordance with generally accepted accounting principles (GAAP); (vi) 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; (vii) Be adequately documented.
- b. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In determining reasonableness of a given cost, consideration must be given to: (i) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the District or the proper and efficient performance of the Federal award; (ii) The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, state, local, tribal, and other laws and regulations; and terms and conditions of the Federal award; (iii) Market prices for comparable goods or services for the geographic area; (iv) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the District, its employees, where applicable its students or membership, the public at large, and the Federal government; (v) Whether the District significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.
- c. A cost is allocable to a particular Federal award or other cost objective if the goods or services involved are chargeable or assignable to that Federal award or cost objective in accordance with relative benefits received. This standard is met if the cost: (i) Is incurred specifically for the Federal award; (ii) Benefits both the Federal award and other work of the District and can be distributed in proportions that may be approximated using reasonable methods; and (iii) Is necessary to the overall operation of the District and is assignable in part to the Federal award.



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26. Compensation for personal services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under a Federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits which are addressed in § 200.431. Costs of compensation are allowable to the extent that they satisfy the specific requirements of 2 CFR Part 200, including but not limited to § 200.430.

27. The District will take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive or the District considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

**Reference:** General Municipal Law, §§103 (1)(5) and 104-b; Federal Register 2 CFR §200 (Subparts A-F) – General Procurement

Adopted: 12/10/19