

# SHASTA COMMUNITY SERVICES DISTRICT'S FEDERAL COMPLIANCY POLICIES AND PROCEDURES

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BY THE BOARD OF DIRECTORS OF SHASTA COMMUNITY SERVICES  
DISTRICT

# FEDERAL COMPLIANCY POLICIES AND PROCEDURES

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## UNIFORM GUIDANCE

The District is implementing the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal grant awards (the "Uniform Guidance"). The Uniform Guidance provides an authoritative set of rules and requirements for all government agencies receiving federal grants directly from the federal government or from pass-through agencies such as the State of California.

The District must establish and follow the documented procurement policies and procedures in compliance with Title 2 of the Code of Federal Regulations (CFR) § 200.318 through § 200.327, known as the "Uniform Guidance" as applicable. 2 CFR § 200.318 (a) requires the District to have and use its own documented procurement procedures consistent with State and local laws and regulations as well as applicable Federal law and standards identified in these policies.

All District procurements expending federal funds received directly from the federal government or indirectly through a pass-through agency must comply with the provisions of Title 2 CFR § 200.318 through § 200.327. Federal regulations will apply to such expenditures unless the District's procurement procedures are more restrictive. Additional compliance requirements may be applicable as determined by the funding agency and funding source.

## COMPLIANCE WITH GRANT REQUIREMENTS

The District Manager shall be the "Grant Manager" who is responsible for compliance with all aspects of grant requirements and ensuring that the policies and procedures set forth herein are followed. The "Grant Manager" will work closely with department heads and District's board throughout the process.

## ACTIVITIES ALLOWED OR UNALLOWED

The specific requirements for activities allowed or unallowed are unique to each federal program and are found in the federal statutes, regulations, and the terms and conditions of the federal award pertaining to the program. The specific requirements of the governing statutes and regulations are included in 2 CFR Part 200 Compliance Supplement Part 4, "Agency Program Requirements" or Part 5, "Clusters of Programs," as applicable. This type of compliance requirement specifies the activities that can or cannot be funded under a specific program.

## ALLOWABLE COSTS/COST PRINCIPLES

The 2 CFR Part 200, Subpart E, and appendices III–VII establish principles and standards for determining allowable direct and indirect costs for federal awards.

- A. In the performance of its mission, the District utilizes several funding sources including grants provided by the federal government. To utilize these funds for the reimbursement of costs, the District is required to follow 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" when accounting for expenditures.
- B. The District charges costs that are reasonable, allowable, and allocable to an award directly or indirectly. All unallowable costs shall be appropriately segregated from allowable costs in the general ledger to assure the unallowable costs are not charged to any awards.
- C. Segregating Unallowable from Allowable Costs - The following steps shall be taken to identify and segregate costs that are allowable and unallowable with respect to each award:
  1. The budget and grant or contract for each award shall be reviewed for costs specifically allowable or unallowable.
  2. The District shall be familiar with the allow ability of costs provisions of 2 CFR Part 200," Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" particularly:
    - a. The list of specifically unallowable costs found in 2 CFR Part 200, (Selected Items of Cost), such as alcoholic beverages, bad debts, contributions, fines and penalties, lobbying, etc.
    - b. Those costs requiring advance approval from federal agencies to be allowable in accordance with 2 CFR Part 200, such as foreign travel, equipment purchases, etc.
  3. No costs shall be charged directly for any award until the cost has been determined to be allowable under the terms of the award and/or 2 CFR Part 200.
  4. For each award, an appropriate set of general ledger accounts (or account segments) shall be established in the chart of accounts to reflect the categories of allowable costs identified in the award or the award budget.



5. All items of miscellaneous income or credits, including the subsequent write-offs of un-cashed checks, rebates, refunds, and similar items, shall be reflected for grant accounting purposes as reductions in allowable expenditures if the credit relates to charges that were originally charged to an award or to activity associated with an award. The reduction in expenditures shall be reflected in the year in which the credit is received (i.e., if the purchase that results in the credit took place in a prior period, the prior period shall not be amended for the credit but rather it will be posted in the current period).

D. Criteria for Allowability - All costs must meet the following criteria from 2 CFR Part 200, to be treated as allowable direct or indirect costs under an award:

1. The cost must be “reasonable” for the performance of the award, considering the following factors:

- a. Whether the cost is of a type that is considered as being necessary for the operation of the District or the performance of the award;
- b. Restraints imposed by such factors as generally accepted sound business practices, arm’s length bargaining, federal and state laws and regulations, and the terms and conditions of the award;
- c. Whether the individuals concerned acted with prudence in the circumstances;
- d. Consistency with established policies and procedures of the District, deviations from which could unjustifiably increase the costs of the award.

2. The cost must be “allocable” to an award by meeting one of the following criteria:

- a. The cost is incurred specifically for an award;
- b. The cost benefits both the award and other work, and can be distributed in reasonable proportion to the benefits received; or
- c. The cost is necessary to the overall operation of District, except where a direct relationship to any program or group of programs cannot be demonstrated.

3. The cost must conform to any limitations or exclusions of 2 CFR Part 200 or the award itself. The “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” 2 CFR Part 200 are included as references.

4. Treatment of costs must be consistent with policies and procedures that apply to both financed activities and other activities of the District.

5. Costs must be consistently treated over time.

6. The cost must be determined in accordance with generally accepted accounting principles.

7. Costs may not be included as a cost of any other financed program in the current or prior periods.

8. The cost must be adequately documented.

E. Direct Costs - Direct costs are costs that are incurred/performed primarily as a service to clients or the public, when significant and necessary to the organization's mission. These costs are incurred for a specific objective and can be easily identified with a particular project (fund/contract) or activity. The District identifies and charges these costs exclusively to each award or program receiving the benefit.

F. Each invoice shall be coded with the appropriate account reflecting which program received direct benefit from the expenditure. Invoices are approved by the District Manager.

G. Time sheets or personnel activity reports are also submitted on a regular basis, reflecting employees' work and which programs directly benefited from their effort. Time sheets or personnel activity reports shall serve as the basis for charging salaries directly to federal awards and non-federal functions.

H. Equipment purchased for exclusive use on an award and reimbursed by the District shall be accounted for as a direct cost of that award (i.e., such equipment shall not be capitalized and depreciated).

I. Indirect Costs - Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular grant or program but are necessary to the operation of the organization and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. Indirect costs may be allocated to benefiting grants using an indirect cost rate.

J. Indirect Cost Rate - The District can submit an annual indirect cost proposal. Each year a new indirect cost proposal can be prepared and submitted with documentation to the appropriate federal cognizant agency for approval. The indirect cost rate approved is used when determining the indirect applied to each federal and state award.

K. Types of expenditures normally included in the indirect cost pool are:

1. General administration.

2. Salaries and benefits of the executive officers, fiscal officer, human resources, and administrative personnel.
  3. Depreciation of equipment and buildings.
  4. Office rent and maintenance.
  5. General office repairs and maintenance.
- L. These rates are submitted to the District's cognizant Agency and will be binding on all other federal agencies and their contracting officers unless specifically prohibited by statute.
- M. The following costs are unallowable as part of the indirect cost base (administrative cost center):
1. Interest.
  2. Equipment of \$5,000 and more except with prior approval.
  3. Building improvements.
  4. Building renovations.
  5. Compensation for the use of buildings and other equipment may be made through use allowances or depreciation.
- N. Accounting for Specific Elements of Cost - the District shall utilize the following methods of charging specific elements of cost to federal awards as direct or indirect costs:
1. Salaries and Wages - Salaries and wages shall be charged directly and indirectly based on the functions performed by each employee, as documented on each employee's timesheet (or personnel activity sheet), as follows:
    - a. Direct costs - Most of the employees of District charge their time directly since their work is specifically identifiable to specific grants or other (non-federal) programs or functions of the District.
    - b. Mixed charges - The following employees may charge their salary costs to both direct and indirect activities:

I. District Manager

II. Administrative Associate

III. District Staff

2. Compensated absences (vacation leave earned) are considered part of salary costs. The costs associated with compensated absences will be recorded as direct and indirect costs based on the employee's time spent in a particular work element.

3. Paid-Time Off - PTO (sick leave, holidays, jury duty) are to be allocated to both indirect and direct work on a quarterly basis based on the employee's time spent on a particular project.

4. Employee Benefits - The District incurs costs for the following statutory and non-statutory employee benefits:

a. Federal Insurance Contributions Act (FICA).

b. Unemployment insurance.

c. Worker's compensation.

d. Health insurance - current and post-employment.

e. Contributions to pension plan.

The District will charge each such benefit cost directly and indirectly in the same proportion as everyone's salaries and wages.

5. Occupancy Expenses - Monthly rent expense and related pass-through expenses shall be allocated indirectly.

6. Utilities - Utilities costs include electricity and water. Such utilities costs shall be charged indirectly.

7. Supplies and Materials - To the maximum extent possible, office supplies and materials are charged directly to the grant or program/function that uses the supplies or materials. All supplies and materials used by staff who are engaged in indirect activities shall be charged indirectly.

8. Postage and Shipping - To the maximum extent possible, postage and shipping costs shall be charged directly to the grant or program/function that benefits from the postage or shipping costs.

9. Photocopying and Printing - Photocopying costs include all paper and copy supplies, copier maintenance charges and the actual lease cost or depreciation expense of the copier. Photocopying costs shall be charged directly and indirectly based on the activity. All printing costs are charged directly to the benefiting grant or program/function when possible.
10. Communications - Communication costs include the costs of local telephone service and long-distance telephone charges, including charges associated with telephone calls, facsimile transmissions, and Internet connections. These costs are charged indirectly.
11. Outside Services - The District incurs outside service costs for its annual audit, legal fees, etc. Outside service costs shall be charged as follows:
  - a. Audit fees - Cost of the financial statement audit and any preparation applicable reports shall be charged as a direct cost or an indirect cost.
  - b. Legal fees - Legal fees shall be charged directly to the program/work element that benefits from the services. Legal fees that are not identifiable with specific direct grants or work elements shall be charged indirectly.
  - c. Consultants - Costs associated with consultants shall be charged directly to the program/work element that benefits from the services. Fees that are not identifiable with specific direct grants or work elements shall be charged indirectly.
  - d. Insurance - To the extent that insurance premiums are associated with insurance coverage for specific grants or programs, those premium costs shall be charged directly. All insurance costs that are not identifiable with specific direct grants or work elements (such as the District's general liability coverage) shall be charged indirectly.
  - e. Credits - The applicable portion of any credits resulting from cash discounts, volume discounts, refunds, write-off of stale outstanding checks, trade-ins, scrap sales or similar credits shall be credited directly or indirectly in the same manner as the purchase that resulted in the credit.

The above costs are typical examples of other expenses which may be used as a guide.

## CASH MANAGEMENT

Grant funding is typically received through a reimbursement process based on actual costs incurred. However, if the District receives an advance in grant funding, the District will

allocate interest earned on the advanced funds. When the District receives advance payments of grant funds, the Grant Manager must minimize the time elapsing between the transfer of funds to the District and the expenditure of those funds on allowable costs of the applicable grant program. The District Manager (or designee) is responsible for pursuing and/or requesting grant reimbursements or drawdowns on a timely basis. District staff will assist with grant reimbursements or drawdowns by accumulating the allowable costs to be requested for the respective period and reconciling the final draw request to the accounting system general ledger. Grant checks should be deposited immediately.

The District Manager will keep the applicable staff working on the grant apprised of the annual estimated grant revenues and expenditures and a tentative schedule of cash flows for the grant program.

For non-Federal entities other than states, payments methods must minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the non-Federal entity whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means. See also [§ 200.302\(b\)\(6\)](#). Except as noted elsewhere in this part, Federal agencies must require recipients to use only OMB-approved, governmentwide information collection requests to request payment.

(1) The non-Federal entity must be paid in advance, provided it maintains or demonstrates the willingness to maintain both written procedures that minimize the time elapsing between the transfer of funds and disbursement by the non-Federal entity, and financial management systems that meet the standards for fund control and accountability as established in this part. Advance payments to a non-Federal entity must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the non-Federal entity in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the non-Federal entity for direct program or project costs and the proportionate share of any allowable indirect costs. The non-Federal entity must make timely payments to contractors in accordance with the contract provisions.

(2) Whenever possible, advance payments must be consolidated to cover anticipated cash needs for all Federal awards made by the Federal awarding agency to the recipient.

(i) Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer and must comply with applicable guidance in [31 CFR part 208](#).

(ii) Non-Federal entities must be authorized to submit requests for advance payments and reimbursements at least monthly when electronic fund transfers are not used, and as often as they like when electronic transfers are used, in accordance with the provisions of the Electronic Fund Transfer Act ([15 U.S.C. 1693-1693r](#)).



(3) Reimbursement is the preferred method when the requirements in this [paragraph \(b\)](#) cannot be met, when the Federal awarding agency sets a specific condition per [§ 200.208](#), or when the non-Federal entity requests payment by reimbursement. This method may be used on any Federal award for construction, or if the major portion of the construction project is accomplished through private market financing or Federal loans, and the Federal award constitutes a minor portion of the project. When the reimbursement method is used, the Federal awarding agency or pass-through entity must make payment within thirty calendar days after receipt of the billing, unless the Federal awarding agency or pass-through entity believes the request to be improper.

(4) If the non-Federal entity cannot meet the criteria for advance payments and the Federal awarding agency or pass-through entity has determined that reimbursement is not feasible because the non-Federal entity lacks sufficient working capital, the Federal awarding agency or pass-through entity may provide cash on a working capital advance basis. Under this procedure, the Federal awarding agency or pass-through entity must advance cash payments to the non-Federal entity to cover its estimated disbursement needs for an initial period geared to the non-Federal entity's disbursing cycle. Thereafter, the Federal awarding agency or pass-through entity must reimburse the non-Federal entity for its actual cash disbursements. Use of the working capital advance method of payment requires that the pass-through entity provide timely advance payments to any subrecipients to meet the subrecipient's actual cash disbursements. The working capital advance method of payment must not be used by the pass-through entity if the reason for using this method is the unwillingness or inability of the pass-through entity to provide timely advance payments to the subrecipient to meet the subrecipient's actual cash disbursements.

(5) To the extent available, the non-Federal entity must 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.

(6) Unless otherwise required by Federal statutes, payments for allowable costs by non-Federal entities must not be withheld at any time during the period of performance unless the conditions of [§ 200.208](#), [subpart D of this part](#), including [§ 200.339](#), or one or more of the following applies:

(i) The non-Federal entity has failed to comply with the project objectives, Federal statutes, regulations, or the terms and conditions of the Federal award.

(ii) The non-Federal entity is delinquent in a debt to the United States as defined in OMB Circular 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 non-Federal entity that payments must not be made for financial 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 non-Federal entity upon subsequent compliance. When a Federal award is suspended, payment adjustments will be made in accordance with [§ 200.343](#).

(iv) A payment must not be made to a non-Federal entity for amounts that are withheld by the non-Federal entity from payment to contractors to assure satisfactory completion of work. A payment must be made when the non-Federal entity disburses the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.

(7) Standards governing the use of banks and other institutions as depositories of advance payments under Federal awards are as follows.

(i) The Federal awarding agency and pass-through entity must not require separate depository accounts for funds provided to a non-Federal entity or establish any eligibility requirements for depositories for funds provided to the non-Federal entity. However, the non-Federal entity must be able to account for funds received, obligated, and expended.

(ii) Advance payments of Federal funds must be deposited and maintained in insured accounts whenever possible.

(8) The non-Federal entity must maintain advance payments of Federal awards in interest-bearing accounts, unless the following apply:

(i) The non-Federal entity receives less than \$250,000 in Federal awards per year.

(ii) The best available interest-bearing account would not be expected to earn interest of more than \$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.

(9) Interest earned amounts up to \$500 per year may be retained by the non-Federal entity 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.

(i) For returning interest on Federal awards paid through PMS, the refund should:



- (A) Provide an explanation stating that the refund is for interest;
  - (B) List the PMS Payee Account Number(s) (PANs);
  - (C) List the Federal award number(s) for which the interest was earned; and
  - (D) Make returns payable to: Department of Health and Human Services.
- (ii) For returning interest on Federal awards not paid through PMS, the refund should:
- (A) Provide an explanation stating that the refund is for interest;
  - (B) Include the name of the awarding agency;
  - (C) List the Federal award number(s) for which the interest was earned; and
  - (D) Make returns payable to: Department of Health and Human Services.

(10) Funds, principal, and excess cash returns must be directed to the original Federal agency payment system. The non-Federal entity should review instructions from the original Federal agency payment system. Returns should include the following information:

- (i) Payee Account Number (PAN), if the payment originated from PMS, or Agency information to indicate whom to credit the funding if the payment originated from ASAP, NSF, or another Federal agency payment system.
- (ii) PMS document number and subaccount(s), if the payment originated from PMS, or relevant account numbers if the payment originated from another Federal agency payment system.
- (iii) The reason for the return (*e.g.*, excess cash, funds not spent, interest, part interest part other, etc.)

#### Cost-Reimbursement Contracts under the Federal Acquisition Regulation

For cost-reimbursement contracts under the FAR, reimbursement payment is the predominant method of funding. Advance payments under FAR-based contracts are rare. The FAR clause at 48 CFR section 52.216-7 applies to reimbursement payment. Paragraph (b)(1) of that clause requires that the non-federal entity request reimbursement for (a) only allocable, allowable, and reasonable contract costs that have already been paid, or (b) if the non-federal entity is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid. As defined in 48 CFR section 52.216-7(b)(1), with relation to supplies and services purchased for use on the contract, “ordinary course of business” would be

in accordance with the terms and conditions of a subcontract or invoice, and ordinarily within 30 days of the request to the federal government for reimbursement.

For cost-reimbursement contracts using advance payment, the requirements are contained in the FAR clause at 48 CFR section 52.232-12. The non-federal entity is required to account for interest earned on advances from the federal government in accordance with paragraph (f) of that clause. Compliance Supplement 2023 (11).

## ELIGIBILITY

The specific requirements for eligibility are unique to each federal program and are found in the statutes, regulations, and the terms and conditions of the federal award pertaining to the program. For programs listed in the Supplement, these specific requirements are in Part 4, "Agency Program Requirements," or Part 5, "Clusters of Programs," as applicable. This compliance requirement specifies the criteria for determining the individuals, groups of individuals (including area of service delivery), or subrecipients that can participate in the program and the amounts for which they qualify.

To ensure compliance with grant eligibility requirements, the District shall adhere to the following:

1. Grants will only benefit those individuals and/or groups of participants that are deemed eligible.
2. Eligibility determinations will be made by the District Manager based on the grant award/contract and its associated regulations. Sufficient documentation to support these determinations will be retained and made available to District management, auditors, pass-through or grantor agencies upon request. It is the responsibility of the District to maintain complete, accurate, and organized records to support eligibility determinations.

## EQUIPMENT, REAL PROPERTY MANAGEMENT

Federal reporting requires all assets purchased in part or in whole with federal funds to be capitalized with a threshold of \$5,000, regardless of the District's capital asset policy. Many federal agencies require a documented list of assets purchased with federal funds.

Grants with revenue generating assets purchased or constructed in part or in whole with grant funds, or proceeds received from disposed assets purchased in part or in whole with grant funds, may be required to report the funds received to the granting or pass through agency. Additionally, these funds may be required to be returned to the granting agency or reallocated to eligible grant projects.

The District Manager should be notified as soon as any grant-funded program income is generated

to ensure proper accounting procedures are established.

Non-federal entities other than states must follow 2 CFR sections 200.313(c) through (e) which require that:

1. Equipment, including replacement equipment, be used in the program or project for which it was acquired as long as needed, whether the project or program continues to be supported by the federal award or, when appropriate, under other federal awards; however, the non-federal entity must not encumber the equipment without prior approval of the federal awarding agency (2 CFR sections 200.313(c) and (e)).

2) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the federal award identification number), who holds title, the acquisition date, cost of the property, percentage of federal participation in the project costs for the federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sales price of the property (2 CFR section 200.313(d)(1)).

3) A physical inventory of the property must be taken, and the results reconciled with the property records at least once every two years (2 CFR section 200.313(d)(2)).

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 (2 CFR section 200.313(d)(3)).

Adequate maintenance procedures must be developed to keep the property in good condition (2 CFR section 200.313(d)(4)).

If the non-federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return (2 CFR section 200.313(d)(5)).

If the non-federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return (2 CFR section 200.313(d)(5)).

When original or replacement equipment acquired under a federal award is no longer needed for a federal program (whether the original project or program or other activities currently or previously supported by the federal government), the non-federal entity must request disposition instructions from the federal awarding agency if required by the terms and conditions of the award. 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 obligation to the federal awarding agency. 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 more than \$5,000 may be retained or sold. The federal awarding agency is entitled to the federal interest in the equipment, which is the amount calculated by multiplying the current market value or sale proceeds by the federal agency's participation in total project costs (2 CFR section 200.313(e)).

Note: Intangible property that is acquired under a federal award, rather than developed or produced under the award, is subject to the requirements of 2 CFR section 200.313(e) regarding disposition (2 CFR section 200.315(a)).

## MATCHING FUNDS

The specific requirements for matching, level of effort, and earmarking are unique to each federal program and are found in the statutes, regulations, and the terms and conditions of awards pertaining to the program. For programs listed in this Supplement, these specific requirements are in Part 4, "Agency Program Requirements" or Part 5, "Clusters of Programs," as applicable.

However, for matching, 2 CFR section 200.306 provides detailed criteria for acceptable costs and contributions. The following is a list of the basic criteria for acceptable matching:

- Are verifiable from the non-federal entity's records;
- Are not included as contributions for any other federal award;
- Are necessary and reasonable for accomplishment of project or program objectives;
- Are allowed under 2 CFR Part 200, Subpart E (Cost Principles);
- Are not paid by the federal government under another 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;
- Are provided for in the approved budget when required by the federal awarding agency; and
- Conform to other provisions of this part, as applicable.

"Matching," "level of effort," and "earmarking" are defined as follows:

1. Matching or cost sharing includes requirements to provide contributions (usually non federal) of a specified amount or percentage to match federal awards. Matching may be in the form of allowable costs incurred or in-kind contributions (including third party in

kind contributions).

2. Level of effort includes requirements for (a) a specified level of service to be provided from period to period, (b) a specified level of expenditures from non-federal or federal sources for specified activities to be maintained from period to period, and (c) federal funds to supplement and not supplant non-federal funding of services.

3. Earmarking includes requirements that specify the minimum and/or maximum amount or percentage of the program's funding that must/may be used for specified activities, including funds provided to subrecipients. Earmarking may also be specified in relation to the types of participants covered.

Funds provided for matching must be in addition to and, therefore, supplement funds that would otherwise be made available for the stated program purpose. Matching funds must be obligated by the end of the grant period.

#### PERIOD OF PERFORMANCE

A non-federal entity may charge only allowable costs incurred during the approved budget period of a federal award's period of performance and any costs incurred before the federal awarding agency or pass-through entity made the federal award that were authorized by the federal awarding agency or pass-through entity (2 CFR sections 200.308 200.309 and 200.403(h)). A period of performance may contain one or more budget periods.

Unless the federal awarding agency or pass-through entity authorizes an extension, a non-federal entity must liquidate all financial obligations incurred under the federal award not 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 (2 CFR section 200.344(b)). When used in connection with a non-federal entity's utilization of funds under a federal award, "financial obligations" means orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-federal entity during the same or a future period (2 CFR section 200.1).

Period of Performance requirements for cost reimbursement contracts subject to the FAR are contained in the terms and conditions of the contract.

#### PROCUREMENT, SUSPENSION AND DEBARMENT

Non-federal entities other than states, including those operating federal programs as subrecipients of states, must follow the procurement standards set out at 2 CFR sections 200.318 through 200.326. They must use their own documented procurement procedures, which reflect applicable state and local laws and regulations, provided that the procurements conform to applicable federal statutes and the procurement requirements identified in 2 CFR



Part 200.

A non-federal entity must:

1. Meet the general procurement standards in 2 CFR section 200.318, which include oversight of contractors' performance, maintaining written standards of conduct for employees involved in contracting, awarding contracts only to responsible contractors, and maintaining records to document the history of procurement.
2. Conduct all procurement transactions in a manner providing full and open competition, in accordance with 2 CFR section 200.319.
3. Use the micro-purchase and small purchase methods only for procurements that meet the applicable criteria under 2 CFR sections 200.320(a) (1) and (2). Under the micro purchase method, the aggregate dollar amount does not exceed \$10,000 (\$2,000 in the case of acquisition for construction subject to the Wage Rate Requirements (Davis-Bacon Act)). Small purchase procedures are used for purchases that exceed the micro-purchase amount but do not exceed the simplified acquisition threshold (\$250,000). Micro purchases may be awarded without soliciting competitive quotations if the non-federal entity considers the price to be reasonable (2 CFR section 200.320(a)). If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources (2 CFR section 200.320(b)).
4. For acquisitions exceeding the simplified acquisition threshold, the non-federal entity must use one of the following procurement methods: the sealed bid method if the acquisition meets the criteria in 2 CFR section 200.320(b); the competitive proposals method under the conditions specified in 2 CFR section 200.320((b) (2); or the noncompetitive proposals method (i.e., solicit a proposal from only one source) but only when one or more of four circumstances are met, in accordance with 2 CFR section 200.320(c)).
5. Perform a cost or price analysis in connection with every procurement action more than the simplified acquisition threshold, including contract modifications (2 CFR section 200.323(a)). The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used (2 CFR section 200.323(b)).
6. Ensure that every purchase order or other contract includes applicable provisions required by 2 CFR section 200.326. These provisions are described in Appendix II to 2 CFR Part 200, "Contract Provisions for Non-Federal Entity Contracts Under Federal Awards."  
All Non-Federal Entities (including both states and other non-federal entities)  
Effective May 14, 2022, the non-Federal entity must ensure that all applicable programs comply with section 70914 of the Build America, Buy America (BABA) Act, including through incorporation of a Buy America preference in the terms and conditions of each award with an infrastructure project. Each covered Federal agency must ensure that "none of the funds made

available for a Federal financial assistance program for infrastructure may be obligated for a project unless all the iron, steel, manufactured products, and construction materials used in the project is produced in the United States.

The Act requires the following Buy America preference:

1. All iron and steel used in the project are produced in the United States;
2. All manufactured products used in the project are produced in the United States; and
3. All construction materials are manufactured in the United States.

Important Notes:

- A non-federal entity must comply with the BABA requirements to the extent that the non-federal entity has been informed of these requirements, such as through the award terms and conditions.
- Several Federal agencies, in consultation with OMB, issued “waivers” as an exception from or waiver of the Made in America laws. For a listing of waivers by agency see <https://www.madeinamerica.gov/waivers/financial-assistance>. For a listing of waivers by category see <https://www.madeinamerica.gov/waivers>.

#### Procurement—Cost-Reimbursement Contracts under the Federal Acquisition Regulation

When awarding subcontracts, non-federal entities receiving cost-reimbursement contracts under the FAR must comply with the clauses at 48 CFR section 52.244-2 (consent to subcontract), 52.244-5 (competition), 52.203-13 (code of business ethics), 52.203-16 (conflicts of interest), and 52.215.12 (cost or pricing data); and the terms and conditions of the contract. The FAR defines “subcontracts” as a contract, i.e., a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them, entered by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

#### Compliance Requirements – Suspension and Debarment

Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award must not be made to parties listed on the government-wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR § 180 that implement Executive Orders 12549 and 12689 (“Debarment and Suspension”). The Excluded Parties List System in SAM 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. This applies to all federally funded contracts regardless of the threshold.

The Debarment, Suspension, or Ineligibility Certification is part of the bid package for each of the District's projects. Prior to providing the District with a Recommendation of Award letter, the District's Contract Engineer will perform a database search (SAM) and review the bid bond, California Contractors License, all the forms in the bid package (including the Certification form that the contractor signs regarding Debarment, Suspension, or Ineligibility from federal contracts), and release the formal bid summary, which is to be retained by the District in the applicable project file(s). The District's Contract Engineer will retain the results of this review, and evidence supporting its findings, in the applicable project file(s).

Non-federal entities are prohibited from contracting with or making subawards under covered transactions to parties that are suspended or debarred. "Covered transactions" include 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 or meet certain other criteria as specified in 2 CFR section 180.220. All non-procurement transactions entered by a passthrough entity (i.e., subawards to subrecipients), irrespective of award amount, are considered covered transactions unless they are exempt as provided in 2 CFR section 180.215.

When a non-federal entity enters a covered transaction with an entity at a lower tier, the non-federal entity must verify that the entity, as defined in 2 CFR section 180.995 and agency adopting regulations, is not suspended, or debarred or otherwise excluded from participating in the transaction. This verification may be accomplished by (1) checking the System for Award Management (SAM) Exclusions maintained by the General Services Administration (GSA) and available at [SAM.gov](https://www.sam.gov) | Home (click on Search Record, then click on Advanced Search Exclusions) (Note: The OMB guidance at 2 CFR Part 180 and agency implementing regulations still refer to the SAM Exclusions as the Excluded Parties List System (EPLS)), (2) collecting a certification from the entity, or (3) adding a clause or condition to the covered transaction with that entity (2 CFR section 180.300).

Non-federal entities receiving contracts from the federal government are required to comply with the contract clause at FAR 52.209-6 before entering a subcontract that will exceed \$30,000, other than a subcontract for a commercially available off-the-shelf item.

Government-wide requirements related to suspension and debarment and doing business with suspended or debarred subcontractors under cost reimbursement contracts under the FAR are contained in 48 CFR section 9.405-2(b) and the clause at 48 CFR section 52.209-6.

## PROGRAM INCOME

"Program Income" is defined as income directly generated from grant funds and includes, but



is not limited to, proceeds from the sale or lease of assets purchased with grant funds, principal and interest payments received on loans made using grant funds, etc. The District Manager is responsible for ensuring that program income is accounted for, expended, and reported in accordance with the applicable grant guidelines.

Program income is gross income earned by a non-federal entity that is directly generated by a supported activity or earned because of the federal award during the period of performance (unless there is a requirement for disposition of program income after the end of the period of performance as provided in 2 CFR section 200.307(f)). Program income (2 CFR section 200.1) includes, but is not limited to income from:

- Fees for services performed,
- The use or rental of real or personal property acquired under federal awards,
- The sale of commodities or items fabricated under federal awards,
- License fees and royalties on patents and copyrights, except as provided below, and
- Principal and interest on loans made with federal award funds.

Program income does not include:

- Interest earned on advances of federal funds.
- Except as otherwise provided in federal statutes, regulations or the terms and conditions of the federal award, rebates, credits, discounts, and interest earned on any of them.
- Taxes, special assessments, levies, fines, and other such revenues raised by a non-federal entity, unless the federal award or federal awarding agency regulations specifically identify the revenues as program income (2 CFR section 200.307(c)).
- The proceeds from the sale of equipment or real property acquired in whole or in part under the federal award (2 CFR section 200.307(d)).
- Royalties or income earned by an institution of higher education or a nonprofit organization on inventions conceived or first actually reduced to practice in the performance of work under a funding agreement with a federal agency that is shared with the inventor (2 CFR section 200.307(g); 37 CFR sections 401.2 and 401.14(k); 35 USC 201(i), and 35 USC 202(c)(7)(B)).

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 those costs have not been charged to the federal award (2 CFR section 200.307(b)).

Program Income Program income may be used in any of the following three methods,

consistent with 2 CFR section 200.307(e):

1. Deduction- Program income is deducted from total allowable costs to determine the net allowable costs, rather than to increase the funds committed to the project. This method must be used if the federal awarding agency has given no prior approval for how program income is to be used and its regulations and the terms and conditions of the federal award are silent on this matter. Where this method is used, program income must be applied to current costs unless the federal awarding agency authorizes otherwise (2 CFR section 200.307(e)(1)).

2. Addition With prior approval of the federal awarding agency, program income may be added to the federal award by the federal agency and the non-federal entity. This method must be used for federal awards to institutions of higher education and nonprofit research institutions if the federal awarding agency does not specify in its regulations or the terms and conditions of the federal award how program income is to be used (2 CFR section 200.307(e)(2)).

3. 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 (2 CFR section 200.307(e)(3)).

Unless federal awarding agency regulations or the terms and conditions of the federal award specify otherwise, non-federal entities have no obligation to the federal government regarding program income earned after the end of the period of performance (2 CFR section 200.307(f)).

## REPORTING

The District Manager as well as other staff are responsible for all grant reporting requirements. The District Manager as well as the staff that applied for the grant are responsible for preparing and submitting grant reports in the frequency and within the deadlines required under applicable grant guidelines, which vary depending on whether a financial, performance or special report is involved. Financial reports will be prepared by the District Manager based on the general ledger using the required basis of accounting (i.e., cash or accrual). Any report with financial-related data will be submitted to the District Manager for review prior to submitting the report to the granting agency. Copies of submitted reports will be filed with supporting documentation and any follow-up correspondence from the grantor or pass-through agency. Copies of all such reports will be retained by the District.

Financial Reporting Recipients must use the standard financial reporting forms, or such other forms as may be authorized by OMB (approval is indicated by an OMB paperwork control number on the form) when reporting to the federal awarding agency. Each recipient must report program outlays and program income on a cash or accrual basis, as prescribed by the federal awarding agency. If the federal awarding agency requires reporting of accrual information and the recipient's accounting records are not normally maintained on the accrual basis, the recipient is not required to convert its accounting system to an accrual basis but may develop such accrual information through analysis of available documentation. The federal

awarding agency may accept identical information from the recipient in machine-readable format, computer printouts, or electronic outputs in lieu of closed formats or on paper.

Similarly, a pass-through entity must not require a subrecipient to establish an accrual accounting system and must allow the subrecipient to develop accrual data for its reports based on an analysis of available documentation.

The financial reporting requirements for subrecipients are as specified by the pass-through entity. In some cases, these will be the same as or like those for recipients.

The standard financial reporting forms for grants and cooperative agreements are as follows:

- Request for Advance or Reimbursement (SF-270) (OMB No. 0348-0004)). Recipients are required to use the SF-270 to request reimbursement payments under non-construction programs and may be required to use it to request advance payments.

- Outlay Report and Request for Reimbursement for Construction Programs (SF-271) (OMB No. 0348-0002)). Recipients use the SF-271 to request funds for construction projects unless they are paid in advance or the SF-270 is used.

- Federal Financial Report (FFR) (SF-425/SF-425A) (OMB No. 0348-0061)). Recipients use the FFR as a standardized format to report expenditures under federal awards, as well as, when applicable, cash status (lines 10.a, 10.b, and 10c). References to this report include its applicability as both an expenditure and a cash status report unless otherwise indicated.

Electronic versions of the standard forms are located on the agency's home page.

## SUB-RECIPIENT GRANT MONITORING

A sub-recipient is an entity with which the District has a relationship to administer grant-funded programs, and which under federal guidelines is subject to additional monitoring and reporting requirements.

Per Uniform Guidance, the District Manager is required to conduct a risk assessment of the sub-recipient prior to awarding pass-through funds. Factors to consider when conducting a risk assessment include but are not limited to prior experience with the same or similar grant programs, results of previous audits, new personnel and/or systems, and the results of other federal grantor's monitoring, if applicable.

Districts that receive federal grant funds and pass these funds through to sub-recipients will work closely to ensure that sub-recipients comply with OMB Circular A-133 regulations as well as District policies and procedures. The District Manager must monitor the activities of all sub-

recipients to ensure that federal awards are used for authorized purposes in compliance with laws, regulations and the provisions of contracts/grant agreements and that performance goals are achieved. Grant agreements should include monitoring, evaluation and reporting requirements, and describe how the District will monitor and evaluate the sub-recipient's administrative systems, processes, and charges. Monitoring should be conducted by the District Manager awarding the pass-through grant or by a contracted third party. The District Manager should determine the frequency and scope of monitoring procedures.

Transfers of federal awards to another component of the same auditee under 2 CFR Part 200, Subpart F, do not constitute a subrecipient or contractor relationship. Compliance Requirements A pass-through entity (PTE) must:

- Identify the Award and Applicable Requirements – Clearly identify to the subrecipient:
  - (1) the award as a subaward at the time of subaward (or subsequent subaward modification) by providing the information described in 2 CFR section 200.331(a)(1);
  - (2) all requirements imposed by the PTE on the subrecipient so that the federal award is used in accordance with federal statutes, regulations, and the terms and conditions of the award (2 CFR section 200.331(a)(2)); and
  - (3) any additional requirements that the PTE imposes on the subrecipient for the PTE to meet its own responsibility for the federal award (e.g., financial, performance, and special reports) (2 CFR section 200.331(a)(3)).
- Evaluate Risk – Evaluate each subrecipient's risk of noncompliance for purposes of determining the appropriate subrecipient monitoring related to the subaward (2 CFR section 200.332(b)). This evaluation of risk may include consideration of such factors as the following:
  1. The subrecipient's prior experience with the same or similar subawards;
  2. The results of previous audits including whether the subrecipient receives single audit in accordance with 2 CFR Part 200, Subpart F, and the extent to which the same or similar subaward has been audited as a major program; Whether the subrecipient has new personnel or new or changed systems; and
  3. The extent and results of federal awarding agency monitoring (e.g., if the subrecipient also receives federal awards directly from a federal awarding agency).

## MONITORING

Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, complies with the terms and conditions of the subaward, and achieves

performance goals (2 CFR sections 200.332(d) through (f)). In addition to procedures identified as necessary based upon the evaluation of subrecipient risk or specifically required by the terms and conditions of the award, subaward monitoring must include the following:

1. Reviewing financial and programmatic (performance and special reports) required by the PTE.
2. Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the federal award provided to the subrecipient from the PTE detected through audits, on-site reviews, and other means. Issuing a management decision for audit findings pertaining to the federal award provided to the subrecipient from the PTE as required by 2 CFR section 200.521.
3. Ensure Accountability of For-Profit Subrecipients – Some federal awards may be passed through to for-profit entities. For-profit subrecipients are accountable to the PTE for the use of the federal funds provided. Because 2 CFR Part 200 does not make Subpart F applicable to for-profit subrecipients, the PTE is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients for the subaward. The agreement with the for-profit subrecipient must describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the agreement, and post-award audits (2 CFR section 200.501(h)).

The monitoring processes can include one or a combination of:

1. Desk Reviews - reviews of financial and narrative reports, audit reports, correspondence and other documentation provided by the sub-recipient.
2. Telephone Contacts - direct communication with the sub-recipient by telephone to ask or answer questions and check on the progress of the sub-recipient's project/program.
3. On-Site Monitoring - visit to the project site to review/observe one or more aspects of the sub-recipient's project/program; review files and supporting documentation.
4. Monitoring Reports - each sub-recipient award and related monitoring of the project/program must be documented by a written report and retained by the Grant Manager that awarded the sub-recipient grant. The monitoring report(s) are official records documenting staff's review of the sub-recipient's project/program at a certain point in the period of performance, constitute the basis for future sub-recipient risk assessments, and are available for internal/external inspection.

The following additional policies were developed in accordance with the Uniform Guidance: Standards of Conduct for All Parties Involved in Procurement § 200.318 (c)(1) – All

standards of this policy manual apply to federally funded procurements. The District may take appropriate disciplinary actions for violations of such standards by officers, employees, or agents of the recipient.

Full and Open Competition § 200.319 – All federally funded procurement transactions must be conducted in manner that provides, to the maximum extent practical, full, and open competition using one of the methods defined in the Uniform Guidance based on the most restrictive thresholds provided in the Uniform Guidance. To ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids, or requests for proposals must be excluded from competing for such procurements.

Specifications § 200.319 (d)(1) - The specifications included in solicitations must incorporate a clear and accurate description of the technical requirements for the material, product, or service(s) to be procured. The descriptions in competitive procurements must not contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service(s) to be procured and set forth minimum essential characteristics and standards to conform with the intended use. Any specific feature(s) which must be met by the offerors must be clearly stated, along with any requirement(s) the offerors must fulfill, and any other factors that will be used in evaluating bids or proposals.

Procurement of Recycled Materials § 200.323 – When the purchase price of an item exceeds \$10,000, or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000, the District must only procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. Documentation of determinations made pursuant to this policy are to be maintained within the applicable grant file.

Minority Businesses, Women’s Business Enterprises and Labor Surplus Area Firms § 200.321 – The District must take all necessary affirmative steps to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible. Affirmative steps 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 encourages 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 the preceding paragraphs (1) through (5).

Use of Pre-Qualified lists § 200.319(e) – Procurements may not use standing, pre-qualified lists of persons, firms, or products to be used in acquiring goods and services unless the list is open for new qualifications during the solicitation period and the list includes enough qualified sources to ensure maximum open and free competition. The use of a two-step procurement process where the first step is a qualification process specific to the procurement is allowable under the Uniform Guidance.

Local Preference or Geographical Exclusion § 200.319 (c) – A local geographic preference shall not be applied when evaluating bids or proposals. Geographical exclusions or qualifications must not be included in the scope of work. The only exception is for professional architectural and engineering services where the use of a geographical selection criterion results in an acceptable number of qualified firms competing for the project

Domestic preferences for procurements § 200.322 - As appropriate and to the extent consistent with law, the District 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).

Considerations Prior to Solicitation § 200.318 (d) – The District must avoid acquisition of unnecessary or duplicative items. Consideration should 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 approach.

Are state and local intergovernmental agreements available? § 200.318 (e) – The District encourages entering into state and local intergovernmental agreements where appropriate for procurement or use of common or shared goods and services to foster greater economy and efficiency.

Has federal excess and surplus property been considered? § 200.318 (f) – The District encourages the use of federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

Is a value engineering clause used in contracts for construction? § 200.318 (g) – The District encourages the use of value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

Methods of Procurement Title 2 CFR§ 200.320 - Methods of Procurement are governed by a separate District policy.

Cost/Price Analysis § 200.324 (a) – Procurements over the simplified acquisition threshold (including any contract amendments), must have a cost/price analysis completed and documented. For competitive procurements above the simplified acquisition threshold, the cost/price analysis must be completed prior to issuing the solicitation. The cost analysis is the review and evaluation of each element of cost to determine whether it is reasonable, allocable to the grant program and an allowable cost for the grant program. Price analysis involves a comparison of marketplace prices.

Types of Contracts – Acceptable types of contracts that may be awarded are lump sum, unit price, cost plus fixed fee, time, and materials with a not to exceed amount, and intergovernmental agreements. Per 2 CFR§ 200.323 (d), the cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

Use of Time and Material Type Contracts § 200.318 (j)(1) – Prior to entering a time and materials type contract, a determination must be made and documented that no other contract type is suitable. Time and materials contracts must establish a maximum price that the contractor exceeds at its own risk. This type of contract defines cost as the actual cost of materials, and the direct labor hours charged at a fixed hourly rate that reflect wage, general and administrative expenses, and profit. Per 2 CFR § 200.318 (j)(2), the District must assert a high degree of oversight on such contracts to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

ContractAward§200.318(h)The District must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. Multiple awards can only be made from an IFB or RFP when requirements are separated into lots, regions, or other established distinctions between work to be performed under the resulting contracts.

Bonding Requirements § 200.326 – Except as otherwise required by statute, an award that requires the contracting (or subcontracting) for construction or facility improvements shall provide for the District to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds the simplified acquisition threshold. For those contracts or subcontracts exceeding the simplified acquisition threshold, the federal awarding agency may accept the bonding policy and requirements of District, provided the federal



awarding agency has decided that the federal government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

1. A bid guarantee from each bidder equivalent to five (5) percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
2. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
3. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.

Contract Provisions § 200.327 – In addition to other provisions required by the federal agency, state or the District, the following provisions must be included in all applicable procurements as provided in Appendix II to Part 200:

- a. Contracts more than the simplified acquisition threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms and provide for such remedial actions as may be appropriate.
- b. All contracts worth more than \$10,000 shall contain suitable provisions for termination for cause and for convenience by the District, including how termination shall be effectuated and the basis for settlement.
- c. Equal Employment Opportunity – Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3, more than \$10,000, must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246 ("Equal Employment Opportunity").
- d. Davis-Bacon Act, as amended (40 U.S.C. §§ 3141-3148). – When required by federal program legislation, all prime construction contracts more than \$2,000 awarded by District must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction").

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. The District must include a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation.

The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The District must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145) as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States").

The Copeland "Anti-Kickback" Act provides that each contractor or sub-recipient 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. The District must report all suspected or reported violations to the federal awarding agency.

e. Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708) – Where applicable, all contracts awarded by District more than \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

Each contractor must be required to compute the wages of every mechanic and laborer based on a standard work week of 40 hours. Working more than the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked more than 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies, materials, or articles ordinarily on the open market, or contracts for transportation or transmission of intelligence.

f. Rights to Inventions Made Under a Contract or Agreement – If the federal award meets the definition of "funding agreement" under 37 CFR § 401.2(a) and the District 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 the "funding agreement," the District must comply with the requirements of 37 CFR Part 401 ("Rights to Inventions

Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements”) and any implementing regulations issued by the awarding agency.

g. Clean Air Act and Federal Water Pollution Control Act as amended – Contracts exceeding \$150,000 must contain a provision requiring the District to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

h. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (43 U.S.C. § 6201).

i. Byrd Anti-Lobbying Amendment certification must be obtained from all offerors for procurements exceeding \$100,000. The text provided below will be added as a submittal requirement or will be otherwise obtained as applicable: “Offeror certifies that it and its subcontractors will not and have not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. List as a disclosure any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award by Offeror or Offeror’s subcontractors.” Procurement of recovered (recycled) materials – District and its contractors must comply with § 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

The requirements of § 6002 include procuring only items design at contains guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. When the purchase price of items exceeds \$10,000, or the value of the only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

j. An additional provision must be added to solicitations allowing for price and profit margin negotiation in the case that only one bid is received in compliance with 2 CFR § 200.324.

Documentation/Recordkeeping § 200.318 (i) – The District must maintain records explaining the rationale for its chosen method of procurement, contract type, contractor selection, basis for price, cost/price analysis, and lease versus purchase alternatives. This documentation will be maintained in the solicitation folder in the Purchasing Section in accordance with the District’s document retention policy.

Per 2 CFR §200.325 (b), the District shall, upon request, make available for the federal awarding agency, pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc., when any of the following conditions apply:

1. The District’s procurement procedures or operation fails to comply with the federal awarding agency’s procurement standards.
  2. The procurement is expected to exceed the Simplified Acquisition Threshold (currently \$250,000) and is to be awarded without competition or only one bid or offer is received in response to a solicitation.
  3. The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product.
  4. The proposed award over the Simplified Acquisition Threshold is to be awarded to other than the apparent low bidder under sealed bid procurement.
  5. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount of the Simplified Acquisition Threshold.
- Oversight §200.318 (b) – The District must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

Passed and adopted by the Shasta Community Services District at a regular meeting thereof held on June 18<sup>th</sup>, 2024, by the following vote:

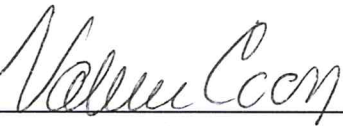
AYES: 5 Valerie Coon, Dave Cross, Randy Smith, Jane Heinan, Jo Ann Vayo

NOES: 0

ABSTAINS: 0

ABSENT: 0

ATTEST:



Board President  
Valerie Coon



Secretary to the Board  
Shawna Staup