Section 22: Federal Grants Purchasing Policies

Policies developed in accordance with federal guidelines in OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR §200). These standards and policies apply to all purchases made with Federal funds; provided, however, that The City of Stillwater (The City) as defined in Section 1.1 of the City of Stillwater Purchasing Manual must comply with the requirements of this purchasing manual, local and state law.

Purpose of these Purchasing Standards/Policies

To clarify Federal requirements and procedures for the procurement of supplies and other expendable property, equipment, real property and other services with Federal funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and executive orders.

City of Stillwater (Recipient) Responsibilities

The standards contained in this section do not relieve The City (recipient of Federal funds) of the contractual responsibilities arising under its contract(s). The recipient is the responsible authority, without recourse to the Federal awarding agency, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of an award or other agreement. This includes disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of statute are to be referred to such Federal, State or local authority as may have proper jurisdiction.

Codes of Conduct (City of Stillwater Purchasing Manual Section 2)

No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the 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 the firm selected for an award. The officers, employees, and agents of the recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to sub agreements. However, recipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The City may take appropriate disciplinary actions for violations of such standards by officers, employees, or agents of the recipient.

Competition and Cost/Price Analysis

All procurement transactions must be conducted in a manner that provides, to the maximum extent practical, open and free competition. This means that, even if it seems like a "good deal," grantee
agencies (The City or program) cannot make the purchase until a cost/price analysis has been done, or other vendors also are given consideration.

Cost analysis is the review and evaluation of each element of cost to determine whether it is reasonable, allocable to that grant program, and an allowable cost for that grant program. Cost analysis involves an examination of all the elements used in calculating a contract’s total estimated cost. For example, when fixed-price contracts are based on cost estimates, grantee agencies should perform a cost analysis to determine the reasonableness of the prices. Every cost element listed in the vendor’s offer must be examined. Additional cost analysis should be done if there are contract modifications that introduce new conditions or more current information is needed.

Price analysis involves a comparison of marketplace prices. There are various ways to conduct a price analysis. These include comparing offered prices including discounts with those listed in commercial catalogs, or with those recently submitted for similar services. It can be done, for example, by comparing the price quotes submitted by vendors, or by telephoning other vendors to obtain their market price, or simply by comparing published market prices (such as from a classroom supply catalog, for example).

Soliciting competitive bid prices from vendors might be done in different ways. For example, a grantee agency could get vendor prices by advertising in newspapers, sending letters to prospective vendors, telephoning prospective vendors, or even by comparing prices in office supply catalogs.

The recipient shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Also, to eliminate unfair advantage, contractors who develop or draft grantee applications or contract specifications or requirements (or statements of work, invitations for bids or requests for proposals) must be excluded from the competition for that procurement.

Solicitations for bids should clearly state all the requirements the vendor must fulfill in order for the bid or offer to be evaluated by the grantee agency. The procurement should be given to the vendor whose bid or offer is responsive to the solicitation, and is the most advantageous to the grantee agency (considering price, quality, and other applicable factors). Any and all bids or offers may be rejected when it is in the grantee agency’s interest to do so. This means that grantees do not have to accept the lowest bid received because other factors, such as quality of the product or service record of the vendor, also may be considered by the grantee in making the decision.

**Micro Purchases (< $3,500)**

Purchases under $3,500 require little formal documentation; they are likely to be catalog purchases, with prices that are readily available from many vendors. A quick notation or copy of prices checked from at least one other source should be attached to the order or noted in the file. Conduct all procurement transactions in a manner that maximizes opportunities, increases quality (if a factor), and reduces the cost of the purchase.
Small Purchases ($3,500 to < $15,000)

Purchases from $3,500 to less than $15,000 should have telephone or other quotations and simple purchase or performance descriptions. Inquire in the open market to ensure an advantageous price and quality. The file should document the inquiries made and offers received from at least three sources.

Medium/Large Purchases ($15,000 to < $150,000) – Up to the “Simplified Acquisition Threshold”

Purchases from $15,000 to less than $150,000 should be treated more formally, though the acquisition procedures can still be somewhat streamlined. Consider using mini-proposals for negotiated acquisitions; more formal purchase and performance descriptions should be included, with bid response requirements spelled out. To insure that you have an adequate number of bidders, you may wish to advertise and devise pre-qualification procedures aimed at vendors who offer goods and services that you use often. Purchases over $15,000 but less than $50,000 require greater documentation of cost allowability, need for the procurement, and the vendor selection.

Request competitive quotes, orally or in writing, from at least three different sources. The file shall document each invitation made and offer received. All requests for proposals shall contain the phrase “Equal Opportunity Employer.”

Document Prices: Maintain files on all quotations solicited and offers or bids received and any criteria for selection. In all instances in which the lowest bid is not awarded in the contract, justification for the selection must be contained in the file.

General Procurement Procedures

(a) Federal procurement procedures require at a minimum, (1), (2) and (3) below.

(1) Recipients must avoid purchasing unnecessary items.

(2) Where appropriate, an analysis is made of lease and purchase alternatives to determine which would be the most economical and practical method of procurement for each Federal Government grant expenditure.

(3) When soliciting competitive bids for goods and services, the solicitation process must provide for all of the following.

   (i) A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.
(ii) Requirements which the bidder/offeree must fulfill and all other factors to be used in evaluating bids or proposals.

(iii) A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.

(iv) The specific features of "brand name or equal" descriptions that bidders are required to meet when such items are included in the solicitation.

(v) The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.

(vi) Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

(b) Positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible. When soliciting bids for goods or services, recipients of Federal awards shall take all of the following steps to further this goal.

(1) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.

(2) Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.

(3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.

(4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.

(5) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's businesses.

(c) The type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) shall be determined by the recipient, but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. The "cost-plus-a-percentage-of-cost" or "percentage of construction cost" methods of contracting shall not be used.
(d) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources.

In certain circumstances, contracts with certain parties are restricted by agencies' implementation of E.O.s 12549 and 12689, "Debarment and Suspension." Recipients shall comply with the non procurement debarment and suspension common rule implementing E.O.s 12549 and 12689, "Debarment and Suspension." This common rule restricts sub awards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

No contract shall be made with parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Non procurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the Simplified Acquisition Threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

(e) Recipients shall, on 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. A recipient's procurement procedures or operation fails to comply with the procurement standards in the Federal awarding agency's implementation of this Circular.
2. The procurement is expected to exceed the “Simplified Acquisition Threshold” (currently $150,000) 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.

Procurement records

Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. For price analysis, this would mean keeping copies of all the documentation of the prices and vendors that were compared, identifying which vendor was chosen,
and stating why that vendor was chosen. For cost analysis, it would mean keeping written
documentation of the determination of whether a cost was reasonable, allocable to that grant, and
allowable for that grants.

In addition, the procurement records for purchases in excess of the Simplified Acquisition Threshold
(currently $150,000) shall include the following at a minimum:

(a) Basis for contractor selection,
(b) Justification for lack of competition when competitive bids or offers are not obtained, and
(c) Basis for award cost or price.

Contract administration

A system for contract administration shall be maintained to ensure contractor conformance with the
terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all
purchases. Recipients (The City’s employee overseeing the grant) shall evaluate contractor performance
and document, as appropriate, whether contractors have met the terms, conditions and specifications
of the contract.

Contract provisions

The recipient shall include, in addition to provisions to define a sound and complete agreement, the
following provisions in all contracts. The following provisions shall also be applied to subcontracts.

(a) Contracts in excess of 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 in excess of the Simplified Acquisition Threshold shall contain suitable provisions for
termination by the recipient, including the manner by which termination shall be effected and the basis
for settlement. In addition, such contracts shall describe conditions under which the contract may be
terminated for default as well as conditions where the contract may be terminated because of
circumstances beyond the control of the contractor.

(c) Except as otherwise required by statute, an award that requires the contracting (or subcontracting)
for construction or facility improvements shall provide for the recipient to follow its own requirements
relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or
subcontract exceeds $150,000. For those contracts or subcontracts exceeding $150,000, the Federal
awarding agency may accept the bonding policy and requirements of the recipient, provided the Federal
awarding agency has made a determination 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 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.

(4) Where bonds are required in the situations described herein, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, "Surety Companies Doing Business with the United States."

(d) All negotiated contracts (except those for less than the Simplified Acquisition Threshold) awarded by recipients shall include a provision to the effect that the recipient, the Federal awarding agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

(e) All contracts, including small purchases, awarded by recipients and their contractors shall contain the procurement provisions of Appendix A to this Circular, as applicable.

**Costs**

All allowable costs will be determined by OMB 2 CFR §200, FARs, and/or by the granting entity through grant manuals or award terms and conditions.

For Federally Sponsored awards, allowable costs generally fall within these guidelines:

1. Costs must be reasonable. This is defined as the action that a prudent person would take under the circumstances.

2. Costs must be allocable to federally sponsored agreements under the principles and methods described in OMB A-21. (See OMB Circular A-21; Unallowable Costs.)

3. Costs must be given consistent treatment through application of Generally Accepted Accounting Principles (GAAP) appropriate to the circumstances as dictated by Cost Accounting Standards (CAS). This includes the use of account codes for cost classification.
4. Costs must conform to any limitations or exclusions set forth in OMB Circular A-21 or in the sponsored agreement as to types or amounts of cost items.

Cost Classification: Assigning Account Codes

The administration of a contract or grant project involves identifying all costs associated with it. Cost information is needed both to manage the internal affairs of The City and to satisfy external requirements. An account code is assigned to each cost to classify the expenditure according to goods or services received.

Allowable Direct Costs

Direct costs are expenditures associated with grants, contracts, and cooperative agreements that are necessary for and can be identified with the performance of a specific sponsored project. Direct costs of a sponsored project include all personnel costs charged to the project, expenditures for supplies and equipment, travel expenses, printing, other service department charges, and any other expenses specifically identified with the project.

Principal Investigators should refer to the award document for requirements or restrictions specific to the project. For assistance with specific questions contact Christy Cluck (Finance Director) or Valerie Silvers (Grants Program Manager) who may serve as the Grant Coordinator on some grants, or contact Ginger Gripe in the Finance Department on specific accounting details. However, the Grant Coordinator could be anyone who is specifically in charge of a grant funded program.

Unallowable Costs

Unallowable functions, such as lobbying, public relations, and fund raising, are groups of costs that due to the nature of the function will make the expenditure unallowable. For example, salaries and wages are generally allowable costs; however, those same salaries and wages incurred for the benefit of a fundraiser are unallowable. Therefore, the function makes the expenditure unallowable.

Some unallowable costs, such as alcoholic beverages, are types of expenditures that are specifically unallowable by law, regulations and/or contract terms. See OMB Circular A-21 section J. Both unallowable costs and expenses connected with unallowable functions must not be direct charged to sponsored agreements. Other costs, such as utilities and building maintenance are unallowable as a direct cost unless approved in the proposal process and by the sponsor.

Facilities and Administrative Costs (Formerly Indirect Costs)

Facilities and Administrative (F & A) costs are expenditures associated with a grant, contract, or cooperative agreement that cannot be directly charged to nor specifically identified with individual sponsored projects. These costs include maintenance of physical facilities, library services, administrative services, and departmental administration. In general, F&A costs involve expenditures
necessary for the development and maintenance of an environment conducive to research and other sponsored projects.

Most grants and contracts provide for the recovery of F&A costs incurred in their executions and management. The recovery is based upon negotiated rates and assessed to individual projects on a percentage basis. The rates for The City are negotiated with the U.S. Department of Health and Human Services, Division of Cost Allocation (DHHS-DCA). The negotiation is based on a review of The City’s costs and assessment of the reasonableness of the charges.

In most cases, F&A costs for a sponsored project are calculated by multiplying the approved F&A rate and the wages paid on the award. F&A cost is charged based upon the rate and base in the approved award, up to the federally negotiated rate. Slight F&A cost adjustments may be made manually by the Grants Coordinator during the award closeout process.

APPENDIX A - CONTRACT PROVISIONS

SUBPART A - General

1. **Purpose.** This Circular establishes uniform administrative requirements for Federal grants and agreements awarded to institutions of higher education, hospitals, and other non-profit organizations. Federal awarding agencies shall not impose additional or inconsistent requirements, except as provided in Sections ___.4, and ___.14 or unless specifically required by Federal statute or executive order. Non-profit organizations that implement Federal programs for the States are also subject to State requirements.

2. **Definitions.**

   (a) **Accrued expenditures** means the charges incurred by the recipient during a given period requiring the provision of funds for: (1) goods and other tangible property received; (2) services performed by employees, contractors, sub recipients, and other payees; and, (3) other amounts becoming owed under programs for which no current services or performance is required.

   (b) **Accrued income** means the sum of: (1) earnings during a given period from (i) services performed by the recipient, and (ii) goods and other tangible property delivered to purchasers, and (2) amounts becoming owed to the recipient for which no current services or performance is required by the recipient.

   (c) **Acquisition cost of equipment** means the net invoice price of the equipment, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges, such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the recipient’s regular accounting practices.
(d) **Advance** means a payment made by Treasury check or other appropriate payment mechanism to a recipient upon its request either before outlays are made by the recipient or through the use of predetermined payment schedules.

(e) **Award** means financial assistance that provides support or stimulation to accomplish a public purpose. Awards include grants and other agreements in the form of money or property in lieu of money by the Federal Government to an eligible recipient. The term does not include: technical assistance, which provides services instead of money; other assistance in the form of loans, loan guarantees, interest subsidies, or insurance; direct payments of any kind to individuals; and, contracts which are required to be entered into and administered under procurement laws and regulations.

(f) **Cash contributions** means the recipient's cash outlay, including the outlay of money contributed to the recipient by third parties.

(g) **Closeout** means the process by which a Federal awarding agency determines that all applicable administrative actions and all required work of the award have been completed by the recipient and Federal awarding agency.

(h) **Contract** means a procurement contract under an award or sub award, and a procurement subcontract under a recipient's or sub recipient's contract.

(i) **Cost sharing or matching** means that portion of project or program costs not borne by the Federal Government.

(j) **Date of completion** means the date on which all work under an award is completed or the date on the award document, or any supplement or amendment thereto, on which Federal sponsorship ends.

(k) **Disallowed costs** means those charges to an award that the Federal awarding agency determines to be unallowable, in accordance with the applicable Federal cost principles or other terms and conditions contained in the award.

(l) **Equipment** means tangible nonexpendable personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of $5000 or more per unit. However, consistent with recipient policy, lower limits may be established.

(m) **Excess property** means property under the control of any Federal awarding agency that, as determined by the head thereof, is no longer required for its needs or the discharge of its responsibilities.

(n) **Exempt property** means tangible personal property acquired in whole or in part with Federal funds, where the Federal awarding agency has statutory authority to vest title in the recipient without further obligation to the Federal Government. An example of exempt property authority is contained in the Federal Grant and Cooperative Agreement Act (31 U.S.C. 6306), for property acquired under an award to conduct basic or applied research by a non-profit institution of higher education or non-profit organization whose principal purpose is conducting scientific research.
(o) **Federal awarding agency** means the Federal agency that provides an award to the recipient.

(p) **Federal funds authorized** means the total amount of Federal funds obligated by the Federal Government for use by the recipient. This amount may include any authorized carryover of unobligated funds from prior funding periods when permitted by agency regulations or agency implementing instructions.

(q) **Federal share of real property, equipment, or supplies** means that percentage of the property's acquisition costs and any improvement expenditures paid with Federal funds.

(r) **Funding period** means the period of time when Federal funding is available for obligation by the recipient.

(s) **Intangible property and debt instruments** means, but is not limited to, trademarks, copyrights, patents and patent applications and such property as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership, whether considered tangible or intangible.

(t) **Obligations** means the amounts of orders placed, contracts and grants awarded, services received and similar transactions during a given period that require payment by the recipient during the same or a future period.

(u) **Outlays or expenditures** means charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense charged, the value of third party in-kind contributions applied and the amount of cash advances and payments made to sub recipients. For reports prepared on an accrual basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received, for services performed by employees, contractors, sub recipients and other payees and other amounts becoming owed under programs for which no current services or performance are required.

(v) **Personal property** means property of any kind except real property. It may be tangible, having physical existence, or intangible, having no physical existence, such as copyrights, patents, or securities.

(w) **Prior approval** means written approval by an authorized official evidencing prior consent.

(x) **Program income** means gross income earned by the recipient that is directly generated by a supported activity or earned as a result of the award (see exclusions in paragraphs 24 (e) and (h)). Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under federally-funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights, and interest on loans made with award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal awarding agency regulations or the terms and conditions of the
award, program income does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them.

Subset of Paragraph 24 (e) and (h):

(e) Unless Federal awarding agency regulations or the terms and conditions of the award provide otherwise, recipients shall have no obligation to the Federal Government regarding program income earned after the end of the project period.

(h) Unless Federal awarding agency regulations or the terms and condition of the award provide otherwise, recipients shall have no obligation to the Federal Government with respect to program income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions produced under an award. However, Patent and Trademark Amendments (35 U.S.C. 18) apply to inventions made under an experimental, developmental, or research award.

(y) Project costs means all allowable costs, as set forth in the applicable Federal cost principles, incurred by a recipient and the value of the contributions made by third parties in accomplishing the objectives of the award during the project period.

(z) Project period means the period established in the award document during which Federal sponsorship begins and ends.

(aa) Property means, unless otherwise stated, real property, equipment, intangible property and debt instruments.

(bb) Real property means land, including land improvements, structures and appurtenances thereto, but excludes movable machinery and equipment.

(cc) Recipient means an organization receiving financial assistance directly from Federal awarding agencies to carry out a project or program. The term includes public and private institutions of higher education, public and private hospitals, and other quasi-public and private non-profit organizations such as, but not limited to, community action agencies, research institutes, educational associations, and health centers. The term may include commercial organizations, foreign or international organizations (such as agencies of the United Nations) which are recipients, sub recipients, or contractors or subcontractors of recipients or sub recipients at the discretion of the Federal awarding agency. The term does not include government-owned contractor-operated facilities or research centers providing continued support for mission-oriented, large-scale programs that are government-owned or controlled, or are designated as federally-funded research and development centers.

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

(ee) **Small awards** means a grant or cooperative agreement not exceeding the Simplified Acquisition Threshold fixed at (currently $100,000).

(ff) **Sub award** means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a recipient to an eligible sub recipient or by a sub recipient to a lower tier sub recipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include procurement of goods and services nor does it include any form of assistance which is excluded from the definition of "award" in paragraph (e).

(gg) **Sub recipient** means the legal entity to which a sub award is made and which is accountable to the recipient for the use of the funds provided. The term may include foreign or international organizations (such as agencies of the United Nations) at the discretion of the Federal awarding agency.

(hh) **Supplies** means all personal property excluding equipment, intangible property, and debt instruments as defined in this section, and inventions of a contractor conceived or first actually reduced to practice in the performance of work under a funding agreement ("subject inventions"), as defined in 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements."

(ii) **Suspension** means an action by a Federal awarding agency that temporarily withdraws Federal sponsorship under an award, pending corrective action by the recipient or pending a decision to terminate the award by the Federal awarding agency. Suspension of an award is a separate action from suspension under Federal agency regulations implementing E.O.s 12549 and 12689, "Debarment and Suspension."

(jj) **Termination** means the cancellation of Federal sponsorship, in whole or in part, under an agreement at any time prior to the date of completion.

(kk) **Third party in-kind contributions** mean the value of non-cash contributions provided by non-Federal third parties. Third party in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.

(ll) **Unliquidated obligations, for financial reports prepared on a cash basis**, means the amount of obligations incurred by the recipient that have not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the recipient for which an outlay has not been recorded.
(mm) **Unobligated balance** means the portion of the funds authorized by the Federal awarding agency that has not been obligated by the recipient and is determined by deducting the cumulative obligations from the cumulative obligations from the cumulative funds authorized.

(nn) **Unrecovered indirect cost** means the difference between the amount awarded and the amount which could have been awarded under the recipient's approved negotiated indirect cost rate.

(oo) **Working capital advance** means a procedure where by funds are advanced to the recipient to cover its estimated disbursement needs for a given initial period.

3. **Effect on other issuances.** For awards subject to this Circular, all administrative requirements of codified program regulations, program manuals, handbooks and other non regulatory materials which are inconsistent with the requirements of this Circular shall be superseded, except to the extent they are required by statute, or authorized in accordance with the deviations provision in Section 4.

4. **Deviations.** The Office of Management and Budget (OMB) may grant exceptions for classes of grants or recipients subject to the requirements of this Circular when exceptions are not prohibited by statute. However, in the interest of maximum uniformity, exceptions from the requirements of this Circular shall be permitted only in unusual circumstances. Federal awarding agencies may apply more restrictive requirements to a class of recipients when approved by OMB. Federal awarding agencies may apply less restrictive requirements when awarding small awards, except for those requirements which are statutory. Exceptions on a case-by-case basis may also be made by Federal awarding agencies.

5. **Sub awards.** Unless sections of this Circular specifically exclude sub recipients from coverage, the provisions of this Circular shall be applied to sub recipients performing work under awards if such sub recipients are institutions of higher education, hospitals or other non-profit organizations. State and local government sub recipients are subject to the provisions of regulations implementing the grants management common rule, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," published at 53 FR 8034 (3/11/88).

For questions about procurement, please contact Valerie Silvers, grants program manager, by email or at 405-742-8345.

Section 22 Approved by _________________________________ Date__________________________