

RESOLUTION 1840

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST PARK, WASHINGTON, ADOPTING WRITTEN PROCUREMENT PROCEDURES IN ACCORDANCE WITH THE CODE OF FEDERAL REGULATIONS

WHEREAS, the City of Lake Forest Park (the "City") is an active participant in federal grant applications and when the City is a recipient of Federal funds, the City has obligations to comply with certain rules, regulations, and codes; and

WHEREAS, the Code of Federal Regulations ("CFR") is the codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government and 2 CFR §200.318 *General procurement standards* requires that a non-Federal entity, like the City, must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards outlined in §200.318; and

WHEREAS, the City wishes to comply with federal requirements associated with the receipt of federal funds and to adopt a procurement policy that complies with federal requirements;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE FOREST PARK, WASHINGTON, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. ADOPTION PROCUREMENT POLICY. The City of Lake Forest Park hereby adopts the procurement policy attached hereto as Exhibit A. The City Council delegates to the City Finance Director the authority to make minor administrative changes to such policy, provided such changes are consistent with federal requirements.

Section 2. CORRECTIONS. The City Clerk is authorized to make necessary corrections to this resolution including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

PASSED BY A MAJORITY VOTE of the members of the Lake Forest Park City Council this 22nd day of February, 2022.

APPROVED:



Jeff Johnson
Mayor

ATTEST/AUTHENTICATED:

A handwritten signature in black ink, appearing to read 'Matthew McLean', is written over a horizontal line.

Matthew McLean
City Clerk

FILED WITH THE CITY CLERK: February 18, 2022
PASSED BY THE CITY COUNCIL: February 24, 2022
RESOLUTION NO.: 1840

Exhibit A

PURCHASING POLICIES & PROCEDURES

FEDERAL AWARDS STANDARDS

Sections:

- 1.01 Purpose
- 1.02 Purchasing Code of Ethics
- 1.03 Controlling Laws
- 1.04 Internal Controls
- 1.05 Certification
- 1.06 Advance Payments and Reimbursements
- 1.07 Allowable Costs
- 1.08 Procurement
- 1.09 Grants & Federal Funding
- 1.10 Single Audit Act
- 1.11 Project Closure
- 1.12 Federal Code of Conduct

1.01 Purpose

The purpose of this policy is to establish and maintain internal controls that provide reasonable assurance that Federal awards are being managed in compliance with all Federal regulations and with the terms and conditions of the award.

1.02 Purchasing Code of Ethics

The public must have confidence in the integrity of its government. The purpose of this Code of Ethics is to apply and give guidance to all employees and elected officials so that they may conduct themselves in a manner which will be compatible with the best interest of themselves and the City of Lake Forest Park.

To instill public confidence in the award of public contracts and the expenditure of public funds, the City adopts the following code of ethics with regard to public contracting:

- Actions of City employees shall be impartial and fair.
- City decisions and policies shall be made in compliance with required procedures and within the proper channels of government structure.

- Public employment shall not be used for personal gain, and City employees shall not solicit, accept, or agree to accept any gratuity for themselves, their families or others that would or could result in personal gain. Purchasing decisions shall be made impartially, based upon the City's specifications for the contract and the responses of those bidding on the contract.
- No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

1.03 Controlling Laws

The expenditure of public funds for the purchase of and contracting for goods, services, supplies, and materials shall comply with all applicable state law requirements as set forth in the Revised Code of Washington (RCW) and the Washington Administrative Code (WAC). If the appropriate and relevant federal or state laws, regulations, grants, or debt requirements are more restrictive than these policies, the more restrictive provision shall prevail. Where this policy is silent with regards to purchasing and/or bidding requirements, state law shall prevail.

Purchases and/or contracts that include federal funding shall also comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, published under Title 2 of the Code of Federal Regulations (2 CFR 200), hereinafter referred to as the Uniform Purchasing Guidance.

1.04 Internal Controls

The City of Lake Forest Park will maintain effective internal control over the Federal award providing reasonable assurance that the City is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal Award.

The department heads shall implement, monitor, and enforce these policies. In the event of any conflict in procurement requirements or questions about proper procedure or other requirements, the matter shall be referred to the City Finance Director for further action. Willful or intentional violations of public procurement requirements may result in personal penalties, financial liabilities, criminal penalties, and/or discipline (RCW 39.30.020).

- The City will take prompt action when instances of noncompliance are identified, including noncompliance identified in audit findings.
- The City shall also ensure that reasonable measures are taken to safeguard protected, personally identifiable information (PII) and other information the federal awarding agency or pass-through entity designates as sensitive or that the City considers sensitive consistent with applicable federal, state, and local laws regarding privacy and obligations of confidentiality.

1.05 Certification

To assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, the annual and final fiscal reports or vouchers requesting payment under the agreement must include a certification, signed by an official who is authorized to legally bind the City, which reads as follows:

“By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements, and cash receipts are for the purposes and objectives set forth in the terms and conditions of the federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise. (US Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812.)”

1.06 Advance Payments and Reimbursements

Payment 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 City of Lake Forest Park, whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means.

- Advanced payments must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the City of Lake Forest Park to carry out the purpose of the approved program or project. Any advanced payments must be consolidated to cover anticipated cash needs.
- The City of Lake Forest Park shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs.

1.07 Allowable Costs

Costs or expenses pursuant to Federal awards will meet the following general criteria in order to be allowable, except where otherwise authorized by statute:

- Be necessary and reasonable for the performance of the Federal award;
- Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items;
- Be consistent with policies and procedures that apply uniformly to both Federally-financed and other activities of the City of Lake Forest Park;
- Be accorded consistent treatment. A cost may not be assigned to a Federal Award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost;
- Be determined in accordance with generally accepted accounting principles (GAAP);
- Not be included as cost or used to meet cost sharing or matching requirements of any other Federally-financed program in either the current or a prior period;
- Be adequately documented.

1.08 Procurement

When procuring property and services under a Federal award, the City of Lake Forest Park will follow 2 CFR §200.318 General procurement standards through §200.326 Contract provisions. When state law or City procurement procedures and policies conflict with Federal standards of conduct, the Federal standards of conduct shall be applied.

Contracts for more than the simplified acquisition threshold must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate.

Contracts and sub-grants of amounts in excess of the simplified acquisition threshold require that the City of Lake Forest Park will comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act.

The City of Lake Forest Park will monitor procurements to avoid duplicative purchases. The City will also continue to enter into inter-entity agreements to realize cost savings for shared goods and services when possible.

The City will verify and document that vendors are not suspended or debarred from doing business with the Federal government. This verification and documentation will be done for all purchases and contracts that meet or exceed the dollar limit established in Federal guidelines. Before initiating any purchases or contracts with federal funds that exceed or potentially exceeds the federally established amount, the responsible administrator shall verify that the vendor is not listed on the System for Award Management (SAM) exclusion list by checking on the official U.S. government website at <https://sam.gov/SAM>. If the vendor is listed on the Excluded Parties List System (EPLS), the administrator shall not complete the purchase or contract with the vendor. If the EPLS shows no records for the vendor, the City shall print the screen, retain a copy in the department files, and proceed to process the contract or purchase order.

NOTE: Washington State Department of Enterprise Services (DES) does not check for suspension or debarment on State bid contracts.

1.09 Grant & Federal Funding

Purchases made or work performed with Federal grant funds must follow the standards identified in the Federal Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (OMB Title 2, Subtitle A, Chapter 11, Part 200.)

Please note, the federal government does not recognize Washington State's Small Works alternative procedures or thresholds. **Do not use Small Works Roster procedures or thresholds if any federal funding is included or being used.**

All grants are different, so one size does not fit all. Some grants simply require the City to use its own procurement rules, while others require the City to insert their contracting clauses into the City's contract.

Please note that all grant applications, without limitation, must be signed by the Mayor. Additionally, all Federal grant reimbursement requests must be signed by the Mayor, City Administrator, and/or Finance Director.

Prior to initiating any purchases or contracts with federal funds, the responsible administrator must document that the procurement complies with the requirements of RCW 57.08.050 and Uniform Guidance. The most restrictive procurement method will be used whether it be federal, state or local law. A copy of the documentation shall be retained in the department files.

1.10 Single Audit Act

The City of Lake Forest Park, as a recipient of Federal funds, shall adhere to the Federal regulations outlined in 2 CFR §200.501 as well as all applicable Federal and State statutes and regulations.

1.11 Project Closure

A project agreement end date will be established in accordance with 2 CFR §§200.211 and 200.309. Any costs incurred after the project agreement end date are not eligible for Federal reimbursement.

1.12 Federal Code of Conduct

PURPOSE -- The purpose of the Code of Conduct is to ensure the efficient, fair and professional administration of federal grant funds in compliance with 2 CFR §200.112, 2 CFR §200.318 and other applicable federal and state standards, regulations, and laws.

APPLICATION -- This Code of Conduct applies to all elected officials, employees or agents of the City of Lake Forest Park engaged in the award or administration of contracts supported by federal grant funds.

REQUIREMENTS -- No elected official, employee, or agent of the City of Lake Forest Park shall participate in the selection, award, or administration of a contract supported by federal grant funds if a conflict of interest, real or apparent, would be involved. Such a conflict of interest would arise when any of the following has a financial or other interest in the firm selected for award:

- The City employee, elected official, or agent; or
- Any member of their immediate family; or
- Their partner; or
- An organization which employs or is about to employ any of the above.

The City of Lake Forest Park's elected officials, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors or subcontractors.

REMEDIES -- To the extent permitted by federal, state or local laws or regulations, violation of these standards may cause penalties, sanctions, or other disciplinary actions to be taken against the City of Lake Forest Park's elected officials, employees, or agents, or the contractors, potential contractors, subcontractors, or their agents. Any potential conflict of interest must be disclosed in writing to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.