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Administrative Requirements for Contracts Awarded Under the City of Albuquerque

Department of Family and Community Services

Prepared by:

City of Albuquerque
Department of Family and Community Services
P.O. Box 1293
Albuquerque, New Mexico 87103
Telephone (505) 768-2860 Fax (505) 768-3204

This issuance supersedes any announcements issued prior to June 2008.

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PART Administrative Requirements

1. ISSUING AGENCY: Department of Family and Community Services of the City of Albuquerque

2. **SCOPE**: Administrative Requirements for Social Services Contracts

3. STATUTORY AUTHORITY: ROA, 1994, §2-15-1, et. seq., §5-5-1 et. seq., in particular §5-5-19, 5-5-20

4. **DURATION:** Permanent.

- 5. EFFECTIVE DATE: September 30, 2010, unless a later date is specified at the end of a section.
- **6. OBJECTIVE:** To standardize the administrative requirements for social services contracts between the City and governmental agencies and private entities, both for-profit and nonprofit.
- **7. RESPONSIBILITY FOR ADMINISTRATION:** Department of Family and Community Services The Department of Family and Community Services ("DFCS") shall be responsible for administering these rules and regulations.

8. **DEFINITIONS**:

- **A.** "Authorized Board Official" refers to a member of an organization's governing board who has been authorized by action of that board to bind the corporation.
- **B.** "Applicant" refers to governmental agencies and both for-profit and nonprofit private entities that have requested or are in the process of receiving a contract with the City of Albuquerque to carry out programs, services or activities funded by DFCS social services contracts.
- **C.** "Cash Contributions" refer to the Contractor's cash outlay, including the outlay of money contributed to the Contractor by non-City third parties.
 - **D.** "City" refers to the municipal government of the City of Albuquerque.
- **E.** "Close Relative" refers to any spouse, ex-spouse, child, stepchild, mother, father, grandparent, grandchild, mother-in-law, father-in-law, sister, brother, sister-in-law, brother-in-law, daughter-in-law, son-in-law, first cousin, niece, nephew, aunt, uncle or the spouse or domestic partner of such person.
- **F.** "Community Development Strategy Area" refers to those areas of the City of Albuquerque formally designated by the City as target areas for programs supported by federal Community Development Block Grant (CDBG) funds.
- **G.** "Contract Accounting Records" refer to those records related to the receipt and expenditure of contract funds.
- **H.** "Contractor" in these rules, unless otherwise specified, refers to governmental agencies and both for-profit and nonprofit private entities under contract with the City of Albuquerque to carry out programs, services or activities funded by DFCS social services contracts.
- **I.** "Cost-plus-a-percentage-of-cost" refers to a procurement agreement to provide a percentage profit over and above the actual cost of the item or service.
- **J.** "Cost Sharing and Matching" refers to the portion of project or program costs not borne by the City.

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- **K.** "Department" refers to the City of Albuquerque Department of Family and Community Services (DFCS).
- L. "DFCS Social Services Contracts" include, but are not limited to, Community Development Block Grant (CDBG), Home Investment Partnerships Program (HOME), Emergency Shelter Grant (ESG), Continuum of Care, Older Americans Act, Early Head Start, Housing and Neighborhood Economic Development Fund (HNEDF) or City General Fund projects.
- **M.** "Director" refers to the Director of the Department of Family and Community Services (DFCS) or its successor in the organizational chart of the City, regardless of the name of such subdivision or department of the City.
- **N.** "Equipment" refers to tangible personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.
 - O. "Expendable Property" refers to all tangible property other than real property and equipment.
- **P.** "Governing Board" refers to the body legally empowered to determine policy for a nonprofit organization, including authority to bind the organization by any contract or engagement or to pledge its credit or render it liable pecuniary for any purpose or in any amount.
 - Q. "HUD" refers to the U.S. Department of Housing and Urban Development.
- **R.** "Immediate Family" refers to the spouse, ex-spouse, child, stepchild, mother, father, grandparent, grandchild, mother-in-law, father-in-law, brother, sister or domestic partner of such person.
- **S.** "In-kind Contributions" refer to the value of non-cash contributions provided by the Contractor and third parties. In-kind contributions may be in the form of charges for real property and non-expendable personal property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.
- **T.** "Less-than-arms-length Lease" is one under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include, but are not limited to, those between (i) divisions of an organization; (ii) organizations under common control through common officers, directors, or members; and (iii) an organization and a director, trustee, officer, or key employee of the organization or his/her immediate family either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest.
 - **U.** "Nepotism" is the employment of certain relatives and family members.
- V. "Not-For-Profit Entity ("NFP" or "NPO")" refers to a not-for-profit corporation (sometimes called a "nonprofit organization") authorized to do business in New Mexico which has received an Internal Revenue Code 501 (c)(3) or (c)(4) designation. Corporations who have received a different 501(c), such as a (c)(6), may qualify on a case-by-case basis as an NFP in these Rules and Regulations; however, approval must be sought and obtained from the Department during the application process.
- **W.** "Project Costs" are all allowable costs incurred by a Contractor and the value of in-kind contributions made by the Contractor or third parties in accomplishing the objectives of the contract during the project period.
- **X.** "Real Property" refers to land, including land improvements, structures, and appurtenances thereto, excluding movable machinery and equipment.
- Y. "Registered Sex Offender" is a person meeting the definition as found at Chapter 29, Article 11A NMSA 1978, of the "Sex Offender Registration and Notification Act," who, under that statute is required to register as such with the State of New Mexico, regardless of whether the person has actually registered pursuant to the Act.
- **Z.** "Social Services" refers to the provision, primarily to low and moderate income residents of the City, of human services such as health care, substance abuse treatment and prevention, day care,

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emergency shelters, youth services, senior services, employment services, and job training; the provision of housing intended primarily for low and moderate income residents of the City; and economic development activities designed primarily to benefit low to moderate income areas of the City or to increase employment among low and moderate income residents. A social services contract is a contract with a private, nonprofit or public governmental agency for social services in return for the payment by the City of costs associated with the provision of social services, including, but not limited to, the costs for labor, supplies, operating expenses, equipment, and the acquisition or improvement of real property.

ROA, 1994 §5-5-3.

- **AA.** "Suspension" refers to an action by the City that temporarily suspends City payments under the contract, pending corrective action by the Contractor or pending a decision to terminate the contract by the City.
- **BB.** "Termination" refers to the cancellation of a contract of City sponsorship in whole or in part, prior to the date of completion.
- **CC. "Vulnerable Population"** refers to a category of persons who are more vulnerable than the average adult population. By way of example and not limitation: children under the age of 18, persons, whether adult or children, with significant physical or mental handicaps.
- **DD.** "Waiver" refers to a formal written statement from the Department signed by the Director and when required, the City Attorney and by an agency of the state or federal government allowing the Contractor an exception to a rule in these requirements.
- **9. INTRODUCTION:** The purpose of these rules is to provide uniform administrative rules for City of Albuquerque social services contracts awarded by the Department of Family and Community Services (DFCS). These rules must be applied in conjunction with the *Social Services Contracts Procurement Rules and Regulations Department of Family and Community Services*. Unless specifically exempted, Contractors are expected to understand and comply with all applicable rules contained within these rules. Failure to comply may result in questioned costs, suspension or termination of contracts, or other sanctions. If there are questions regarding the applicability or interpretation of a rule, it is the responsibility of the Contractor to seek guidance from the City Department of Family and Community Services in writing. In the event of a conflict between the contract and the Administrative Requirements, the contract will take control. In the event of a conflict between a contract and City ordinances, the ordinances shall control.
- **A. Mission:** The Department of Family and Community Services provides quality health and social services, housing, recreation and education to improve the quality of life for the entire Albuquerque Community. For the purposes of these rules, the social services contracts encompass a wide range of activities, utilizing local, state, and federal resources to create and maintain viable communities and a supportive living environment for Albuquerque residents. Such resources include, but are not limited to, City General Fund, federal Community Development Block Grant (CDBG) funds, HOME Investment Partnerships funds, Emergency Shelter Grant funds, Continuum of Care funds, Early Head Start funds, Older American Act funds, and other federal, state and private funding sources administered by the Department.

B. Applicability

(1) In general, unless otherwise specified, these rules apply to social services contracts awarded to either governmental agencies or nonprofit private entities. Some programs or procurement processes permit participation only by private nonprofits or government entities and exclude for-profit entities. These rules do not deal with program specific requirements or with procurement, but do specify threshold requirements applicable to either all Contractors or certain types of contracting entities and address the administration of the contracts. If a particular program permits a contract to be awarded to for-

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profit entities or otherwise permits the participation of a for-profit entity in conjunction with a nonprofit entity or a government agency, these rules would apply to such a for-profit Contractor.

- (2) In general, these rules apply, but are not limited to all social service contracts awarded by City of Albuquerque's Department of Family and Community Services, except as noted in the waiver provisions, or unless preempted by the requirements of a specific funding source. By way of example and not limitation, these rules apply to:
 - (a) Contracts awarded with funding appropriated from the City of Albuquerque General Fund for the purpose of providing social services; contracts awarded with funding provided through the Housing and Neighborhood Economic Development Fund; the City's Workforce Housing Trust Fund, and the Albuquerque Metropolitan Redevelopment Agency;
 - (b) Contracts awarded with funding provided by the State of New Mexico;
- (c) Contracts awarded with funding provided by HUD through the Community Development Block Grant Program (CDBG) or the HOME Program including program income accruing from such funding that retains its identity as CDBG or HOME funds;
- (d) Contracts awarded with funding provided by HUD through the Stewart B. McKinney Homeless Assistance Act of 1987. (By way of example and not limitation, homeless assistance programs include Emergency Shelter Grants, Shelter Plus Care and Supportive Housing Programs); and
 - (e) Contracts awarded with funding provided through the Older Americans Act.
- (3) Additions and Waivers. At the discretion of the Department, contracts awarded with funding from other sources may be required to conform to these rules. The Director may authorize waivers when allowed by these rules on a case-by-case basis when such waivers are in the best interests of the City of Albuquerque and are not in conflict with applicable local, state, or federal laws and regulations.
- **C. Allowable Activities:** Activities undertaken through the programs administered by the Department include, but are not limited to:
- (1) Preservation and expansion of the stock of decent, safe, and sanitary housing affordable for the low and moderate income population;
- (2) Economic development activities to increase the economic viability of low and moderate income neighborhoods and expand the opportunities for low and moderate income persons to obtain and retain meaningful employment;
- (3) Development or improvement of public facilities in low and moderate income neighborhoods; and
- (4) Provision of a range of public and human services needed to meet immediate and urgent individual and family needs of low and moderate income persons.

D. Beneficiary Populations:

(1) Lower Income Populations

(a) Except as provided below, direct services provided through programs supported by Department of Family and Community Services (DFCS) social services contracts must target residents of Albuquerque whose annual family incomes are at or below 80% of the median family income for the Albuquerque Metropolitan Statistical Area (MSA) as established by the U.S. Department of Housing and Urban Development. At the discretion of the Department, income tests lower than 80% of the median income may be established for specific programs supported through DFCS social services contracts. Income eligibility levels by family size will be published annually by the Department. Beneficiaries of HOME funded programs must have an annual income less than 80%, 60% or 50% of median family income for the Albuquerque MSA. Guidance will be provided by the Department on income targeting on a project-by-project basis.

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- (b) Verification of Income. Documentation required for verification of income shall be specified in the contract and may include compliance with 24 CFR Part 5, or at a minimum, requires W-2 Forms, 1040 Forms, pay check stubs, or, in appropriate instances, signed client declarations. Client participation in other programs of public assistance including Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), Supplemental Nutrition Assistance (formally Food Stamps), Low Income Energy Assistance, Title XX, General Assistance, Public Housing, Section 8 Rental Assistance, or similar income tested programs may be used as presumptive evidence of eligibility under City guidelines.
- (c) Recipients of HOME assisted programs must have their income verified and documented in compliance with 24 CFR Part 5 regulations.
- (d) Persons receiving assistance through programs funded under the Stewart B. McKinney Homeless Assistance Act of 1987 or through other programs intended to assist the homeless must meet the following criteria:
 - (i) An individual who lacks a fixed, regular, and adequate nighttime residence; or
- (ii) Who has as a primary residence one that is (a) a publicly supervised or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate and transitional housing for the mentally ill); (b) an institution that provides a temporary residence for individuals intended to be institutionalized (excluding prison inmates); or (c) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.
- (e) Support may be made available to programs, services, and activities that do not require all participants to meet this income test, if it can be demonstrated that support of such activities offers the most efficient and expeditious means of serving the eligible population, and if at least 70% of those served meet the income test, and such arrangements have been provided for in the contract.
- (f) Recipients of services designed to meet critical emergency needs such as rape crisis assistance, assistance to victims of domestic violence, assistance to abused and neglected children, the homeless, and the like, need not meet an income test. Substance abuse clients will self-report information pertaining to their income.
- (2) Other Characteristics. Specific characteristics, such as persons with disabilities, senior citizens or other individual requirements applicable to specific funding sources, may apply.
- (3) Community Development Strategy Areas. Certain public facilities improvement activities which contribute to the prevention or elimination of slums or blight must be targeted primarily to benefit designated Community Development Strategy Areas.

10. ELIGIBILITY SOCIAL SERVICES CONTRACTS

A. Eligible Entities

- (1) Basic Eligibility Requirements
- (a) Only Contractors who meet and maintain the minimum requirements below are eligible to hold social services contracts. The City may conduct a pre-contract site review to verify that all minimum requirements are in place and operational prior to execution of any social services contract.
- (b) Only Contractors who are in compliance with federal, state and local tax reporting and payments, may contract with the City for social services contracts. Corporate organizations must also be in good standing with the New Mexico Public Regulations Commission.
- (c) Pursuant to ROA, 1994, §5-5-3, only a private, nonprofit entity or public governmental agency may receive the benefit of the procurement exceptions available for social services contracts.

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- (d) Through the regular City procurement process, entities other than private, nonprofit entities or public governmental agencies, may be awarded contracts which render services similar to those encompassed in the definition of Social Services Contracts. In the event that such a situation arises, the administration of the contract will be governed by these rules and regulations.
- (2) Threshold Requirements, unless otherwise specified in a particular sub-section, apply to all Contractors:
- (a) Background Clearance. If the Social Services provided under such an agreement require the Contractor to work with or be in proximity to children, or other vulnerable populations, the Contractor will not employ any person or volunteer who is registered as a sex offender in any United States jurisdiction, or who has a criminal background unacceptable to the City.
- (i) The Contractor shall ensure that all its employees and volunteers directly involved in performing services have been screened for a criminal record or registration as a sex offender as part of its hiring process, through the use of criminal background and reference checks, fingerprinting, and interviews. If an employee or volunteer is found to have such a record, the City Program Specialist assigned to the contract shall be immediately notified in writing with available details.
- (ii) If required, the Contractor will obtain a criminal records report in a form satisfactory to the City.
- (iii) On a case-by-case basis, the Director may grant individual waivers for employees and volunteers of the Contractor, if such person does not perform work in the same location where the Services to the Vulnerable Population are rendered, and if the Contractor can ensure that the subject employee or volunteer does not come in proximity to members of the Vulnerable Population in the course of performing the subject's duties to the Contractor. Any waiver granted by the Director shall be documented in writing in the Contractor's file by:
- (1) A request from the Contractor detailing the reason why the waiver should be made for the subject employee or volunteer;
- (2) The precautions to be taken by the Contractor to prevent the subject person from coming into contact with the Vulnerable Population;
- (3) Conditions and precautions imposed by the Director as a basis of granting the waiver; and
 - (4) The Director's permission.
 - (b) Conflict of interest policies must at minimum:
- (i) Apply to the procurement and disposition of all real property, equipment, supplies, and services by the Contractor and to the Contractor's provision of assistance to individuals, businesses, and other private entities.
- (ii) Provide that no person who exercises any functions or responsibilities with respect to organization or agency activities, or who are in a position to participate in a decision-making process, may obtain a personal or financial interest or benefit from an organization or agency activity, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.
- (iii) Waivers to the above policies may be allowed with the prior written approval of the Department on a case-by-case basis only after the following has been provided: (i) a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made, and (ii) an opinion by the City's attorney that the interest for which the waiver is sought would not violate state or local laws.
- (c) ADA Compliance. Contractors must agree to meet all the requirements of the Americans with Disabilities Act of 1990 (ADA), and all applicable rules and regulations which are imposed

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directly on the Contractor or which would be imposed on the City as a pubic entity. The Contractor must agree to be responsible for knowing all applicable requirements of the ADA and to defend, indemnify and hold harmless the City, its officials, agents and employees from and against any and all claims, actions, suits or proceedings of any kind brought as a result of any actions or omissions of the Contractor or its agents in violation of the ADA.

- (d) Confidentiality and Disclosure of Information. Contractors providing certain services, including but not limited to, substance abuse, domestic violence and health services, shall inform their clientele of federal, state and local laws regarding confidentiality and disclosure of information.
 - (e) Only as to nonprofit entities contracting with the City ("nonprofit"):
- (i) Financial Policies and Procedures. The nonprofit shall have and use a written set of financial, accounting and procurement policies and procedures adopted by its governing board which meet the minimum standards established by the City for contract accounting as detailed below.
- (ii) Active Board. The nonprofit shall document that its governing board is constituted in compliance with approved bylaws and nationally (e.g. Robert's Rules of Order) and locally (New Mexico Statutes and Court Rules Annotated) accepted standards and that it actively fulfills its responsibilities for policy direction, including regularly scheduled meetings for which minutes are kept. The organization must verify board compliance with the "Open Meetings" Act.
- (iii) Nepotism. The nonprofit shall not employ "immediate family" or any "close relative" of any board member, officer or managing employee and shall not employ any two people who are immediate family or close relatives of each other. "Immediate family" and "close relative" are defined as any spouse, ex-spouse, child, stepchild, mother, father, grandparent, grandchild, mother-in-law, father-in-law, brother, sister, brother-in-law, sister-in-law, son-in-law, daughter-in-law, first cousin, niece, nephew, uncle, aunt or the spouse or domestic partner of any such board member, officer or managing employee. Furthermore, this prohibition does prohibit the "immediate family" and "close relative" of any board member, officer or managing employee from being an unpaid volunteer of the nonprofit absent written permission from the Department Director managing the contract, which written permission shall be given on a case-by-case basis, with the reason fully articulated, and such grant of permission must be renewed annually. No waiver of this prohibition shall be presumed, and a waiver for any one person or situation must be requested annually.
- **B.** Requirements for Proposals: The Department will specify the general requirements for contract proposals, including all applicable forms, in its annual Request for Proposals and Application Package. Proposals must contain, at minimum, a description of the work program to be undertaken and a detailed project budget.
- **C.** Insurance Requirements: All Contractors under DFCS social services contracts will be required to procure and maintain through the life of their contract, a comprehensive general liability and automobile insurance policy with liability limits in amounts not less than the minimum required by the New Mexico Tort Claims Act, as it is amended from time to time, for bodily injury, including death, and property damage in any one occurrence. If any part of the contract is sublet, the Contractor must include the subcontractor in its coverage or require that the subcontractor obtain all necessary coverage. Policies must be written by companies authorized to write such insurance in the State of New Mexico. The City must be named an additional insured and the policies must (1) identify the Risk Manager, City of Albuquerque as the certificate holder, and (2) provide that 30 days written notice will be given to the City before a policy is canceled, materially changed, or not renewed. The Contractor must also comply with the provisions of the Workers Compensation Act and the New Mexico Occupational Disease Disablement Law.
- (1) Proof of insurance is not a requirement for submission of a proposal, but applicants should be aware that no work may begin under a contract funded through the City until the required insurance has been obtained and proper original certificates or policies are filed with the City.

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- (2) Professional Liability Insurance. All Contractors receiving funds through the Department of Family and Community Services, shall ensure that all staff for whom professional liability is required by their licensing agent, including but not limited to, professionals providing health and behavioral health services, maintain professional liability insurance in amounts not less than required by the New Mexico Tort Claims Act, as it is amended from time to time, for single limit of liability per occurrence and for the general aggregate.
- **D. Other Attachments:** In addition to the above requirements, applicants for social services contracts must attach or have on file with the City current copies of (i) their certificate of incorporation; (ii) the organization's articles of incorporation approved by the New Mexico Public Regulation Commission (PRC); (iii) a copy of the organization's bylaws; (iv) any licenses applicable to the organization's proposed activities; (v) a listing of current governing board members; (vi) a current organizational chart; (vii) the organization's personnel policies; (viii) the organization's accounting and procurement procedures; (ix) Certificate of Good Standing and Comparison issued within thirty (30) days from the PRC; (x) a copy of the organization's travel reimbursement policies, if travel funds are requested; (xi) a copy of the organization's most recent independent audit; and, for nonprofits, a copy of the Internal Revenue Service (IRS) status letter indicating tax exempt status and documentation showing that the status has not been revoked by the IRS.

E. Required Assurances

- (1) Compliance with Civil Rights Laws and Executive Orders. Contractors are required to comply and act in accordance with all federal laws and Executive Orders related to the enforcement of Civil Rights. In addition, recipients will be required to comply with all New Mexico State Statutes and City of Albuquerque Ordinances regarding enforcement of Civil Rights.
- (2) Use of Funds for Sectarian Religious Purposes. Contractors are required to assure that no funds awarded through the program will be used for sectarian religious purposes, specifically that: a) there will be no religious test for admission for services; b) there will be no requirement for attendance at religious services; c) there will be no inquiry as to a client's religious preference or affiliation; d) there will be no proselytizing; and e) services provided will be secular and non-sectarian.
- (3) Assurance of Drug Free Facilities. Applicants for funding must submit an assurance that they will administer a policy designed to ensure that the assisted program is free from the illegal use, possession or distribution of drugs or alcohol by its staff and beneficiaries.
- (4) Documentation of Board Review and Approval of Proposal. Applications for DFCS social services contracts must be signed by a natural person authorized to bind the organization. For private, nonprofit organizations, the application must be signed by an authorized board official who is not an employee of the entity. Copies of the minutes of the board meeting at which the proposal was reviewed and approved by the board must be maintained on file at the organization.
- (5) Certification of Receipt of Administrative Requirements. Applicants for funding must submit a certification signed by an authorized board official and the organization director of receipt and adherence to the Department Administrative Requirements for Social Services Contracts.

11. BUDGETARY GUIDELINES FOR SOCIAL SERVICES CONTRACTS

- **A.** Allowable Costs: The following principles apply to certain cost items when required by the contract. Failure to mention a specific item of cost is not intended to imply that it is unallowable: rather, determining an allowable cost in each case should be based on applicable federal regulations and the treatment or principles provided for similar or related items of cost.
- (1) Bonding Costs. Costs of bonding required by terms of the contract are allowable as are costs of bonding required by the organization in the general conduct of its operation. Bonding costs must

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be in accordance with sound business practice and the rates and premiums must be reasonable under the circumstances.

- (2) Communication Costs. Costs incurred for telephone services, local and long distance telephone calls, telegrams, postage, internet, pager or cell phone services and the like that are related to the project are allowable.
- (3) Compensation for Personnel Services. This cost item includes all compensation paid currently or accrued by the organization for services of employees rendered during the period of the contract. It includes, but is not limited to, salaries, wages, fringe benefits, payroll taxes, insurances and pension plan costs.
- (a) Except as otherwise provided, the costs of such compensation are allowable to the extent that:
- (i) Total compensation to individual employees is reasonable for the service rendered and conforms to the established policy of the organization consistently applied to City and non-City activities; and
- (ii) Expenses to awarded contracts are determined and supported as required by this section.

(b) Reasonableness:

- (i) If the organization is predominantly engaged in activities other than those sponsored by the City, compensation for employees on City-sponsored work will be considered reasonable to the extent that it is consistent with that paid for similar work in the organization's other activities.
- (ii) If the organization is predominantly engaged in City-sponsored activities, compensation shall be considered reasonable to the extent that it is comparable to that paid for similar work in the labor markets in which the organization competes for the kind of employees involved.

(c) Fringe Benefits:

- (i) Fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job such as vacation leave are allowable provided such costs are absorbed proportionately by all organization activities.
- (ii) Fringe benefits in the form of employer contributions or expenses for Social Security, employee insurance, workmen's compensation insurance, pension plan costs are allowable provided all other benefits are granted in accordance with established, written organization policies. Such benefits must be charged to City contracts in a manner consistent with the pattern of benefits accruing to the individuals or group of employees whose salaries and wages are chargeable to such contracts. Benefits charged to City contracts that are furnished by a provider plan (such as health care, retirement, etc.) must be based on a valid and binding contract between the Contractor and the benefit provider.

(d) Support of Salaries and Wages:

- (i) Charges to City contracts for salaries and wages must be based on documented payrolls approved by a responsible official(s) of the organization. Charges of salaries and wages to City contracts must be supported by personnel activity reports as specified in this Part of these rules and regulations.
- (ii) Personnel Activity Reports. Reports reflecting the distribution of activity of each employee must be maintained for all staff members whose compensation is charged in whole or in part directly to City contracts. Reports maintained by nonprofit organizations must meet the following standards:

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- (1) The reports must reflect an *after the fact* determination of the actual activity of each employee.
- (2) Each report must account for the total activity for which employees are compensated and which is required in fulfillment of their obligations to the organization.
- (3) The reports must be signed by the individual employee, and by a responsible supervisory official having first hand knowledge of the activities performed by the employee, stating that the distribution of activity represents a reasonable estimate of the actual work performed by the employee during the periods covered by the reports. Approval is not required for the report of the Executive Director or comparable official who reports directly to the organization's Board of Directors.
- (4) The reports must be prepared no less than monthly and must coincide with one or more pay periods.
- (iii) Charges for the salaries and wages of nonprofessional employees, in addition to the supporting documentation described above, must also be supported by records indicating the total number of hours worked each day.
- (iv) For each employee for whom salaries and wages are charged to a City contract, the Organization must maintain a personnel file which includes, at minimum:
- (1) A job description for the position currently held by the employee which specifies the duties of the position, the minimum qualifications for the position, the salary range for the position, and other terms and conditions for employment;
- (2) An application form, resume, or other documentation that the employee meets the minimum qualifications for the position as established in the job description and, as applicable, a criminal background check upon hire;
- (3) Personnel action records which document the hiring or assignment of the employee in his/her current position and officially establish his/her rate of compensation, including benefits, and the basis for this determination. Compensation must be within the salary range established for the position and salary and benefits must conform to approved organization personnel policies. Documentation must be provided which indicates that any changes in salary or benefits occurring during the term of a City contract have been made in accord with policies and procedures approved by the Board of Directors.
- (4) A statement signed by the employee that he/she has received or had an opportunity to review a copy of the organization's personnel policies and understands his/her rights and obligations there under:
- (5) A statement signed by the employee that he/she has received a copy of the organization's drug-free workplace policy;
 - (6) An INS (I-9) form, in accordance with federal regulations; and
 - (7) A current IRS W-4 form.
- (8) All Contractors receiving funds through the Department of Family and Community Services, Division of Behavioral Health, shall provide verification of substance abuse or mental health licensure in compliance with the State of New Mexico regulations.
- (v) Charges to a City contract for salaries or wages, independent of appropriate charges for payroll taxes and fringe benefits, are not allowable. All requests for salaries under a contract with the City must also include requests for payroll taxes and fringe benefits required by law and by organization personnel policies in proportion to the amount requested for salaries.
- (4) Education Costs. Costs of a program of education for employees are allowable only with the prior written approval of the Department.

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(5) Equipment and Other Capital Expenditures

- (a) Capital expenditures for tangible personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit is allowable only with the prior written approval of the Department.
- (b) Ownership of equipment purchased with City funding will remain with the City. However, the equipment must also be included on the Contractor's inventory list with appropriate indicia of the City's interest.
- (c) Contractors are responsible for the cost of replacing or repairing equipment purchased with City funds which is stolen, lost, damaged, or destroyed. The cost of insurance for replacement coverage covering the risk of loss or damage to equipment is allowable.
- (d) Capital expenditures for land or buildings are allowable only with the prior written approval of the Department.
- (e) Capital expenditures in excess of \$5,000 for improvements to land, buildings, or equipment are allowable only with the prior written approval of the Department.
 - (6) Insurance and Indemnification
- (a) Costs of insurance required or approved under the terms of the contract are allowable.
- (b) Costs of other insurance maintained by the organization in connection with the general conduct of its operations are allowable provided: that the types and extent of coverage is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.
- (7) Maintenance and Repair Costs. Costs incurred for necessary maintenance, repair, or upkeep of buildings and equipment which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition are allowable.
- (8) Materials and Supplies. The costs of materials and supplies necessary to carry out a contract are allowable. Such costs must be charged at their actual prices after deducting any discounts, rebates, or allowances received by the organization. Materials and supplies charged as a direct cost should include only the materials actually used for the performance of the contract, with due credit given for any excess materials or supplies retained or returned to vendors.
- (9) Meetings and Conferences. Costs associated with the conduct of meetings and conferences related to the purposes of the contract are allowable. Reasonable expenditures for food or beverages are allowable only for community education events. If food or beverage expenses exceed \$100.00, prior written approval must be obtained from the City.
 - (10) Memberships, Subscriptions, and Professional Activity Costs
- (a) Costs of the organization's membership in civic, business, technical, and professional organizations related to the purposes of the contract are allowable.
- (b) Costs of subscriptions to civic, business, professional, and technical periodicals related to the purposes of the contract are allowable.
- (c) Costs of attendance at meetings and conferences sponsored by others which are related to the purposes of the contract are allowable, including costs of meals, transportation, and other items incidental to such attendance, to the extent to which these costs conform to written policies consistently applied.
- (11) Organization Costs. Costs such as incorporation fees, brokers fees, fees to attorneys, and the like incurred in connection with the establishment or reorganization of an organization are allowable only with the prior written approval of the Department.

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- (12) Overtime, Extra-pay Shift, and Multi-shift Premiums. Premiums for overtime, extra-pay shifts, and multi-shift work are allowable only with the prior written approval of the Department except when necessary to cope with emergencies such as those resulting from accidents, natural disasters, breakdowns of equipment, or occasional operational bottlenecks of a sporadic nature.
- (13) Participant Support Costs. Participant support costs for items such as wages, payroll taxes, benefits, stipends, subsistence allowances, travel allowances and the cost of food, clothing, and other goods and services purchased directly on behalf of clients are allowable only with the prior written approval of the Department.
- (14) Plant Operations Costs. Necessary expenses incurred for facility security, janitorial services, elevator services, upkeep of grounds, and the like are allowable to the extent that they are not otherwise included in rental or other charges for space. Costs charged to the City must be consistent with the share of the space occupied by the City-funded program.

(15) Professional Service Costs

- (a) Costs of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill, and who are not officers or employees of the organization are allowable subject to the provision below when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Government.
- (b) In determining the allowable costs in a particular case, no single factor or any special combination of factors is necessarily determinative. However, the following factors are relevant:
 - (i) The nature and scope of services rendered in relation to the service required.
- (ii) The necessity of contracting for the service, considering the organization's capability in the particular area.
 - (iii) The past pattern of such costs, particularly in the years prior to City awards.
 - (iv) The impact of City awards on the organization's business.
- (v) Whether the service can be performed more economically by direct employment rather than contracting.
- (vi) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-City awards.
- (vii) The adequacy of the contractual agreement for the services (e.g. description of the service, estimate of the time required, rate of compensation, and termination provisions).
 - (viii) Costs incurred through "open-ended" contracts are not allowable.
- (16) Public Information Service Costs. Public information costs include the cost associated with pamphlets, news releases, and other information services. These costs are allowable when incurred to inform or instruct individuals, groups or the general public about the City-funded project; to interest individuals or groups in participating in the City-funded service program; or to disseminate the results of sponsored activities.
- (17) Publication and Printing Costs. Publication and printing costs directly related to the City contract are allowable.

(18) Recruiting Costs

(a) The following costs incurred for the recruitment of personnel required to carry out activities under a City contract are allowable: cost of "help wanted" advertising, operating costs of an employment office, costs of operating a testing program, and fees paid to an employment agency not in excess of standard commercial rates for such services.

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(b) Travel expenses of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incidental to recruitment of new employees are allowable only with the prior written approval of the Department.

(19) Rental Costs

- (a) Subject to the limitations described below, rental costs for real property or equipment are allowable to the extent that the rates are reasonable in light of such factors as: rental costs of comparable property; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the property leased.
- (b) Rental costs under less-than-arms-length leases are allowable only up to the amount that would be allowed had title to the property vested in the organization and only with the prior written approval of the Department.
- (c) Rent costs under sale and lease back, rental/purchase, or lease with option-to-purchase agreements are allowable only with prior written approval of the Department.
- (20) Taxes. In general, taxes which the organization is required to pay and which are paid or accrued in accordance with generally accepted accounting principles are allowable, except for (i) taxes from which exemptions are available to the organization directly; and (ii) special assessments on land which represent capital improvements.
- (21) Training Costs. Costs of preparation and maintenance of a program of instruction for employees are allowable only with the prior written approval of the Department.
- (22) Transportation Costs. Transportation costs including freight, express, cartage, and postage charges related either to goods purchased, in process, or delivered are allowable to the extent that such goods are required by the program and the costs can readily be identified with the items involved.

(23) Travel Costs

- (a) Expenses for transportation, lodging, subsistence, and related items incurred by employees and/or board members who are in travel status on official business are allowable when they are directly attributable to specific work under the contract and payment is made in conformity with federal travel requirements.
- (b) The difference in cost between first-class air accommodations and coach fare is unallowable except when less than first-class air accommodations are not reasonably available to meet necessary travel requirements.
- (c) Local travel mileage: reimbursement for local mileage shall not exceed the federal requirement.
- (24) Utilities Costs. The costs of utilities, including electrical services, heating and cooling, sewer, water, and other charges are allowable to the extent that they are not otherwise included in rental or other charges for space. Charges to a City contract for utilities must be based on the actual cost of service, with the City share of total utility costs consistent with the percentage of space occupied by the City-funded program.
- **B.** Unallowable Costs: The following is a list of common types of expenditures which are not properly chargeable to City contracts. Failure to include an item in this listing does not imply that cost is allowable.
- (1) Bad Debts. Bad debts, including losses (whether actual or estimated) arising from uncollectible accounts and other claims, related collection costs, and related legal costs, are unallowable.
- (2) Contingency Provisions. Contributions to a contingency reserve or any similar provision made for events, the occurrence of which cannot be foretold with certainty, are unallowable.

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- (3) Contributions. Contributions and donations by the organization to others are unallowable.
- (4) Entertainment Costs. Costs of amusement, diversion, social activities, ceremonials, condolences and costs relating thereto, such as meals, lodging rentals, transportation, and gratuities are unallowable.
- (5) Fines and Penalties. Costs of fines and penalties resulting from violations of, or failure of the organization to comply with federal, state, and local laws and regulations are not allowable.
- (6) Honorariums. Expenses for awards intended to confer distinction upon, or symbolize respect, esteem or admiration for the recipient, are not allowable.
 - (7) Interest, Fund Raising, and Investment Management Costs
- (a) Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable.
- (b) Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions are unallowable, except to the extent that such activities are undertaken to reduce the cost, or to avoid material impairment of the organization's authority to perform the contract.
- (c) Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are unallowable.

(8) Lobbying

- (a) Costs associated with the following activities are unallowable:
- (i) Attempts to influence the outcomes of any federal, state, or local election, referendum, initiative, or similar procedure through in-kind or cash contributions, endorsements, publicity, or similar activity:
- (ii) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections;
- (iii) Any attempt to influence: (i) the introduction of federal, state, or local legislation; or (ii) the enactment or modification of any pending federal, state, or local legislation through communication with any member or employee of the Congress, state legislature, or City Council, or with any government official or employee in connection with a decision to sign or veto enrolled legislation;
- (iv) Any attempt to influence: (i) the introduction of federal, state, or local legislation; or (ii) the enactment or modification of any pending federal, state, or local legislation by preparing, distributing, or using publicity or propaganda, or by urging members of the general public or any segment thereof to contribute to or participate in any mass demonstration, march, rally, fundraising drive, lobbying campaign or letter writing or telephone campaign; or
- (v) Legislative liaison activities, including attendance at legislative sessions or committee hearing, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in unallowable lobbying.
 - (b) The following activities are excepted from the coverage of the above in (8)(a):
- (i) Providing a technical and factual presentation of information on a topic directly related to the performance of a contract through hearing, testimony, statements or letters to the Congress, state legislature or City Council or subdivision, member, or cognizant staff member thereof, in response to a documented request made by the recipient member, legislative body or subdivision, or a cognizant staff member thereof; provided such information is readily obtainable and can be readily put in deliverable form and further provided that the costs under this section for travel, lodging, or meals are unallowable unless

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incurred to offer testimony at a regularly scheduled Congressional or State Legislative hearing pursuant to a written request for such presentation made by the Chairman or Ranking Minority Member of the Committee or Subcommittee conducting such hearing;

- (ii) To influence state or local legislation in order to directly reduce the cost, or to avoid material impairment of the organization's authority to perform the contract;
- (iii) Any activity specifically authorized by statute to be undertaken with funds from the contract.
- (9) Losses on other Awards. Any excess of costs over income on any award is unallowable as a cost to any other award. This includes, but is not limited to, the organization's contributed portion by reason of cost sharing agreements or any under-recoveries through negotiation of lump sums for, or ceilings on, indirect costs.
- (10) Payments to Government Employees. Payments by private, nonprofit organizations, either direct or indirect, made from contract funds to, or on behalf of, full-time federal, state, or City employees are not allowable.
- (11) Year-end Stockpiling of Supplies, Material, and Equipment. Purchases of these items should be done early in or regularly throughout the term of the contract in order to provide services to clients. Large purchases of supplies, material, and equipment within the last 60 days of the contract are viewed as an attempt to contain remaining balances on the contract and are therefore not allowed.

C. Indirect Costs

- (1) Indirect costs charged to City contracts are allowable if and only if:
- (a) The maximum amount the Contractor charges as administrative overhead on grants to a private, nonprofit organization is based on an approved indirect cost rating issued by an agency of the federal government.
- (b) The maximum amount the Contractor charges as administrative overhead on grants to other public institutions (state entities, publicly funded educational entities, etc.) is 8%.
- (c) The Contractor does not also charge the pooled costs included in the agreement directly to the City.
- (d) Such costs are not, in the judgment of the City, excessive in relationship to the overall costs of the funded project.
- (e) Indirect costs are charged proportionately to all funding sources contributing to the assisted project.
- **D.** Allocated Direct Costs: For Contractors that receive multiple contracts, either from the City, or other sources, a cost allocation plan must be followed. This plan must detail the proration of common organization expenses and accurately reflect the Department's contract(s) pro-rated share of expenses.

12. AWARD PROCEDURES AND CONTRACT EXPENDITURES

A. Contract Awards

- (1) Review and Recommendations. Proposals will be reviewed according to procedures established by the Department and detailed in the Social Services Contracts Procurement Rules and Regulations.
- (2) Notification of Provisional Award. Following approval of a recommendation by the Mayor and, if required by City Council, the Department will notify the successful applicant of its intention to award a DFCS Social Services Contract.

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- (a) If the amount of the recommended award is the same as the amount requested in the proposal, the budgeted costs are allowable and acceptable to the Department, and no changes are required in the proposed work program, as soon as feasible after notification of the award, the parties will proceed to contract execution.
- (b) If changes are required in the budget or work program, the Department will enter into negotiations for changes with the applicant organization.

(3) Contract Execution

- (a) Once an agreement is complete and acceptable both to the City and the Contractor, four copies of the contract must be signed by an authorized representative of the organization (if a nonprofit, this person cannot be an employee). These signed contracts and an original certificate(s) providing proof of insurance shall be returned to the Department.
- (b) Assuming that the contract is complete and passes all legal review and that sufficient funds have been appropriated by Council and/or made available to the City from the state or federal government, the City will return a signed copy of the final approved contract to the Contractor and authorize work to begin on the contract on a specified date.
- (4) Contract Expenditure Review. The City shall, from time to time during the contract period, review the actual organization expenditures charged to the contract. At the discretion of the City, unutilized funds may be de-obligated from the contract for reallocation.
- (5) Requests for Waivers to Conflict of Interest Requirements. Prior to final approval of a contract, on such forms as the City may require, a Contractor requesting waivers to conflict of interest requirements shall submit to the Department disclosure statements signed by persons covered by conflict of interest provisions. Waivers to these requirements are contingent upon approval by the Director, the City Attorney, and when required, by an agency of the state or federal government. No work may be initiated under a contract until waivers have been granted. Failure to disclose conflicts of interest may result in suspension or termination of a contract. Additional requests for waivers to the conflict of interest requirements must be submitted at any time during the life of the contract that conditions creating a conflict of interest may occur.

13. ACCOUNTING FOR DFCS SOCIAL SERVICES CONTRACT FUNDS

A. Basic Requirements for Proper Accounting of Funds

- (1) Accounting System. The Contractor's accounting system should, at minimum, meet the following standards.
- (a) The system must be designed so that no one person has access to all financial operations, procedures, and records.
- (b) The system should clearly identify DFCS Social Services contract revenues and expenditures from those of other funding sources in posting to the books of account. The City may require the Contractor to maintain a separate banking account for DFCS Social Services contract funds, if required by state or federal regulations or deemed to be in the best interests of the City.
- (c) The system must allow individual cost elements in their chart of accounts to be reconciled to the cost categories in the approved DFCS Social Services contract budget.
 - (d) The system must identify and segregate unallowable costs.
- (e) There must be a filing system that is easily accessible which separates contract transactions in a consistent manner.
- (f) The system must fully document all contract expenditures with invoices, statements, time sheets, and other source documentation signed by an authorized official.

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- (g) The system must assure that contract transactions are recorded and posted in the accounting books and records at least every thirty days.
- (h) The system must provide for the separation of the accounting function from procurement (purchasing) and receiving.
- (i) The system must also provide for appropriate internal control procedures in respect to payroll, procurement (purchasing), property management, and cash management, including provision for dual signatures for checks of \$1,000 or more drawn on an organization account and assurance that no person be authorized to sign checks for which he/she is also the payee except that the Executive Director may be the second signature on his/her payroll check if based upon the Board approved salary.
- (2) Adequate Personnel. Whether employed directly by the organization or through contract, the organization must currently employ or commit to hire personnel responsible for accounting functions with appropriate training and experience to adequately administer a contract of the size and complexity of the one proposed.
- **B.** Accounting for Program Income: Program income accounting may be required for nonprofits depending on the contract type and funding source. Program income represents the gross income earned by the Contractor from City-supported activities or the gross income reduced by certain expenditures if so provided by the contract. Such income includes, but is not limited to, income from fees for services performed, from the use of rental of real property or equipment acquired with City funds, from the sale of commodities or items fabricated under a grant agreement, and any income earned from payments of principal and interest on loans made with contract funds.
- (1) Program income does not include interest earned on advances of City funds. Interest earned on advances of City funds shall be immediately remitted to the City.
- (2) Proceeds from the sale of real and personal property provided by the City or purchased in whole or in part with City funds shall be handled in accordance with regulations outlined below related to property management.
- (3) Unless the contract provides otherwise, Contractors shall have no obligation to the City with respect to royalties received as a result of copyrights or patents produced under a contract agreement.
- (4) All other program income earned during the project period, at the discretion of the City, may be:
- (a) Used to further eligible program objectives. Program Income used to provide contracted services shall be expended prior to requesting Department contract funds.
 - (b) Used to finance the non-City share of the project when approved by the City; or
- (c) Deducted from the total project costs in determining the net costs on which the City share of costs will be based; or
- (d) Remitted to the City. For contracts included in the Consolidated Plan that are funded by HUD, all program income will be remitted to the City at regular intervals throughout the contract period, but not less than monthly.
- (5) Reporting of Program Income. The Contractor's accounting system must clearly identify program income from DFCS Social Services contracts, and the City may require the Contractor to provide regular reports on program income received, amounts expended, and any balance unexpended during the reporting period. Such reports will be on such forms as the City may designate.
- (6) Uses of Unexpended Program Income: Unexpended program income, from any source, shall retain its identity as DFCS Social Services funding after the ending date of the contract period. Unless otherwise specified in the contract agreement, the City shall observe the following rules in the disposition of unexpended program income:

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- (a) The City may permit the Contractor to retain the funds for use on a subsequent contract involving new program funds in accord with the principles contained in the preceding section of Accounting for Program Income.
- (b) If no subsequent contract is awarded by the City involving new funding, the City may permit the Contractor to retain the funds for use on another project, provided that the activities are consistent with the laws and regulations governing the contract program which was the original source of the unexpended program income. In such cases, the funds will be subject to all the requirements and approvals specified in these rules, including execution of a contract agreement for the expenditure of previously unexpended program income.
- (c) If no subsequent contract is awarded by the City, and no alternative use is approved, the City may direct the Contractor to remit to the City the full amount of unexpended program income.
- **C.** Cost Sharing and Matching: From time to time, the City may require cash and/or in-kind contributions from the Contractor as a condition of a contract award. The following sets forth the criteria and procedures for the allowable cash and in-kind contributions made by the Contractor or third parties in satisfying any cost sharing and matching requirements of the City.
 - (1) General Guidelines for Cost Sharing and Matching.
 - (a) Cost sharing or matching may consist of:
- (i) Charges incurred by the Contractor as project costs not accounted for as cash or in-kind contributions (e.g. depreciation and use costs).
- (ii) Project costs financed with cash contributed or donated to the recipient by other public agencies, private organizations, and individuals.
- (iii) Project costs represented by services and real and personal property, or use thereof, donated by other public agencies, private organizations, and individuals.
- (b) All contributions, both cash and in-kind, may be accepted as part of the Contractor's cost sharing and matching when such contributions meet all of the following tests:
 - (i) Are verifiable from the Contractor's records;
 - (ii) Are not included as contributions for any other City-assisted program;
- (iii) Are necessary and reasonable for proper and efficient accomplishment of project objectives;
 - (iv) Are types of charges that would be allowable under the applicable cost principles;
- (v) Are not paid by the City under another assistance agreement unless the agreement is authorized by the City to be used for cost sharing or matching;
 - (vi) Are provided for in the approved budget when required by the City; and
 - (vii) Conform to other provisions of these regulations.
- (2) Valuation of In-kind contributions. Values for recipient in-kind contributions will be established in accordance with the applicable cost principles.
- (3) Matching for Federal Funds. When a City award is made through a re-grant of federal funds, the City may require:
- (a) That the cost sharing or matching contributions are not paid by the federal government under another assistance agreement unless the agreement specifically authorizes the use of such assistance for cost sharing or matching.
- (b) That in-kind cost sharing or matching contributions not represent the value of real or personal property purchased with federal funds unless authorized by federal regulations.

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D. Acquisition, Management and Disposition of Property Acquired with City Funds:

- (1) Real Property. From time to time, DFCS Social Services contract funds may be used by a public or private, nonprofit organization for the acquisition of real property. The following regulations shall apply to the acquisition, management, and disposition of such property by a Contractor.
 - (a) Basic acquisition policies. In the acquisition of real property the following criteria apply:
- (i) The real property shall be acquired using the City's procedures for acquisition and shall be titled in the name of the City unless otherwise specifically authorized by a contract approved by the City Council.

The cost for the acquisition of real property must not exceed the Fair Market Value for such property established through a written statement independently and impartially prepared by a certified appraiser setting forth an opinion of the defined value of the property, adequately described, and as of a specific date, supported by the presentation and analysis of relevant market information.

- (ii) The amount of real property acquired should not exceed the amount required for the purposes of the City-supported program except if acquisition of only a portion of a property would leave the owner with an uneconomic remnant.
- (iii) Purchase of the property must be based on open negotiation between the Contractor and the owner or the owner's representatives, including a written offer allowing the owner reasonable opportunity to consider the offer and suggest modification in the proposed terms and conditions of the purchase. No threats of condemnation or of other coercive actions or other inducements for agreement on the price resulting from, or related to the City's involvement, may be made as part of negotiations.
- (iv) No purchase of real property may be made without the prior written approval of the Department, specific as to site, description, and price.
- (b) Anti-Displacement Provisions. No persons shall be required to move permanently or temporarily from his or her dwelling or business as a result of the purchase of real property or rehabilitation of real property using DFCS Social Services contract funds unless approval has been granted in writing by the City prior to relocation. All applicable procedures required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), shall be adhered to in the event of potential permanent or temporary relocation of persons and businesses and the Contractor shall coordinate all relocation activities with the City to ensure compliance with URA. Relocation assistance must be provided at the Contractor's expense to any persons or businesses involuntarily displaced, according to regulations established by the URA.

(c) Title and Disposition.

- (i) If legal title to real property is placed in the Contractor, the Contractor shall hold the property for the benefit of the City, as more fully detailed in the agreement, and subject to the condition that the Contractor shall use the real property for the authorized purpose of the project as long as it is needed or as specified in the contract agreement, which shall be normally not less than fifteen (15) years. Title to the real property shall not be transferred to any other entity without written authorization by the City. As an assurance of compliance with this requirement, the City shall file an original copy of the agreement or other document authorizing the purchase with the County Clerk as part of the record of title along with any other covenants, restrictions and mortgages applicable to the project.
- (ii) The Contractor shall obtain approval by the City for the use of the real property in other projects when the Contractor and City jointly determine that the property is no longer needed for the purpose of the original project. Such alternative uses must be consistent with the laws and regulations governing the program and project for which the property was initially purchased.
- (iii) When the real property is no longer needed as provided above, the Contractor shall request disposition instructions from the City. Unless otherwise specifically provided for in contract

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agreements, the City shall observe the City's then existing policies regarding the disposition of surplus real property with appropriate consideration for situations in which the City funds were not the sole or primary source of funds for acquiring and improving the property, which shall be detailed in the initial agreement.

- (2) Substantial Improvements to Real Property. From time to time, DFCS Social Services funds may be used by a public or private, nonprofit organization for capital expenditures for improvements to real property owned by the organization. The following regulations apply to the treatment of such improvements with a total cost to the City of \$2,000 or more within any one fiscal year:
- (a) Basic Procurement Policies. In making substantial improvements to real property the following criteria apply:
- (i) Procurement of supplies, equipment, construction and other services must conform to the procurement standards outlined in the Procurement Standards for this section, which include but are not limited to 13(E).
- (ii) No substantial improvements to real property may be made without prior written approval of the Department, specific as to site, description, and cost.
- (b) Anti-Displacement Provisions. No person shall be required to move from his or her dwelling or business as a result of substantial improvements to real property using DFCS Social Services contract funds unless relocation assistance is provided at the Contractor's expense, according to guidelines established by the City.

(c) Title and Disposition.

- (i) If legal title to real property is placed in the Contractor, the Contractor shall hold the property for the benefit of the City, as more fully detailed in the agreement, and subject to the condition that the Contractor shall use the real property for the authorized purpose of the project as long as it is needed or as specified in the contract agreement, which shall be normally not less than fifteen (15) years. Title to the real property shall not be transferred to any other entity without written authorization by the City. As an assurance of compliance with this requirement, the City shall file an original copy of the agreement or other document authorizing the purchase with the County Clerk as part of the record of title along with any other covenants, restrictions and mortgages applicable to the project.
- (ii) The Contractor shall obtain approval by the City for the use of the real property in other projects when the Contractor and City jointly determine that the property is no longer needed for the purpose of the original project. Such alternative uses must be consistent with the laws and regulations governing the program and project for which the property was initially purchased.
- (iii) When the real property is no longer needed as provided above, the Contractor shall request disposition instructions from the City. Unless otherwise specifically provided for in contract agreements, the City shall observe the City's then existing policies regarding the disposition of surplus real property with appropriate consideration for situations in which the City funds were not the sole or primary source of funds for acquiring and improving the property, which shall be detailed in the initial agreement.

(3) Equipment.

- (a) Basic Acquisition Principles. In the acquisition of equipment, the following principles shall apply:
- (i) Basic procurement principles generally applicable to the procurement of supplies, equipment, construction, and other services outlined in the Procurement Standards for this section, which include but are not limited to 13(E), shall apply to the acquisition of equipment.
- (ii) No equipment may be acquired without the prior written approval of the Department.
- (b) Title and Disposition. Title to equipment remains vested in the City. Contractors shall, however, maintain such property on its inventory list, reflecting the property's status as on loan from the

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City for the purpose of the specific project or program. Upon completion of the contract, or when the property is no longer needed, the Contractor shall report the property to the City for further utilization. The City may, at its discretion:

- (i) Continue to utilize the property with this or another Contractor in connection with the project or program for which it was acquired.
- (ii) Utilize the property with this or another Contractor in connection with another City project.
 - (iii) Dispose of the property through the City's surplus process.
- (c) Property management standards for equipment. The Contractor's property management standards for equipment shall include the following procedural requirements:
 - (i) Property records shall be maintained accurately and shall include:
 - (1) A description of the property.
- (2) Manufacturer's serial number, model number, City stock number, or other identification number.
 - (3) Source of the property, including contract number.
 - (4) Whether title vests in the Contractor or City.
 - (5) Acquisition date and cost.
- (6) Percentage of City participation in the cost of the project or program for which the property was acquired.
 - (7) Location, use, and condition of the property and the date this information was
 - (8) Unit acquisition cost.
- (9) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value when a Contractor compensates the City for its share.
 - (ii) Property owned by the City must be marked to indicate City ownership.
- (iii) A physical inventory of property shall be taken and the results reconciled with the property records annually. Any differences between quantities determined by physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The Contractor shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.
 - (4) Expendable Property.
- (a) Basic Acquisition Principles. In the acquisition of expendable property, the following principles shall apply:
- (i) Basic procurement principles generally applicable to the procurement of supplies, equipment, construction, and other services outlined in the Procurement Standards for this chapter, which include but are not limited to 13(E), shall apply to the acquisition of expendable property.
- (ii) Expendable property may be acquired without the prior written approval of the Department up to the amount allowed in the approved budget.
 - (b) Title and Disposition.
 - (i) Title to expendable property shall vest in the Contractor upon acquisition.

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- (ii) If there is a residual inventory of such property exceeding \$5,000 in total aggregate fair market value upon termination or completion of the contract and the property is not needed for any other City-sponsored program, the Contractor may retain the property for use on non-City sponsored activities, or sell it, but must in either case compensate the City for its share.
- **E. Procurement Standards:** These standards for use by Contractors in establishing procedures for the procurement of supplies, equipment, construction and other services with City 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, state and local law and regulations.
 - (1) Standards of Conduct.
- (a) Contractors must adhere to conflict of interest provisions established in other sections of these rules in respect to all procurements.
- (b) In addition, the Contractor must establish a clear policy that its officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from subcontractors or potential subcontractors and provide for disciplinary actions to be applied for violation of these standards.
 - (2) Procurement Standards.
 - (a) Bid Standards
- (i) All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.
- (ii) Consultants employed by the Contractor to prepare or draft specifications, requirements, statements of work, invitations for bids, and/or requests for proposals shall be excluded from competing for such procurements.
- (iii) Awards shall be made to the bidder/offeror whose bid/offer is responsive to the solicitation and is most advantageous to the Contractor, price and other factors considered. Solicitations shall clearly set forth all requirements that the bidder/offeror must fulfill in order for his bid/offer to be evaluated by the Contractor. Solicitations should specify that any and all bids/offers may be rejected when it is in the Contractor's interest to do so.
- (b) All Contractors must establish *written* procurement procedures that provide for, at a minimum, the following procedural requirements.
- (i) Proposed procurement actions shall follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items.
- (ii) Solicitations for goods and services shall be based on a clear and accurate description of the technical requirements for the material, product or service to be procured. Such a description shall not contain restrictions which unduly restrict competition. "Brand name or equal" descriptions should be used as a means to define the performance or other requirements of a procurement.
- (iii) Positive efforts shall be made by the Contractor to utilize small business and minority-owned business sources of supplies and services.
- (iv) The type of procuring instruments used will be determined by the Contractor, but must be appropriate for the particular procurement and for promoting the best interests of the program. However, "cost-plus-a-percentage-of-cost" method is prohibited.
- (v) Subcontracts shall be made only with responsible subcontractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement.

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- (vi) All proposed sole source subcontracts or where only one bid or proposal is received in which the aggregate expenditure is expected to exceed \$2,000 shall be subject to prior approval at the discretion of the Department.
- (vii) Some form of price or cost analysis should be made in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices, or similar indicators.
- (viii) Procurement records and files for purchases in excess of \$2,000 shall include the following:
 - (1) Basis for Contractor selection;
- (2) Justification for lack of competition when competitive bids or offers are not obtained:
 - (3) Basis for award cost or price.
- (ix) A system for contract administration shall be maintained to ensure subcontractor conformance with terms, conditions, and specifications of the subcontract and to ensure adequate and timely follow-up of all purchases. All contracts must be time-limited and include a specified beginning and ending date.
- (c) The Contractor shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all subcontracts:
- (i) Subcontracts shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which subcontractors violate or breech subcontract terms and provide for such remedial actions as may be appropriate. All contracts must be time-limited and include a specified beginning and ending date.
- (ii) All subcontracts shall contain provisions for termination by the Contractor including the manner by which termination will be effected and the basis for settlement. In addition, such subcontracts shall describe conditions under which the subcontract may be terminated for default as well as conditions where the subcontract may be terminated because of circumstances beyond the control of the subcontractor.
- (iii) In all subcontracts for construction or facility improvement awarded for more than \$100,000, Contractors shall observe bonding requirements established by the City. The City will provide technical assistance, if requested, in establishing these requirements.
- (iv) All subcontracts awarded by Contractors having a value of more than \$2,000 shall contain a provision requiring compliance with Executive Order 11246, "Equal Employment Opportunity" as amended by Executive Order 11375 and supplemented in Department of Labor regulations (41 CFR, Part 60). The City will provide technical assistance, if requested, in the drafting of this provision.
- (v) All subcontracts in excess of \$2,000 for construction or repair shall include a provision for compliance with the Copeland "Anti-Kick Back" Act as supplemented in HUD regulations. This law and regulations provide that each subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public works to give up any part of the compensation to which he or she is otherwise entitled. The Contractor shall report all suspected or reported violations to the Department.
- (vi) When required by federal legislation, all construction subcontracts of more than \$2,000 shall include a provision for compliance with the Davis-Bacon Act as supplemented by Department of Labor regulations. The City will provide, if requested, technical assistance to the Contractor on specific requirements of this section.
- (vii) Where applicable, all subcontracts awarded in excess of \$2,000 for construction contracts and in excess of \$2,500 for other subcontracts that involve the employment of mechanics or

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laborers shall include a provision for compliance with sections 1-3 and 107 of the Contract Work Hours and Safety Standards Act as supplemented by Department of Labor regulations. The City will provide, if requested, technical assistance to Contractors on specific requirements of this section.

- (viii) All subcontracts awarded by the Contractor shall include a provision to the effect that the City and, where applicable, any state or federal sponsoring agency and 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 subcontractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts, and transcriptions.
- (ix) All subcontracts in excess of \$100,000 shall contain a provision that requires the subcontractor to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 and the Federal Water Pollution Control Act as amended. Violations shall be reported to the City and the Regional Office of the Environmental Protection Agency. The City will provide technical assistance to the Contractor, if requested, in preparation of this provision.
- (x) All subcontracts shall contain a provision that requires the subcontractor to comply with the Americans with Disabilities Act of 1990.
- (d) For additional requirements related to capital projects undertaken with City assistance, Contractors must consult the Administrative Requirements for Contracts Awarded Under the City of Albuquerque Department of Human Services Community Development Program for Public Facilities and Improvements and Multi-Family Housing Renovation Projects.

F. Contract Expenditures

- (1) General Limitations on Expenditures. No expenditures incurred prior to the beginning date of the contract may be paid with contract funds. Expenditures incurred during the grant period may be paid from contract funds after the ending date. All such expenditures, however, must be liquidated within 30 days after the end of the project period. No expenditures incurred after the ending date of the contract may be paid from contract funds.
- (2) Audit Expenditures. Of the total cost of applicable organization-wide independent audits, the amount budgeted to the City contract shall not exceed the proportion that the City contract is of the total organization budget. Amounts budgeted must be obligated prior to the end of the program year, but are exempt from the 30 day liquidation requirement above.
- (3) Certification Letter. Prior to the expenditure of funds, Contractors must have on file with the Department a Signature Certification Form that provides the name and address of the organization to whom checks should be made payable and the name(s) and title(s) of any person authorized to sign the Financial Status Report and Request for Reimbursement Form.

(4) Payment Procedures.

- (a) Cost Reimbursement (where applicable based on the agreement).
- (i) General: Payments from the City for a program that includes cost reimbursement are made on the basis of reimbursements for costs incurred for line item expenses included in the approved organization budget. These rules do not allow for the disbursement of funds prior to an obligation for specific expenses.
- (ii) Reimbursement of costs for salaries and wages: Reimbursement for costs charged to the City for salaries and wages, including applicable payroll taxes and fringe benefits, shall be made only for positions included in an approved line item budget. The amount of such reimbursement shall normally be limited to an amount not to exceed the total amount budgeted for the position divided by the number of pay periods included in the term of the contract, as established in organization personnel policies, multiplied by the number of pay periods for which reimbursement is being requested.

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- (iii) Financial Status Report and Request for Reimbursement. All requests for payments through the program must be submitted on the Financial Status and Request for Reimbursement Form. Unless specified in the contract, requests for payment may be submitted at any time during the contract period, though no less than quarterly or more than bi-weekly intervals. At the discretion of the City, Contractors may be required to submit appropriate back-up documentation with the Financial Status Report and Request for Reimbursement.
- (iv) Cash received from the City must normally be expended within three (3) working days of the date that it is received.
- (v) As noted above, with the exception of a request for payment of audit expenses, all requests for reimbursement must be received by the City within thirty (30) days of the end date of the contract. Requests received beyond thirty days may be considered excluded from contract obligation resulting in non-payment.
- (vi) Payment of requests for reimbursement by the City does not constitute a judgment by the City as to whether or not the cost is allowable and such payments are subject to later review or audit.
- (vii) Payment of requests for reimbursement may be temporarily suspended, pending corrective action by the Contractor or pending a decision to terminate a contract, in accordance with procedures outlined in the Suspension and Termination Procedures.
 - (b) Fee for Service (where applicable based on the agreement).
- (i) General: Payments from the City for a program that includes fees for services are based on a negotiated fee for specific services included in the agreement.
- (ii) Request for Payment. Payments shall be made to the Contractor no more than biweekly but no less than quarterly, and subsequent to receipt of a request for payment in compliance with the budgetary and fiscal guidelines of the City and on the condition that the Contractor has accomplished the Services to the satisfaction of the City.
- (iii) All requests for payment submitted by the Contractor must be supported by documentation of Services provided in the Contractor's files.
- (iv) All requests for payments must be received by the City within thirty (30) days of the end date of the contract. Requests received beyond thirty days may be considered excluded from contract obligation resulting in non-payment.
- (v) Payment of requests for payment may be temporarily suspended, pending corrective action by the Contractor or pending a decision to terminate a contract, in accordance with procedures outlined in the Suspension and Termination Procedures.

G. Budget Amendments

- (1) Requests for Budget Amendments.
- (a) No reimbursements will be made for expenditures not contained in an approved contract budget, nor will reimbursements be made in excess of the amounts budgeted for each line item in an approved contract budget.
- (b) Prior to expending contract funds for items not included on the approved budget, or in amounts exceeding those for approved line items, except as provided for below, the Contractor must receive prior written permission from the Department. Requests for budget revisions must be submitted on a standard Request for Budget Revision Form. Expenditures according to the revised budget may not be made prior to the receipt by the Contractor of the approved Request for Budget Revision Form from the Department.

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- (c) Increases or decreases in the total amount of the contract will require that a supplemental contract agreement be executed between the City and the Contractor.
- (2) Allowable Flexibility. Contractors may, without prior approval from the Department, submit a reimbursement request which exceeds the approved budget of a line item up to \$500 or five (5) percent of the line item amount, whichever is greater, to the extent the total approved budget is not exceeded. Line item changes in excess of the amount specified above will require a Request for Budget Revision form be submitted to and approved by the Department.

H. Retention of Contract Records

- (1) General Requirements. Contractors are required to retain all accounting records and related original and supporting documents that substantiate costs charged to contract activities, identifiable by contract number. It is the responsibility of the Contractor to assure the safekeeping of all contract records and to be able to promptly produce them upon the request of authorized City, state, or federal representatives.
- (2) Time Limitation on Record Retention. Unless the law requires a different time limitation, records must be retained for at least five (5) years after the end date of the contract or, if applicable, after the final audit of the contract has been completed. In all cases, an overriding requirement exists to retain records until resolution of any audit question relating to individual contracts even if the period exceeds the normal five year period.
- (3) If the Contractor should be unable to maintain custody or control of the records for any reason, the original records shall be delivered to the City for safe keeping.

I. Fiscal Reports and Monitoring Requirements

- (1) General Requirements.
- (a) Monitoring Requirements. As often as may be required at the discretion of the City, fiscal office staff of the Department will conduct scheduled on-site monitoring visits to Contractors receiving contract funding. Contractors will be required to make available appropriate financial records. In the case of computer maintained records, availability means a printed copy of such records. Financial records related to the project include those as are necessary for the Department staff to:
- (i) Verify financial transactions and determine whether funds were used in accordance with applicable laws, regulations, and procedures;
 - (ii) Ascertain whether appropriate policies, plans, and procedures are being followed;
- (iii) Provide management with systematic appraisals of financial and administrative controls; and
 - (iv) Determine the reliability of financial records.
- (b) As soon as is practicable following the conclusion of an on-site monitoring visit, a written report of findings and recommendations for corrective actions, if any, will be provided by the Department to the director and governing board of the organization. Organization written response, when required, to a Department monitoring report shall be signed by an authorized board official who is not an employee and approved by the governing board of the organization.
- (2) Additional Requirements. Contracts are subject, at any time, to inspection and audit by authorized representatives of the Department, the City, and cognizant federal and state agencies.
- (3) Acceptance of Final Request for Reimbursement. The final Request for Reimbursement shall be considered final fiscal report of the contract period. Final reports of expenditures submitted by Contractors are accepted by the Department subject to audit and shall not affect:
- (a) The City's right to disallow costs and recover funds on the basis of a later audit or other review;

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(b) The Contractor's obligation to return any funds due as a result of later refunds, corrections, or other transactions.

(4) Collection of Amounts Due

- (a) Any funds paid to a Contractor in excess of the amount to which the grantee is finally determined to be entitled under the terms of the contract constitute a debt to the City. If not paid within a reasonable period after demand, the City may reduce the debt by:
 - (i) Making an administrative offset against other requests for reimbursements.
 - (ii) Other action permitted by law.
- (b) Except where otherwise provided by statutes or regulations, the City will charge interest on an overdue debt. The date from which interest is computed is not extended by litigation or the filing of any form of appeal.
- (c) Except when specifically authorized by the Director in writing, the Department shall not contract with an organization in debt to the City as a consequence of the findings of an audit or other review.

J. Audit Requirements

- (1) General Requirements.
- (a) Contractors who expend \$500,000 or more of federal funds during the year shall have an audit conducted in accordance with the Federal Government's Office of Management and Budget (OMB) Circular A-133 as amended. The audit shall be made by an independent auditor in accordance with generally accepted government auditing standards.
- (b) Contractors who receive \$25,000 or more in funding from the City, and who do not fall under A-133, shall have an a financial statement audit conducted by an independent auditor in accordance with generally accepted auditing standards.
- (c) The audit shall be made by an independent certified public accountant in accordance with generally accepted government auditing standards covering financial and compliance audits, selected by a competitive bidding process in conformity with standards established by the City. Language in the scope of work section in the RFP issued by the organization in soliciting bids for the audit must include the following:
- (i) For Contractors with expenditures of \$500,000 or more, an examination shall be made in accordance with generally accepted auditing standards as adopted by the American Institute of Certified Public Accounts and will conform to the following authoritative sources:
- (1) Standards for Audit of Governmental Organizations, Programs, Activities, and Functions (1981 revision).
 - (2) Single Audit Amendments of 1996.
 - (3) OMB "Compliance Supplement for Single Audits of State and Local

Governments."

(4) Office of Management and Budget Circular A-110--Uniform Administrative

Requirements.

- (5) Office of Management and Budget Circular A-122--Cost Principals.
- (6) Office of Management and Budget Circular A-133.
- (7) Accounting Principles Board Opinions.
- (8) Financial Accounting Standards Board Opinions.

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- (9) Other pertinent manuals, regulations, and statutes.
- (ii) For those Contractors with federal expenditures less than \$500,000 an examination shall be made as noted above except the Single Audit Amendments of 1996 and the OMB Circular A-133 do not apply.
- (iii) That a complete and comprehensive examination should encompass the following areas:
- (1) An analysis of generally accepted accounting principles as applied to legal and external reporting requirement.
- (2) An in-depth analysis of the financial accounting system and evaluation of internal controls.
- (3) Comprehensive compliance audit as provided for in OMB Circular A-133, and the Single Audit Act.
- (4) A full examination of the year-end financial statements and issuance of a formal opinion as to their fairness and comprehensiveness within accounting and legal requirements.
- (iv) If OMB Circular A-133 applies, a classification will be done of the significant internal accounting and administrative controls used in administering federal and City financial assistance programs in the following categories:

(1) General

- (a) Political Activity--Prohibits the use of federal or City assistance funds for partisan political activity.
- (b) Civil Rights--Prohibits excluding any person from federal or City assisted programs or activities because of race, color, national origin, or handicap.
 - (c) Financial Reports--Requires periodic submission of financial reports.
- (d) Cash Management--Requires recipients to have procedures to reduce the time between receipt and use of federal or City funds.
- (e) Davis Bacon Act--Requires that wage rate paid laborers on federally financed construction projects at least equal local established rates.
- (f) Relocation Assistance and Real Property Acquisition--Requires certain procedures when federal assistance funds are used to acquire property or when relocations are involved.
 - (2) Specific Program Requirements
 - (a) Types of Services Provided--Expenditures were for allowable services.
 - (b) Eligibility of Recipients--Recipients were eligible for benefits or services

received.

(c) Level of Effort Required--Required procedures were performed and

certain efforts made.

- (d) Reporting Requirement--Financial reports and claims for reimbursement contain required information and are supported by the books and records.
 - (e) Case File Maintenance--Case files contain required documentation.
- (d) The organization must provide the City with a copy of a letter engaging an audit firm selected through the bidding procedure for the organization's fiscal year most recently ended. The Department may determine not to enter into a new contract with an organization which fails to provide a letter of engagement.

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- (e) The audit shall cover the entire operations of an organization receiving City financial assistance during the year.
- (f) The Contractor shall apportion the cost of such audit between its funding sources as appropriate, but in no case shall the Department be liable for audit costs in excess of the amount approved in the contract documents.
- (g) The report and the management letter made on the audit, shall, within thirty (30) days of receipt by the organization, be transmitted to the Department and made available by it for public inspection.
- (h) If the audit finds any material noncompliance with applicable laws and regulations by, or material weakness in the internal controls of the Contractor, the Contractor must submit to the Department a plan for corrective action to eliminate the material noncompliance or weakness or a statement describing the reasons that corrective action is unnecessary. The Department reserves the right to amend, suspend, or terminate any current contract with the organization based on the findings of the audit.
- (i) If the auditor becomes aware of illegal acts or other irregularities, prompt notice shall be given to the Contractor's management officials above the level of involvement. These officials, in turn, shall promptly inform the City of the illegal acts or irregularities.
- (j) All fraud, abuse, or illegal acts or indications of such acts, including all questioned costs found as the result of these acts, that auditors become aware of should be covered in a separate report submitted to the organization audited and to the City.
- (k) The organization shall inform the Department of the time and date of the exit meeting between the auditor and management of the organization and the Department may, at its discretion, be represented at this meeting.
- (2) Audit Resolution. The City shall ascertain that the organization has resolved all audit findings. Resolution shall be made within six (6) months of the receipt of the report by the City with corrective action undertaken as rapidly as possible.
- (3) Audit work papers and reports. Work papers and reports shall be retained for a minimum of five years from the date of the audit report, unless the auditor is notified in writing by the City or the cognizant federal agency to extend the retention period. Audit work papers shall be made available upon request to the City, the cognizant federal agency or its designee, or the General Accounting Office at the completion of the audit.

14. WORK PLANS, AMENDMENTS, AND PROGRAM PERFORMANCE REPORTS

- **A.** Work Plan: Based on the project section of their proposal narrative, Contractors shall prepare a summary of their work program. This work plan must specify the major tasks or activities to be performed under the contract, the measurable objectives for each task, and the time frame within which the tasks will be accomplished.
- **B.** Request for Amendment to the Work Plan: Contractors seeking to make changes in the tasks or activities to be carried out under the contract; in the measurable objectives of major tasks or activities; in the time frame within which those tasks are to be carried out; or in the qualifications of key staff members with responsibility for the tasks or activities must submit a request for Amendment to the Work Plan, including a narrative justification for the changes requested. Changes in the approved work plan should not be made without the prior approval of the Department and no change will be approved during the final quarter of the contract year. Changes in the Work Plan deemed by the Department to constitute material changes in the original scope of services may require incorporation into a supplemental agreement to the approved contract.

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C. Project Performance Reports

- (1) Basic Requirements for Performance Monitoring of Direct Client Services.
- (a) General. The Contractor is responsible for managing the day-to-day operations of contract activities to assure compliance with City requirements and that performance goals are being met.
- (b) To enable the Department to efficiently monitor compliance, the Contractor's client records system should, at minimum:
- (i) Be designed to maintain a record of each individual client receiving services through the project during the contract period, including the gender, race/ethnicity, age, and family income of the client whenever feasible;
- (ii) Where applicable, provide information in the clients' files indicating their eligibility for services under City income guidelines, and other guidelines appropriate to the funding source, the basis for determining eligibility, and the last date upon which such determination was made.
- (iii) Fully document all services received by an individual client through the project using appropriate source documentation;
- (iv) For programs providing congregate services for which individual records are not practical, maintain a record of the total number of persons receiving services based on an actual count or estimates based on reliable methods approved by the City;
- (v) Clearly reconcile the record of services provided to the tasks and activities included in the Work Plan;
- (vi) Maintain a filing system that is easily accessible and separates contract activities in a consistent manner.
- (2) Record Keeping of Substance Abuse Patients/Clients. Record keeping must comply with the requirements of the current version of "Albuquerque Minimum Standards for Substance Abuse Treatment and Prevention Services."
 - (3) Basic Requirements for Capital Projects and other Indirect Services.
- (a) General. Contractors are responsible for the day-to-day management of capital projects undertaken with City funds, including acquisition and substantial rehabilitation of real property.
- (b) For non-direct service projects (projects that facilitate the provision of social services, but do not directly provide such services, in addition to capital improvement such indirect services may include, but are not limited to the training of service providers or otherwise creating infrastructure to provide social services), the Contractor's performance records system should, at minimum:
 - (i) Be designed to maintain a record of tasks or activities accomplished to date;
- (ii) Fully document tasks or activities accomplished through the project using appropriate source documentation;
- (iii) Clearly reconcile the record of tasks or activities accomplished to the provisions of the Work Plan:
- (iv) Maintain a filing system that is easily accessible and separates contract activities in a consistent manner.
 - (4) Report on Project Activities.
- (a) As required in the contract but no less than quarterly, Contractors shall submit a summary report on progress toward meeting the measurable objectives included in the Work Plan on forms specified by the Department.
 - (b) Performance reports must, at a minimum, provide:

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- (i) A comparison of actual accomplishments to objectives established for the period.
- (ii) A narrative explanation of outreach activities used to increase services to the community conditions affecting contract performance; problems, delays, or adverse conditions which have impaired the ability of the project to meet objectives if they were not met; why no activity is being reported; and any additional pertinent information related to contract performance.
- (5) Report on Client Characteristics. In conjunction with the report on Project Activities, where applicable, the Contractor shall also submit a report on the unduplicated number of clients served through their project and on the characteristics of those clients in respect to gender, race/ethnicity, age, and family income; disability; and other data deemed necessary by the City to assess performance. Such reports must be submitted on forms specified by the Department.
- (6) Board Approval. Project Progress Reports submitted by nonprofit agencies must be approved by the organization Board of Directors and signed by an authorized member of that Board who is not an employee. Reports submitted by a public agency must be reviewed and signed by an authorized official of that organization above the level of involvement.
- **D. Project Records:** Except as otherwise authorized by the Department, all program records related to activities charged to the contract must be retained for five (5) years after the end date of the contract. In all cases, an overriding requirement exists to retain records until resolution of any audit questions related to individual contracts even if the period exceeds the normal three years. It is the responsibility of the Contractor to assure the safekeeping of all project records and to be able to promptly produce them upon the request of authorized city, state, or federal representatives.

E. Project Monitoring Requirements

- (1) General Requirements.
- (a) As often as may be required at the discretion of the City, program office staff of the Department will conduct scheduled on-site monitoring visits with organization staff and/or program participants receiving contract funding. Contractors will be required to make available such records related to the program as are necessary for the Department staff to:
- (i) Verify project outcomes and determine if services were provided in accordance with applicable laws, regulations, and procedures;
- (ii) If applicable, determine whether clients assisted met income and other guidelines established for City-supported direct services;
- (iii) Ascertain whether approved plans and procedures are being followed, including the attainment of program goals; the number and qualification of staff assigned to service delivery;
- (iv) Provide management with systematic appraisals of program and administrative controls; and
 - (v) Determine the reliability of program records.
- (b) In the course of the monitoring, certain items not directly related to the City contract may require additional research. If, at the discretion of Department staff, an item or items may be judged to have an impact the organization's ability to maintain fiscal integrity or provide services, the organization must provide documents related to these items.
- (c) As soon as is practicable following the conclusion of an on-site monitoring visit, a written report of findings and recommendations for corrective actions, if any, will be provided by the Department to the director and governing board of the organization. An organization written response, when required, to a Department monitoring report shall be signed by an authorized board official and approved by the governing board of the organization.

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- (2) Economic Development/Job Creation and Retention. In addition to the preceding General Requirements for the Project Monitoring Requirements, recipients of CDBG Economic Development funds:
- (a) Must ensure that 51% of all jobs created will be held by low and moderate income persons, regardless of the amount of CDBG Economic Development funds awarded.
- (b) Will be reviewed mid-year by the Department to determine that all low and moderate job creation and retention requirements are met.
- (c) Must obtain written Departmental approval for each CDBG Economic Development funded project prior to award of CDBG Economic Development funds.
- (3) Additional Requirements. Contracts are subject, at any time, to inspection and audit by authorized representatives of the Department, the City, and cognizant federal and state agencies.
- (4) Acceptance of Final Reports. Final reports of program progress submitted by Contractors are accepted by the Department subject to audit or later review.

15. SUSPENSION AND TERMINATION PROCEDURES

- **A. General Considerations:** From time to time conditions may arise which indicate that funding for a contract should be discontinued on a temporary or permanent basis as a consequence of:
- (1) Audits of previous contracts with the organization revealing illegal activities, irregularities, exceptions, or material weaknesses in internal controls.
- (2) Material failure to comply with the requirements of the scope of work set forth in the contract, including failure to provide specified services, substantial failure to meet measurable objectives, provision of assistance to ineligible beneficiaries, or lack of adequate personnel.
- (3) Material failure to maintain adequate financial controls of contract funds in accordance with applicable laws, regulations, policies, plans, and procedures.
- (4) Material failure to comply with applicable assurances regarding Civil Rights laws and Executive Orders or with assurances regarding the limitations on the use of funds for sectarian religious purposes.
- (5) Failure to submit required financial and program reports in a timely manner or to comply with applicable regulations regarding Departmental fiscal or program monitoring.
- (6) For Economic Development funds, failure to comply with the jobs creation/retention goal and benefit to persons of low and moderate income, including possible repayment to the City in the amount of \$20,000 per job not created or retained.
- (7) A determination by the Department that continued funding is not in the best interests of the City of Albuquerque.
- **B. Procedures:** When conditions are identified which may be serious enough to cause the Department to consider suspension or termination of a contract, the Contractor shall be advised in writing by the Director of the reasons for possible suspension or termination and request that the Contractor submit, within five (5) working days, a response describing the steps that have or will be taken to correct the identified deficiency. If, however, the Department determines that conditions are such that any delay would seriously jeopardize the interests of the City of Albuquerque, a suspension may be made immediately effective.
- **C.** Termination for Cause: If a satisfactory written response to the notification described in the procedures above is not received within five (5) working days, the Director may issue a written notice to the Contractor of the termination of the contract at least five (5) calendar days before the effective date of

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the termination. Following the termination of the contract, the City will reimburse the Contractor for allowable expenses obligated prior to termination in accordance with contract provisions regarding termination for cause.

D. Termination for Convenience of the City of Albuquerque: If the Department determines that continuation of a contract is no longer in the best interests of the City, it may terminate the contract without cause by giving at least forty-five (45) days notice, in writing, to the Contractor. In such cases, the Contractor may be reimbursed for expenses incurred, including any actual out-of-pocket expenses incurred during the contract period which are directly attributable to the uncompleted portion of the services covered by the agreement.

16. INTERPRETATION OF A RULE

- **A.** If a Contractor desires a formal interpretation of a rule including whether or not the rule is applicable to a specific situation, the Contractor may request, in writing, a formal interpretation. The assigned Program Specialist will respond in writing with the Department's interpretation.
 - **B.** Unless the rules provide for a waiver process, no waivers shall be issued.

17. STANDARD FORMS FOR CITY CONTRACTS

A. Unless otherwise specified by the Department, applications must use and include the forms found at the Department's website: http://www.cabg.gov/family/Admin-Requirements.html.

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APPENDIX

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Resources for Administrative Requirements

Authority Citation **American Institute of Certified Public Accountants** http://www.aicpa.org Accounting Principles Board Opinions Financial Accounting Standards Board Opinions **City of Albuquerque Code of Ordinances** http://www.amlegal.com/albuguerque nm/ Housing and Neighborhood Economic Development Fund 4-22-1, ROA 1994 **Public Purchases** 5-5-1 et seq., ROA 1994 **Executive Orders** http://www.archives.gov/federal-register/executive-orders/disposition.html Amending Executive Order No. 11246. Relating to Equal Employment EO 11375 Opportunity **Equal Employment Opportunity** EO 11246 **Federal Regulations** http://www.gpoaccess.gov/ecfr/ Anti-Discrimination in Employment 24 CFR 1.1 Confidentiality of Alcohol and Drug Abuse Patient Records 42 CFR 2.1 Continuum of Care Fund 24 CFR 582 Department of Labor Regulations 41 CFR 60 **Emergency Shelter Grant** 24 CFR 576 **HOME Investment Partnerships Fund** 24 CFR 92 **HUD Income Requirements** 24 CFR 5 **Federal Statutes and Laws** http://www.gpoaccess.gov/uscode/index.html Americans with Disabilities Act of 1990 (ADA) 42 U.S.C. §12101 Clean Air Act of 1970 42 U.S.C. §7401 Community Development Block Grant Program 42 U.S.C. §1437f Contract Work Hours and Safety Standards Act 41 U.S.C. §351 Copeland "Anti-Kick Back" Act 18 USC §874 and 40 U.S.C. §276c Davis-Bacon Act 40 U.S.C. §3141 Early Head Start Fund 42 U.S.C. §9801 Equal Employment Opportunity Act 42 U.S.C. §2000e Federal Water Pollution Control Act 33 U.S.C. §1251 Low Income Energy Assistance 42 U.S.C. §8621 Older Americans Act 42 U.S.C. §3001 Section 8 Rental Assistance 42 U.S.C §1437f Single Audit Act 31 U.S.C. §7501 42 U.S.C. §11301 Stewart B. McKinney Homeless Assistance Act of 1987 Supplemental Nutrition Assistance Program 7 U.S.C. §2011 Supplemental Security Income (SSI) 42 U.S.C §1381 Temporary Assistance for Needy Families (TANF) 42 U.S.C. §608

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Title XX - Block Grants to States for Social Services 42 U.S.C. §1397 Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

Government Accountability Office

http://www.gao.gov/govaud/ybk01.htm

Standards for Audit of Governmental Organizations, Programs, Activities, Yellow Book

and Functions

U.S. General Services Administration

Per Diem Overview (Travel Costs) www.gsa.gov/perdiem

New Mexico Statutes and Laws

http://www.conwaygreene.com/nmsu/lpext.dll?f=templates&fn=main-h.htm&2.0

New Mexico Court Rules
Occupational Disease Disablement Law
Open Meetings Act Adopted by the City of Albuquerque
Workers Compensation Act
NMSA 1978, §52-3-1
NMSA 1978, §10-15-1
NMSA 1978, §52-1-1

Office of Management and Budget

http://www.whitehouse.gov/omb

Circular A-110--Uniform Administrative Requirements

Circular A-122--Cost Principals

Circular A-133--Compliance Supplement for Single Audits of State and

Local Governments

Other Resources

Albuquerque Metropolitan Redevelopment Agency

http://www.cabq.gov/planning/amra/

City of Albuquerque

http://www.cabq.gov

City of Albuquerque Department of Family and Community Services

http://www.cabq.gov/family/

DFCS rules and regulations can be found here.

Housing and Urban Development

http://www.hud.gov

New Mexico Children Youth and Families Department

http://www.cyfd.org/

Roberts Rules of Order

http://www.robertsrules.com

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