

Onslow Water & Sewer Authority
Board of Directors' Regular Meeting Jacksonville City Hall
Thursday, September 15, 2022
APPROVED MINUTES

CALL TO ORDER: Having a quorum, Chairman Jerry Bittner called the meeting to order at 6:00 pm. Board members present included Chairman Jerry Bittner, Vice Chairman Royce Bennett, Secretary/Treasurer Pat Turner, and Directors Paul Conner, Timothy Foster, Robert Warden, and Jeff Wenzel. Absent was Director Joann McDermon.

PLEDGE OF ALLEGIANCE: Director Jeff Wenzel led the Board and audience in the Pledge of Allegiance.

INVOCATION: Mr. Josh McCord, Senior Pastor, of Blue Creek Baptist Church provided the invocation.

CHAIRMAN'S REMARKS –Chairman Jerry Bittner provided general guidance to the audience regarding the meeting.

1. APPROVAL OF AGENDA – Director Paul Conner made a motion to approve the agenda as presented. A second was made by Director Jeff Wenzel. All were in favor. The agenda was approved as amended.

2. APPROVAL OF CONSENT AGENDA

[A COPY OF THE 2023 PROPOSED SCHEDULE OF BOARD OF DIRECTORS MEETINGS MAY BE FOUND AT EXHIBIT A AND IS FULLY INCORPORATED HEREIN BY REFERENCE.]

A motion was made by Director Paul Conner to approve the consent agenda. A second was made by Director Tim Foster. The motion passed unanimously. Therefore, the June, July, and August 2022 Finance Reports and May, June, and July 2022 Operations Reports were accepted, the June 16, 2022 Regular Meeting Minutes were approved as presented, the 2023 Proposed Schedule of Board of Directors Regular Meetings was approved, the bond amount for the Finance Officer's bond was set at \$1,000,000 and the form of bond was approved, RFP 2022-23C Six Months was awarded to the lowest responsible bidders, Water Guard and Carus for a period of six months beginning September 16, 2022 and the CEO was authorized to execute the purchase contracts plus any other documents as may be required in connection with these purchase contracts, RFP 2022-23 Salt was awarded to Cargill Salt for the period of one year beginning September 16, 2022 and the CEO was authorized to execute the purchase contracts plus any other documents as may be required in connection with these contracts, RFB 2022 90HP Backhoe was awarded to Premier Equipment and the CEO was authorized to execute the purchase contracts plus any other documents as may be required in connection with these contracts, RFP 2022 Industrial Electrical Maintenance and Repair Services was awarded to the lowest responsible bidder, Coastline Controls and Electrical Inc. for the period of one year beginning September 16, 2022 and the CEO was authorized to execute purchase contracts plus any other documents as may be required in connection with these purchase contracts, Uncollectable accounts in the amount of \$34, 257.69 were written off, Purchase Order rollovers and associated budget amendment was approved, Construction contracts for IMEC Group LLC of Goldsboro and Primus Structures Incorporated of Newport were amended and the CEO was authorized to execute the appropriate change orders and any additional documents as required in connection with this action, and the renewal of the lease between ONWASA and Swamp Bound Hunting Club was approved and the CEO was authorized to renew the lease for up to four (4) additional terms and the CEO was authorized to sign any documents in connection with this action.

3. BUSINESS

A. Policies required by Federal Funding

[A COPY OF THE POLICIES MAY BE FOUND AT EXHIBIT B AND ARE FULLY INCORPORATED HEREIN BY REFERENCE]

Chairman Bittner called on Mr. Chuck Kitchen, to present the item. Mr. Kitchen said the policies being considered are required by Federal law and while ONWASA currently has some similar policies, these are updated. He added the first two, Conflicts of Interest & Gifts Policy and the Procurement Policy are required for all Federal funding. He went on to explain the other three being considered Allowable Costs Policy, Nondiscrimination Policy, and Program Income Policy are more specific to the funds we are receiving for the Southeast Plant so because of that we are going to need to have these policies adopted to be in compliance. Mr. Kitchen advised there is an audit requirement so the feds at some point may very well come in and they check boxes, so you have to have written policies in place. Mr. Kitchen informed the Board that all of the policies have been based on forms provided by the School of Government while some have been amended more than others especially the Income Policy.

Vice Chairman Royce Bennett made a motion to approve the Conflicts of Interest Policy, the Procurement Policy, the Allowable Costs Policy, the Nondiscrimination Policy, and the Program Income Policy as presented. A second was made by Director Tim Foster. All were in favor, the motion carried.

B. Construction Contract Change Order – Northwest Recovery Project

Chairman Bittner called on Mr. Howard to present the item. Mr. Howard began by saying he has shared several updates with the Board over the last several weeks in anticipation of this change order. He added it is no secret that this project has had challenges since day one. Mr. Howard said some of those were dealt with by change orders prior to him getting here. He said fortunately we have had 60 percent of the project funded through outside revenues and the other 40 percent up until now have been locally funded adding we will continue to seek outside funding. He asked that David Mohr, COO, go into the details of the change order and what led up to it and said that with him he has representatives from W. K. Dickson, Carter Hubard and Brian Odom, who are also available to answer project questions as it relates to their part.

Mr. Mohr said construction is currently underway on the second of two projects to be completed at the Northwest Wastewater Treatment Plant to repair damage caused by flooding during Hurricane Florence as well as to better protect critical systems in future flood events adding this project focuses on electrical and control system replacements and flood hazard reduction improvements including the construction of two new flood resistant buildings that were designed to protect critical systems in a future flood event. He explained the project focuses on electrical control system replacements as well as flood hazard reduction improvements including the construction of two new flood resistant buildings that were designed to protect critical systems in a future flood event. Mr. Mohr explained work on the two structures came to a halt earlier in the year due to the discovery of multiple underground obstacles found during foundation excavations adding to address this issue the engineering firm overseeing the project, W.K. Dickson Company recommended a major redesign of the foundations for both buildings that incorporates the installation of multiple micro-pilings to support foundation loads over the underground obstacles. He said the revised designs for both buildings were submitted to the Contractor for review and preparation of a cost proposal, and after suggesting a couple of modifications to address constructability and reduce cost a Contract Change Order was developed and submitted for consideration. He went on to inform the Board based on an evaluation of the Contract Change Order and supporting

documentation, the Engineer has recommended that the Contractor receive a 399 day time extension and an increase in contract cost of \$1,356,684.58 in order to complete the revised project and if approved the final completion date for the project will be August of 2023 and the total contract amount will be \$6,573,504.03. Mr. Mohr added this was roughly a 26 percent increase from the original bid. Mr. Mohr said included in the request is the approval of an amended project ordinance and budget amendment to provide sufficient funding in the overall project budget for the proposed Change Order as well as additional professional services fees for the foundation redesign and extended construction administration/observation services. He went on to say while other actions were considered to address this issue, including attempting to construct the buildings under a separate contract in the future or eliminating the buildings from the project entirely, these alternatives appeared unlikely to reduce costs or there was a chance it would impact current project funding sources including the FEMA money explaining one of the things pressed early in the job was that the contractor buy major building components upfront because we knew there would be extremely long delay in getting that and fortunately they were able to get that material and it is onsite and if we don't follow through with the buildings then we would have to address that with FEMA which has given us money for that project. Mr. Mohr said the increase in construction cost appears reasonable in light of the work required in current pricing and the time extension of 399 days is a lot of days but it provides for longer lead times to obtain whatever materials we have remaining to get on the job. Mr. Mohr said he is recommending approval of the request stating the requested action tonight is a motion to proceed with amending the contraction contract with Muter Construction LLC, approval of the Amended Project Ordinance, and to authorize the Chief Executive Office to execute the appropriate Change Order and any additional documents as required in connection with this action.

Chairman Bittner asked what kind of obstacles did we encounter that lead to this increase in cost. Mr. Mohr answered primarily the existing electrical duct bank and the electrical systems in the plant are all routed underground and they put in duct bank and on the original drawings they had nice neat it goes from here to here but when we dug into the ground we discovered they had pretty much been installed virtually everywhere adding with the smaller of the two buildings we knew there was a duct bank manhole close by but instead of going around where the building would sit they built the duct bank right under the existing equipment something I would never agree to because you can't get to it. He went on to say in the area of the digester building probably half of the foundation had interfering electrical duct bank on the larger building it wasn't as drastic, but it did have some critical points including one corner of the building was cut off and we couldn't just simply not leave that portion of the building unsupported we had to do something different. Mr. Mohr said as one of the considerations we thought about hammering all that out but that is how the plant is currently running so we are using the existing electrical system until we get a new one but for now, we can't remove any of the underground obstructions because that is keeping the plant operational.

Director Bob Warden stated this is a pretty big deviation from original contract adding he knows right now you are fighting alligators trying to drain the swamp but what about lessons learned are you all going to be looking at how can we prevent this in the future. Director Warden said Mr. Mohr hit the nail on the head the as-built drawings that are so critical tend to be overlooked by owners so often and they let contractors slide when poor administration of the as-builts. He went on to say those as-builts are important for future work and his suggestion would be to see if there are some lessons learned when you get a chance to do an after action and see what we can do to make sure we don't have some of these issues in the future saying again as-builts are extremely important pieces of material and documentation.

Mr. Mohr said he can respond to that with an example we are working on the project to build the new force main from Swansboro to Piney Green and we've put in the contract that once the pipe is in the ground the engineer will go back and survey the alignment and basically locate it down to the foot and create a drawing that has the surveyed alignment. Mr. Mohr said he agrees one hundred percent as-builts are critical.

Director Warden explained that he was in general construction for 30 years and quite often as part of the pay process they had to submit as-builts each month along with the invoices and they were checked and gone over with some not as much, but the critical underground stuff was definitely scrutinized harder and they were required to show surveys on that. He went on to say it might be that we need to tighten up some of our pay practices and administration and oversight so that we don't repeat this adding going from 4.8 to 6.5 is pretty tough as you know.

Director Paul Conner inquired about the 26 percent increase asking if it was for the last change order or overall cost. Mr. Mohr answered there were three change orders on the project and that was for all of the change orders.

Director Jeff Wenzel asked how long ago it was originally built. Mr. Mohr after consulting with members of the ONWASA team in the audience replied 2015. Vice Chairman Royce Bennett added it was 3 years old when it was flooded. Mr. Mohr said yes and that was a big heart break.

Chairman Jerry Bittner asked Mr. Mohr if he was saying there was no way to foresee this when we prepared the estimates for FEMA. Mr. Mohr said the only way to do it potentially would have been to go out and dig up a bunch of the ground where the buildings would go and hope that you hit something. Chairman Bittner then asked how much did or would FEMA be contributing to the cost of the project. CEO, Franky Howard, answered the fixed cost offer that he has been sharing notes on with the Board was around \$848,000. Mr. Howard added the insurance was 5 million and some change and Golden Leaf paid a little over a million.

Director Warden asked who the engineer was on the first project. Authority Attorney, Chuck Kitchen, replied Mckim and Creed. Mr. Mohr added he does not remember as he was not here at the time. Director Warden said they share in the responsibility and obviously ONWASA does too, but they have a responsibility to make sure that what they designed was what was installed. Mr. Kitchen added if you recall we had the issue with leachate which was a design issue as well.

Chairman Bittner asked if there was any chance for relief from FEMA for an adjustment. Mr. Howard replied we are still in communication with the State Department of Public Safety adding we do not have a direct contact with FEMA any longer because they turn that over to the State to help navigate adding he did follow up with our contact this week by email and they have what they call an unmet needs committee that meets on a regular basis between Golden Leaf and the Department of Safety and he has submitted what the gap is in this project in hopes they have some relief funding since a lot of our struggles there was some misguidance we got from the State and FEMA representatives along this process.

Vice Chairman Royce Bennett made a motion to proceed with amending the construction contract with Muter Construction, LLC and approve the Amended Project Ordinance and to authorize the Chief Executive Officer to execute the appropriate Change Order and any additional documents as required in connection with this action. A second was made by Director Tim Foster. All were in favor, the motion carried.

4. PUBLIC COMMENT

There were no members of the public wishing to comment.

5. CHIEF EXECUTIVE OFFICERS COMMENTS

Chairman Bittner called on CEO, Franky Howard, to provide comments. Mr. Howard expressed appreciation to the Board adding he is in his seventh month with ONWASA now. He then reintroduced the Leadership Team members and ONWASA's new Engineer, Mr. Jeffrey Lohr. Mr. Howard provided an update on grants ONWASA has received and/or applied for. He also provided customer account growth numbers stating since the last meeting the July numbers came in with an increase in accounts of 145 with a new total of 55,790 adding the number of requests for new services seems to continue to go up and obviously brings challenges to capacities and water supply. Mr. Howard shared that a 107-acre timber sale took place of the Wachovia Tract with a received bid of \$315,000. Director Bob Warden asked if there would be a replanting of that bringing some site prep and planting cost. Mr. Howard replied yes, and we have budgeted some expenses that our consultant anticipated for this fiscal year, and we will continue to see what comes from the Timber Management Plan because he waits until it is a bit cooler, and the leaves have fallen to scout the entire tract.

Mr. Howard said the audit is underway and Finance staff have been working with the auditors this week and we look forward to hopefully have a timely audit submission to the LGC this year.

He complimented staff on the rebid for chemicals stating by bringing that to a shorter-term contract it would hopefully save money. Mr. Howard shared that August water production numbers were up 4 percent on production adding that there are list of things in the CIP on the water side we are doing for that including the new Union Chapel Water Treatment Plant which is several years out but planning phases are underway.

Chairman Bittner asked in terms of water supply, has there been any change in the status of Dixon Wells 10 & 11. Mr. Howard replied we are using D11 at reduced capacity and D10 is down due to damage, so we are not able to use them at full capacity unfortunately because of the concerns with PFAS. He added we continue to test the wells in the area including the treatment plant on a regular basis to see where we are with PFAS adding we know we have new guidelines coming out. Chairman Bittner followed up asking what percentage we are pumping at. Mr. Howard replied less than 50 percent. Mr. Seth Brown, Treatment Facilities Administrator, answered 700 gallons a minute. Mr. Mohr came forward to explain the Federal Government has constructed two sentinel wells halfway between our (ONWASA) wells and where they have identified the area of surface contamination and they have been doing test on a quarterly basis and we just got back the results of the recent test and there was no detection of PFAS in the wells between us and them so that is good news that we are not seeing it in those wells. Mr. Howard remarked good point and added they have been very open with communication, and we asked them to do this testing and they did it and will do it for the next 12 months or several months from now. He said it will be up to us to continue that communication and see if we want to extend that time period if we feel like it is necessary.

Director Warden asked if we are gathering information because we have certainly been harmed by this especially if we have to put a couple more wells in adding we need the water. Mr. Howard replied we are tracking it with all the testing we are having to do that we would not have to do otherwise. He went on to say the State does have a grant to help offset the emerging contaminants that we are keeping an eye on and there is a class action being pushed by the Rural Water Association that comes out in their regular

updates that we could sign up for and explained it is similar to that of the opioids one the County has signed up for. Mr. Kitchen added the class action is going after the chemical companies not the government. Chairman Bittner said Director Warden raises a good point do we pull the trigger if ever in terms of it both of these wells are at or below 50 percent of original capacity, we are going to have to replace that capacity with other wells someplace at whatever expense. Mr. Howard explained we are doing a study to see where we could place these wells strategically in the system to support the Dixon Plant so we will be able to have those numbers readily available adding we know what we spent on those two wells but again that was in 2017-18 numbers not at today's costs. Chairman Bittner asked if we have a plan to increase the pumping based on what the monitoring wells show. Mr. Howard replied we will have that option as we work with our consultants to see what the impact is to that local area of the aquifer but right now, we are being conservative and doing the maximum we feel comfortable doing but we have that option if we feel like it isn't moving anything in the aquifer. Mr. Howard explained they are also looking at treatment options.

6. BOARD OF DIRECTOR'S COMMENTS

Director Bob Warden said we were just talking about the Northwest Recovery project and four years ago yesterday Hurricane Florence made landfall and here we are with another year or so left until we complete recovery so that was tough. He added let's pray we don't get hit again anytime soon.

Secretary/Treasurer Pat Turner thanked staff and Franky adding she spends a lot of time reading the updates which are pages and pages adding she enjoys it.

Vice Chairman Royce Bennett began by saying a few years ago we spent a lot of time on a Capital Improvement Plan adding we knew there was going to be considerable growth down in Holly Ridge and Sneads Ferry and we planned for that by spending two years and two hundred thousand dollars trying to engineer sewer lines to get it to the Base when about a year ago an email came from the Marine Corps saying we would not be able to use that connection. He said at that time we were thinking it would be 35 million and today we are thinking it will be more like 50 million dollars. He expressed his appreciation for the Marine Corps as well as his concern for the need to fund the infrastructure issues caused by the growth. Vice Chairman Bennett encouraged the other Board members to do as he has done and contact Base officials and our Federal elected representatives to advocate for ONWASA.

No other Directors wished to make comments. Chairman Bittner called for a motion to adjourn.

Director Paul Conner made a motion to adjourn the meeting. A second was made by Director Tim Foster. All were in favor.

The meeting was adjourned at 6:43 PM.

The minutes were approved on November 17, 2022.

Onslow Water & Sewer Authority Board of Directors



Jerry A Bittner

Jerry Bittner, Chairman

ATTEST:

Heather Norris

Heather Norris, Clerk



2023 ONWASA BOARD OF DIRECTORS SCHEDULE OF REGULAR MEETINGS

All Board of Directors Regular Meetings shall be held at Jacksonville City Hall, 815 New Bridge Street Jacksonville, 6:00 PM unless otherwise advertised.

Thursday, January 19, 2023

Thursday, March 16, 2023

Thursday, May 18, 2023

Thursday, June 15, 2023

Thursday, September 21, 2023

Thursday, November 16, 2023

Approved the 15th day of SEPTEMBER 2022.

ONWASA POLICY FOR ALLOWABLE COSTS AND COST PRINCIPLES FOR EXPENDITURE OF AMERICAN RESCUE PLAN ACT CORONAVIRUS STATE FISCAL RECOVERY FUNDS

WHEREAS ONWASA has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); and

WHEREAS the funds may be used for projects within these categories, to the extent authorized by state law for investment in water and sewer, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure.

WHEREAS the ARP/CSLFRF are subject to the provisions of the federal Uniform Grant Guidance, 2 CFR Sect. 200 (UG), as provided in the Assistance Listing, and

WHEREAS the Compliance and Reporting Guidance for the State and Local Fiscal Recovery Funds provides, in relevant part:

Allowable Costs/Cost Principles. As outlined in the Uniform Guidance at 2 CFR Part 200, Subpart E regarding Cost Principles, allowable costs are based on the premise that a recipient is responsible for the effective administration of Federal awards, application of sound management practices, and administration of Federal funds in a manner consistent with the program objectives and terms and conditions of the award. Recipients must implement robust internal controls and effective monitoring to ensure compliance with the Cost Principles, which are important for building trust and accountability.

ARP/CSLFRF Funds may be, but are not required to be, used along with other funding sources for a given project. Note that ARP/CSLFRF Funds may not be used for a non-Federal cost share or match where prohibited by other Federal programs.

Treasury's Final Rule and guidance and the Uniform Guidance outline the types of costs that are allowable, including certain audit costs. For example, per 2 CFR 200.425, a reasonably proportionate share of the costs of audits required by the Single Audit Act Amendments of 1996 are allowable; however, costs for audits that were not performed in accordance with 2 CFR Part 200, Subpart F are not allowable. Please see 2 CFR Part 200, Subpart E regarding the Cost Principles for more information.

- a. Administrative costs: Recipients may use funds for administering the SLFRF program, including costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements. Further, costs must be reasonable and allocable as outlined in 2 CFR 200.404 and 2 CFR 200.405. Pursuant to the ARP/CSLFRF Award Terms and Conditions, recipients are permitted to charge both direct and indirect costs to their SLFRF award as administrative costs. Direct costs are those that are identified specifically as costs of

implementing the ARP/CSLFRF program objectives, such as contract support, materials, and supplies for a project. Indirect costs are general overhead costs of an organization where a portion of such costs are allocable to the ARP/CSLFRF award such as the cost of facilities or administrative functions like a director's office. Each category of cost should be treated consistently in like circumstances as direct or indirect, and recipients may not charge the same administrative costs to both direct and indirect cost categories, or to other programs. If a recipient has a current Negotiated Indirect Costs Rate Agreement (NICRA) established with a Federal cognizant agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals, then the recipient may use its current NICRA. Alternatively, if the recipient does not have a NICRA, the recipient may elect to use the de minimis rate of 10 percent of the modified total direct costs pursuant to 2 CFR 200.414(f).

- b. Salaries and Expenses: In general, certain employees' wages, salaries, and covered benefits are an eligible use of ARP/CSLFRF award funds; and

WHEREAS Subpart E of the UG dictates allowable costs and cost principles for expenditure of ARP/CSLFRF funds; and

WHEREAS Subpart E of the UG (specifically, 200.400) states that:

The application of these cost principles is based on the fundamental premises that:

- (a) The non-Federal entity is responsible for the efficient and effective administration of the Federal award through the application of sound management practices.
- (b) The non-Federal entity assumes responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award.
- (c) The non-Federal entity, in recognition of its own unique combination of staff, facilities, and experience, has the primary responsibility for employing whatever form of sound organization and management techniques may be necessary in order to assure proper and efficient administration of the Federal award.
- (d) The application of these cost principles should require no significant changes in the internal accounting policies and practices of the non-Federal entity. However, the accounting practices of the non-Federal entity must be consistent with these cost principles and support the accumulation of costs as required by the principles, and must provide for adequate documentation to support costs charged to the Federal award.
- (e) In reviewing, negotiating and approving cost allocation plans or indirect cost proposals, the cognizant agency for indirect costs should generally assure that the non-Federal entity is applying these cost accounting principles on a consistent basis during their review and negotiation of indirect cost proposals. Where wide variations exist in the treatment of a

given cost item by the non-Federal entity, the reasonableness and equity of such treatments should be fully considered.

- (f) For non-Federal entities that educate and engage students in research, the dual role of students as both trainees and employees (including pre- and post-doctoral staff) contributing to the completion of Federal awards for research must be recognized in the application of these principles.
- (g) The non-Federal entity may not earn or keep any profit resulting from Federal financial assistance, unless explicitly authorized by the terms and conditions of the Federal award;

BE IT RESOLVED that the governing board of ONWASA hereby adopts and enacts the following UG Allowable Costs and Cost Principles Policy for the expenditure of ARP/CSLFRF funds.

ONWASA Allowable Costs and Costs Principles Policy

I. ALLOWABLE COSTS AND COSTS PRINCIPLES POLICY OVERVIEW

Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, commonly called Uniform Guidance (UG), specifically Subpart E, defines those items of cost that are allowable, and which are unallowable. The tests of allowability under these principles are: (a) the costs must be reasonable; (b) they must be allocable to eligible projects under the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF); (c) they must be given consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances; and (d) they must conform to any limitations or exclusions set forth in these principles or in the ARP/CSLFRF grant award as to types or amounts of cost items. Unallowable items fall into two categories: expenses which are by their nature unallowable (e.g., alcohol), and unallowable activities (e.g., fund raising).

ONWASA shall adhere to all applicable cost principles governing the use of federal grants. This policy addresses the proper classification of both direct and indirect charges to ARP/CSLFRF funded projects and enacts procedures to ensure that proposed and actual expenditures are consistent with the ARP/CSLFRF grant award terms and all applicable federal regulations in the UG.

Responsibility for following these guidelines lies with Tiffany Riggs, Chief Financial Officer, who is charged with the administration and financial oversight of the ARP/CSLFRF. Further, all ONWASA employees and officials who are involved in obligating, administering, expending, or monitoring ARP/CSLFRF grant funded projects should be well versed with the categories of costs that are generally allowable and unallowable. Questions on the allowability of costs should be directed to Tiffany Riggs. As questions on allowability of certain costs may require interpretation and judgment, local government personnel are encouraged to ask for assistance in making those determinations.

II. GENERAL COST ALLOWABILITY CRITERIA

All costs expended using ARP/CSLFRF funds must meet the following general criteria:

1. **Be necessary and reasonable for the proper and efficient performance and administration of the grant program.**

A cost must be *necessary* to achieve a project object. When determining whether a cost is necessary, consideration may be given to:

- Whether the cost is needed for the proper and efficient performance of the grant project.
- Whether the cost is identified in the approved project budget or application.
- Whether the cost aligns with identified needs based on results and findings from a needs assessment.
- Whether the cost addresses project goals and objectives and is based on program data.

A cost is *reasonable* if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision to incur the cost was made. For example, reasonable means that sound business practices were followed, and purchases were comparable to market prices. When determining reasonableness of a cost, consideration must be given to:

- Whether the cost is a type generally recognized as ordinary and necessary for the operation of the ONWASA or the proper and efficient performance of the federal award.
- The restraints or requirements imposed by factors, such as: sound business practices; arm's-length bargaining; federal, state, and other laws and regulations; and terms and conditions of the ARP/CSLFRF award.
- Market prices for comparable goods or services for the geographic area.
- Whether individuals concerned acted with prudence in the circumstances considering their responsibilities to ONWASA, its employees, the public at large, and the federal government.
- Whether ONWASA significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the ARP/CSLFRF award's cost.

2. **Be allocable to the ARP/CSLFRF federal award.** A cost is allocable to the ARP/CSLFRF award if the goods or services involved are chargeable or assignable to the ARP/CSLFRF award in accordance with the relative benefit received. This means that the ARP/CSLFRF grant program derived a benefit in proportion to the funds charged to

the program. *For example, if 50 percent of a local government program officer's salary is paid with grant funds, then the local government must document that the program officer spent at least 50 percent of his/her time on the grant program.*

If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the projects based on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then the costs may be allocated or transferred to benefitted projects on any reasonable documented basis. Where the purchase of equipment or other capital asset is specifically authorized by the ARP/CSLFRF, the costs are assignable to the Federal award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for the purpose for which it was originally required.

- 3. Be authorized and not prohibited under state or local laws or regulations.**
- 4. Conform to any limitations or exclusions set forth in the principles, federal laws, ARP/CSLFRF award terms, and other governing regulations as to types or amounts of cost items.**
- 5. Be consistent with policies, regulations, and procedures that apply uniformly to both the ARP/CSLFRF federal award and other activities of ONWASA.**
- 6. Be accorded consistent treatment.** A cost MAY NOT be assigned to a federal award as a direct cost and also be charged to a federal award as an indirect cost. And a cost must be treated consistently for both federal award and non-federal award expenditures.
- 7. Be determined in accordance with generally accepted accounting principles (GAAP), unless provided otherwise in the UGG.**
- 8. Be net of all applicable credits.** The term "applicable credits" refers to those receipts or reduction of expenditures that operate to offset or reduce expense items allocable to the federal award. Typical examples of such transactions are purchase discounts; rebates or allowances; recoveries or indemnities on losses; and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to and received by the local government related to the federal award, they shall be credited to the ARP/CSLFRF award, either as a cost reduction or a cash refund, as appropriate and consistent with the award terms.

All program income shall be accounted for and expended in accordance with the ONWASA Program Income Policy adopted in connection with the project for these ARP/CSLFRF funds.

- 9. Be adequately documented.**

III. SELECTED ITEMS OF COST

The UGG examines the allowability of fifty-five (55) specific cost items (commonly referred to as Selected Items of Cost) at 2 CFR § 200.420-.475.

The Finance Department must be familiar with the Selected Items of Cost. The Finance Department must follow the applicable regulations when charging these specific expenditures to the ARP/CSLFRF grant. Finance Department personnel will check costs against the selected items of cost requirements to ensure the cost is allowable and that all process and documentation requirements are followed. In addition, State laws, ONWASA policies, and program-specific rules may deem a cost as unallowable, and Finance Department personnel must follow those non-federal rules as well.

Exhibit A identifies and summarizes the Selected Items of Cost.

IV. DIRECT AND INDIRECT COSTS

Allowable and allocable costs must be appropriately classified as direct or indirect charges. It is essential that each item of cost be treated consistently in like circumstances either as a direct or an indirect cost.

Direct costs are expenses that are specifically associated with a particular ARP/CSLFRF-eligible project and that can be directly assigned to such activities relatively easily with a high degree of accuracy. Common examples of direct costs include salary and fringe benefits of personnel directly involved in undertaking an eligible project, equipment and supplies for the project, subcontracted service provider, or other materials consumed or expended in the performance of a grant-eligible project.

Indirect costs are (1) costs incurred for a common or joint purpose benefitting more than one ARP/CSLFRF-eligible project, and (2) not readily assignable to the project specifically benefited, without effort disproportionate to the results achieved. They are expenses that benefit more than one project or even more than one federal grant. Common examples of indirect costs include utilities, local telephone charges, shared office supplies, administrative or secretarial salaries.

For indirect costs, the ONWASA may charge a 10 percent *de minimis* rate of modified total direct costs (MTDC). According to UGG Section 200.68 MTDC means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance the subawards under the award). MTDC EXCLUDES equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000.

V. SPECIAL PROVISIONS FOR STATE AND LOCAL GOVERNMENTS

There are some special provisions of the UG that apply only to states, local governments, and Indian Tribes.

§ 200.444 General costs of government.

(a) For states and local governments, the general costs of government are unallowable (except as provided in § 200.475). Unallowable costs include:

- (1) Salaries and expenses of the Office of the Governor of a state or the chief executive of a local government;
- (2) Salaries and other expenses of the Board of Directors, whether incurred for purposes of legislation or executive direction; and
- (5) Costs of other general types of government services normally provided to the general public, such as fire and police, unless provided for as a direct cost under a program statute or regulation.

§ 200.416 COST ALLOCATION PLANS AND INDIRECT COST PROPOSALS.

(a) For states and local governments, certain services, such as motor pools, computer centers, purchasing, accounting, etc., are provided to operating agencies on a centralized basis. Since Federal awards are performed within the individual operating agencies, there needs to be a process whereby these central service costs can be identified and assigned to benefitted activities on a reasonable and consistent basis. The central service cost allocation plan provides that process.

(b) Individual operating agencies (governmental department or agency), normally charge Federal awards for indirect costs through an indirect cost rate. A separate indirect cost rate(s) proposal for each operating agency is usually necessary to claim indirect costs under Federal awards. Indirect costs include:

- (1) The indirect costs originating in each department or agency of the governmental unit carrying out Federal awards and
- (2) The costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

(c) The requirements for development and submission of cost allocation plans (for central service costs and public assistance programs) and indirect cost rate proposals are contained in appendices V, VI and VII to this part.

§ 200.417 INTERAGENCY SERVICE.

The cost of services provided by one agency to another within the governmental unit may include allowable direct costs of the service plus a pro-rated share of indirect costs. A standard indirect cost allowance equal to ten percent of the direct salary and wage cost of providing the service (excluding overtime, shift premiums, and fringe benefits) may be used in lieu of determining the actual indirect costs of the service. These services do not include centralized services included in central service cost allocation plans as described in Appendix V to Part 200.

VI. COST ALLOWABILITY REVIEW PROCESS

PREAPPROVAL COST ALLOWABILITY REVIEW

Before an ARP/CSLFRF-funded project is authorized, the Engineering and Finance Departments must review the proposed cost items within an estimated project budget to determine whether they are allowable and allocable and whether cost items will be charged as direct or indirect expenses. This review will occur concurrently with the review of project eligibility and *before* obligating or expending any ARP/CSLFRF funds.

- ONWASA personnel must submit proposed ARP/CSLFRF projects to NC DEQ for review. In addition to other required information, all proposed project submissions must delineate estimated costs by cost item.
- Along with a general review of project eligibility and conformance with other governing board management directives, the Engineering and Finance Departments must review estimated costs for specific allowable cost requirements, budget parameters, indirect rates, fringe benefit rates, and those activities/costs that require pre-approval by the US Treasury.
- If a proposed project includes a request for an unallowable cost, the Finance will return the proposal to the requesting party for review and, if practicable, resubmission with corrected cost items.
- Once a proposed project budget is pre-approved by NC DEQ, the local government personnel responsible for implementing the project must conform actual obligations and expenditures to the pre-approved project budget.

POST-EXPENDITURE COST ALLOWABILITY REVIEW

Once an expenditure is incurred related to an eligible project, and an invoice or other demand for payment is submitted to the local government, the Engineering and Finance Departments must perform a second review to ensure that actual expenditures comprise allowable costs.

- All invoices or other demands for payment must include a breakdown by cost item. The cost items should mirror those presented in the proposed budget for the project. If an invoice or other demand for payment does not include a breakdown by cost item, the Engineering or Finance Departments will return the invoice to the project engineer for correction.
- The Engineering and Finance Departments must review the individual cost items listed on the invoice or other demand for payment to determine their allowability and allocability.
- If all cost items are deemed allowable and properly allocable, the invoice must proceed through the local government's normal disbursement process.

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- If any cost item is deemed unallowable, the Engineering or Finance Department will notify the project engineer and/or vendor, contractor, or subrecipient that a portion of the invoice or other demand for payment will not be paid with ARP/CSLFRF funds. The Engineering or Finance Department may in their discretion, and consistent with this policy, allow an invoice or other demand for payment to be resubmitted with a revised cost allocation. If the local government remains legally obligated by contract or otherwise to pay the disallowed cost item, it must identify other local government funds to cover the disbursement. ONWASA's governing board must approve any allocation of other funds for this purpose.
- The Finance Department must retain appropriate documentation of budgeted cost items per project and actual obligations and expenditures of cost items per project.

VII. COST TRANSFERS

Any costs charged to the ARP/CSLFRF federal award that do not meet the allowable cost criteria must be removed from the award account and charged to an account that does not require adherence to federal UGG or other applicable guidelines.

Failure to adequately follow this policy and related procedures could result in questioned costs, audit findings, potential repayment of disallowed costs and discontinuance of funding.

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Selected Items of Cost	Uniform Guidance General Reference	Allowability
Advertising and public relations costs	2 CFR § 200.421	Allowable with restrictions
Advisory councils	2 CFR § 200.422	Allowable with restrictions

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Alcoholic beverages	2 CFR § 200.423	Unallowable
Alumni/ae activities	2 CFR § 200.424	Not specifically addressed
Audit services	2 CFR § 200.425	Allowable with restrictions
Bad debts	2 CFR § 200.426	Unallowable
Bonding costs	2 CFR § 200.427	Allowable with restrictions
Collection of improper payments	2 CFR § 200.428	Allowable
Commencement and convocation costs	2 CFR § 200.429	Not specifically addressed
Compensation – personal services	2 CFR § 200.430	Allowable with restrictions; Special conditions apply (e.g., § 200.430(i)(5))
Compensation – fringe benefits	2 CFR § 200.431	Allowable with restrictions
Conferences	2 CFR § 200.432	Allowable with restrictions
Contingency provisions	2 CFR § 200.433	Unallowable with exceptions
Contributions and donations	2 CFR § 200.434	Unallowable (made by non-federal entity); not reimbursable but value may be used as cost sharing or matching (made to non-federal entity)
Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements	2 CFR § 200.435	Allowable with restrictions
Depreciation	2 CFR § 200.436	Allowable with qualifications
Employee health and welfare costs	2 CFR § 200.437	Allowable with restrictions
Entertainment costs	2 CFR § 200.438	Unallowable with exceptions
Equipment and other capital expenditures	2 CFR § 200.439	Allowability based on specific requirement

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Exchange rates	2 CFR § 200.440	Allowable with restrictions
Fines, penalties, damages and other settlements	2 CFR § 200.441	Unallowable with exceptions
Fund raising and investment management costs	2 CFR § 200.442	Unallowable with exceptions
Gains and losses on disposition of depreciable assets	2 CFR § 200.443	Allowable with restrictions
General costs of government	2 CFR § 200.444	Unallowable with exceptions
Goods and services for personal use	2 CFR § 200.445	Unallowable (goods/services); allowable (housing) with restrictions
Idle facilities and idle capacity	2 CFR § 200.446	Idle facilities - unallowable with exceptions; Idle capacity - allowable with restrictions
Insurance and indemnification	2 CFR § 200.447	Allowable with restrictions
Intellectual property	2 CFR § 200.448	Allowable with restrictions
Interest	2 CFR § 200.449	Allowable with restrictions
Lobbying	2 CFR § 200.450	Unallowable
Losses on other awards or contracts	2 CFR § 200.451	Unallowable (however, they are required to be included in the indirect cost rate base for allocation of indirect costs)
Maintenance and repair costs	2 CFR § 200.452	Allowable with restrictions
Materials and supplies costs, including costs of computing devices	2 CFR § 200.453	Allowable with restrictions
Memberships, subscriptions, and professional activity costs	2 CFR § 200.454	Allowable with restrictions; unallowable for lobbying organizations
Organization costs	2 CFR § 200.455	Unallowable except federal prior approval

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Participant support costs	2 CFR § 200.456	Allowable with prior approval of the federal awarding agency
Plant and security costs	2 CFR § 200.457	Allowable; capital expenditures are subject to § 200.439
Pre-award costs	2 CFR § 200.458	Allowable if consistent with other allowabilities and with prior approval of the federal awarding agency
Professional services costs	2 CFR § 200.459	Allowable with restrictions
Proposal costs	2 CFR § 200.460	Allowable with restrictions
Publication and printing costs	2 CFR § 200.461	Allowable with restrictions
Rearrangement and reconversion costs	2 CFR § 200.462	Allowable (ordinary and normal)
Recruiting costs	2 CFR § 200.463	Allowable with restrictions
Relocation costs of employees	2 CFR § 200.464	Allowable with restrictions
Rental costs of real property and equipment	2 CFR § 200.465	Allowable with restrictions
Scholarships and student aid costs	2 CFR § 200.466	Not specifically addressed
Selling and marketing costs	2 CFR § 200.467	Unallowable with exceptions
Specialized service facilities	2 CFR § 200.468	Allowable with restrictions
Student activity costs	2 CFR § 200.469	Unallowable unless specifically provided for in the federal award
Taxes (including Value Added Tax)	2 CFR § 200.470	Allowable with restrictions
Termination costs	2 CFR § 200.471	Allowable with restrictions
Training and education costs	2 CFR § 200.472	Allowable for employee development

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Transportation costs	2 CFR § 200.473	Allowable with restrictions
Travel costs	2 CFR § 200.474	Allowable with restrictions
Trustees	2 CFR § 200.475	Not specifically addressed

**ONWASA POLICY FOR PROGRAM INCOME RELATED TO THE
EXPENDITURE OF AMERICAN RESCUE PLAN ACT CORONAVIRUS
STATE FISCAL RECOVERY FUNDS**

WHEREAS, The Onslow Water and Sewer Authority (“ONWASA”) has received an appropriation of funds from the Coronavirus “State Fiscal Recovery Fund” (“CSLFRF”) established pursuant to Section 602 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (“ARPA”).

WHEREAS, ONWASA shall comply with the terms of ARPA, and the U.S. Department of Treasury’s (“Treasury”) federal regulations governing the spending of CSLFRF funds, including the Final Rule, and Treasury’s regulations governing expenditures of CSLFRF funds, including the Award Terms and Conditions, Compliance and Reporting Guidance for the State and Local Fiscal Recovery Funds (together the “Federal regulations”), and any additional guidance Treasury has issued or may issue governing the spending of CSLFRF funds.

WHEREAS, ONWASA shall comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part § 200 (the “Uniform Guidance”); and

WHEREAS, ONWASA shall account for program income per the requirements set forth in the Uniform Guidance, including, but not limited to, 2 C.F.R. § 200.307, and as stipulated in Compliance and Reporting Guidance for the State and Local Recovery Funds, which provides: “Recipients of CSLFRF funds should calculate, document, and record the organization’s program income. Additional controls that your organization should implement include written policies that explicitly identify appropriate allocation methods, accounting standards and principles, compliance monitoring checks for program income calculations, and records.”

NOW, THEREFORE, be it RESOLVED that the governing board of ONWASA hereby adopts and enacts the following policies and procedures for the use of program income earned from the expenditure of CSLFRF funds pursuant to the ARP/CSLFRF award.

PROGRAM INCOME POLICY

I. PURPOSE AND SCOPE

ONWASA enacts the following procedures for its use of program income earned from the expenditure of CSLFRF funds to ensure compliance with the Uniform Guidance, including, but

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not limited to, 2 C.F.R. § 200.307, the ARP/CSLFRF award, and all applicable Federal regulations governing the use of program income. ONWASA agrees to administer program income according to the requirements set forth in this policy and as required by the Federal regulations and State law.

The responsibility for following this policy lies with the Finance Department, who are charged with the administration and financial oversight of the ARP/CSLFRF award. Questions on the use and/or reporting of program income should be directed to Tiffany Riggs, Finance Officer.

II. DEFINITIONS

- a. *ARP/CLSFRRF award* means the Federal program governing the use of Coronavirus State and Local Fiscal Recovery Funds as provided in the Assistance Listing and as administered by the U.S. Department of Treasury pursuant to the American Rescue Plan Act of 2021 (“ARPA”), Pub. L. No. 117-2 (Mar. 11, 2021).
- b. *CSLFRF funds* means the portion of Federal financial assistance from the Coronavirus State Fiscal Recovery Funds and Coronavirus Local Fiscal Recovery Funds (collectively “CSLFRF”) appropriated to ONWASA.
- c. *Federal award* means the Federal financial assistance that a recipient receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101. The Federal award is the instrument setting forth the terms and conditions of the grant agreement, cooperative agreement, or other agreement for assistance.
- d. *Federal awarding agency* means the Federal agency that provides a Federal award directly to a non-Federal entity.
- e. *Federal financial assistance* means the assistance that non-Federal entities receive or administer in the form of grants, cooperative agreements, non-cash contributions, direct appropriations, food commodities, or other financial assistance, including loans.
- f. *Federal program* means all Federal awards which are assigned a single Assistance Listings Number.
- g. *Non-Federal entity* means the State or ONWASA that carries out a Federal award as a recipient or subrecipient.
- h. *Period of performance* means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods. The period of performance for the ARP/CSLFRF award ends December 31, 2026.
- i. *Program income* means gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance except as provided in § 200.307(f).

III. PROGRAM INCOME OVERVIEW

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For purposes of this policy, program income is the gross income earned by ONWASA that is directly generated by the construction of the Southeast Wastewater Plant or earned as a result of the ARP/CSLFRF award during the period of performance, which closes December 31, 2026. 2 CFR 200.1.

Program income includes, but is not limited to, the following sources of income:

- The collection of fees for services performed.
- Payments for the use or rental of real or personal property.
- The sale of commodities or items fabricated under the Federal award.
- The payment of principal and interest on loans made under the Federal award.

Program income does not include fees or revenue from the following:

- The use of rebates, credits, discounts, and interest earned on any of them.
- Governmental revenues, such as taxes, special assessments, levies, or fines.
- Proceeds from the sale of real property, equipment, or supplies.

IV. USE OF PROGRAM INCOME

2 C.F.R. § 200.307(e) sets forth three methods for how program income may be used: the deduction method, the addition method, and the cost sharing/matching method. Treasury has indicated that program income earned pursuant to expenditures of CSLFRF shall be accounted for pursuant to the addition method 2 C.F.R. § 200.307(e). ONWASA agrees to add program income to the total award amount and expend it on eligible projects during the period of performance.

V. ALLOCATION OF PROGRAM INCOME

ONWASA shall only expend program income on costs that are reasonable, allocable, and allowable under the terms of the ARP/CSLFRF award. To adhere to these requirements, ONWASA shall comply with the cost principles included in 2 C.F.R. § 200, as outlined below. ONWASA shall allocate program income to the ARP/CSLFRF award in proportion to the pro rata share of the total funding (e.g., if CSLFRF funds cover half of a project's cost, with general revenue covering the other half, the unit shall allocate 50% of any program income earned to the ARP/CSLFRF award and account for its use pursuant to § 200.307).

Program income generated during the Period of Performance shall only be used for construction items at the Southeast Wastewater Plant not previously funded in the initial construction. This shall include the construction of sewer lines which are required to convey sewerage to the Plant, and such additional sewer lines to connect the plant with the then existing

sewer system. Also included in the use of Program Income is engineering costs directly related to these construction items.

VI. ADDITIONAL PROGRAM INCOME REQUIREMENTS

- (a) **Identifying, Documenting, Reporting, and Tracking.** To ensure compliance with the requirements of program income as outlined by the Federal regulations, the terms and conditions of the ASP/CSLFRF award, and the requirements set forth herein, each department shall identify potential sources of program income and properly report the program income for the period in which it was earned and dispersed.

Program income shall be accounted for separately. ONWASA shall not comingle program income earned from programs supported by ARP/CSLFRF funds with the appropriation of ARP/CSLFRF funds the State. Any costs associated with generating program income revenue shall be charged as expenditures to the ARP/CSLFRF award.

- (b) **Program Income Earned After the Period of Performance.** ONWASA shall have no obligation to report program income earned after the period of performance (December 31, 2026). However, ONWASA shall report program income expended after the period of performance if that program income was earned on or before December 31, 2026.
- (c) **Subawards.** ONWASA agrees to ensure that any subrecipient of ARP/CSLFRF funds abides by the award of the terms and conditions of this policy and is aware that the subrecipient is responsible for accounting for and reporting program income to ONWASA on a monthly basis.
- (d) **Compliance with State law.** Program income shall not be expended for purposes prohibited under State law.
- (e) **Subject to Audit.** ONWASA recognizes that its use of program income may be audited and reviewed for compliance with Federal laws and regulations, State law, and the terms of the ARP/CSLFRF award.

VII. IMPLEMENTATION OF POLICY

The Finance Department will adopt procedures to identify potential program income during the project eligibility and allowable cost review, document actual program income, and follow the requirements in this policy related to the treatment of program income.

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ONWASA ARPA Nondiscrimination Policy

WHEREAS, ONWASA has received an allocation of funds from the “Coronavirus State Fiscal Recovery Fund” (together “CSLFRF funds”), established pursuant to Section 602 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (the “ARP/CSLFRF award”).

WHEREAS, CSLFRF funds are subject to the U.S. Department of Treasury (“Treasury”) regulations, including the Final Rule, the Award Terms and Conditions, and the Title VII implementing regulations at 31 C.F.R. Part 22.

WHEREAS, pursuant to the ARP/CSLFRF Award Terms and Conditions, and as a condition of receiving CSLFRF funds, ONWASA agrees to follow all federal statutes and regulations prohibiting discrimination in its administration of CSLFRF under the terms and conditions of the ARP/CSLFRF award, including, without limitation, the following:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury’s implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin within programs or activities receiving federal financial assistance;
- ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
- iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving Federal financial assistance;
- iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury’s implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
- v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

RESOLVED, That the governing board of ONWASA hereby adopts and enacts the following nondiscrimination policy, which shall apply to the operations of any program, activity, or facility that is supported in whole, or in part, by expenditures CSLFRF pursuant to the ARP/CSLFRF award.

Nondiscrimination Policy Statement

It is the policy of ONWASA to ensure that no person shall, on the ground of race, color, national origin (including limited English Proficiency), familial status, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination

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under any program or activity administered by ONWASA, including programs or activities that are funded in whole or part, with Coronavirus State and Local Fiscal Recovery Funds (“CSLFRF”), which ONWASA received from the State of North Carolina as an appropriation of funds from the U.S. Department of Treasury (“Treasury”) pursuant to Section 602 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (herein the “ARP/CSLFRF award”).

I. Governing Statutory & Regulatory Authorities

As required by the CSLFRF Award Terms and Conditions, the ONWASA shall ensure that each “activity,” “facility,” or “program” that is funded in whole, or in part, with CSLFRF and administered under the ARP/CSLFRF award, will be facilitated, operated, or conducted in compliance with the following federal statutes and federal regulations prohibiting discrimination. These include, but are not limited to, the following:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury’s implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
- ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
- iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
- iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury’s implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age within programs or activities receiving federal financial assistance; and
- v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

II. Discriminatory Practices Prohibited in the Administration of the ARP/CSLFRF Award

To ensure compliance with Title VII of the Civil Rights Act of 1964, and Title 31 Code of Federal Regulations, Part 22, the Civil Rights Restoration Act of 1987, and other pertinent nondiscrimination authorities, the [LOCAL GOVERNMENT] shall prohibit, at a minimum, the following practices in its administration of CSLFRF pursuant to the ARP/CSLFRF award:

1. Denying to a person any service, financial aid, or other program benefit without good cause;

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2. Providing to a person any service, financial aid, or another benefit which is different in quantity or quality, or is provided in a different manner, from that provided to others under the program.
3. Subjecting a person to segregation or separate treatment in any matter related to the receipt of any service, financial aid, or other benefit under the program;
4. Restricting a person in the enjoyment of any advantages, privileges, or other benefits enjoyed by others receiving any service, financial aid, or other benefit under the program;
5. Treating a person differently from others in determining whether that person satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which persons must meet to be provided any service, financial aid, or other benefit provided under the program;
6. Implementing different standards, criteria, or other requirements for admission, enrollment, or participation in planning, advisory, contractual, or other integral activities to the program;
7. Adopting methods of administration which, directly or through contractual relationships, would defeat or substantially impair the accomplishment of effective nondiscrimination;
8. Selecting a site or location of facilities with the purpose or effect of excluding persons from, denying them the benefits of, subjecting them to discrimination, or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of Title VI or related acts and regulations;
9. Discriminating against any person, either directly or through a contractual agreement, in any employment resulting from the program, a primary objective of which is to provide employment;
10. Committing acts of intimidation or retaliation, including threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by any pertinent nondiscrimination law, or because an individual made a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing.

III. Reporting & Enforcement

1. ONWASA shall cooperate in any enforcement or compliance review activities by the Department of the Treasury. Enforcement may include investigation, arbitration, if mandated, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. ONWASA shall comply with information requests, on-site compliance reviews, and reporting requirements.
2. ONWASA shall maintain a complaint log and inform the Treasury of any complaints of discrimination on the grounds of race, color, or national origin (including limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, whether pending or completed, including the

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- outcome. ONWASA shall inform the Treasury if it has received no complaints under Title VI.
3. Any person who believes they have been aggrieved by a discriminatory practice under Title VI has a right to file a formal complaint with the Treasury. Any such complaint must be in writing and filed with the Treasury's Title VI Coordinator within one hundred eighty (180) days following the date of the alleged discriminatory occurrence.
 4. Any person who believes that because of that person's race, color, national origin, limited English proficiency, familial status, sex, age, religion, or disability that he/she/they have been discriminated against or unfairly treated by ONWASA in violation of this policy should contact the following office within 180 days from the date of the alleged discriminatory occurrence:

David Mohr
Chief Operating Officer
ONWASA
228 Georgetown Rd.
Jacksonville, NC 28540
Phone: (910) 937-7550
Fax: (910) 455-5607

**Onslow Water and Sewer Authority
Uniform Guidance Conflict of Interest Policy**

I. Purpose

The purpose of this policy is to establish conflicts of interest guidelines that meet or exceed the requirements under state law and local policy when procuring goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects paid for in part or whole by federal funds and required under 2 C.F.R. § 200.318(c)(1).

II. Policy

This policy applies when procuring goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects funded in part or whole with federal financial assistance (direct or reimbursed). This policy also applies to any subrecipient of the funds.

The employee responsible for managing the federal financial assistance award shall review the notice of award to identify any additional conflicts of interest prohibitions or requirements associated with the award, and shall notify all employees, officers, and agents, including subrecipients, of the requirements of this policy and any additional prohibitions or requirements.

A. Conflicts of Interest. In addition to the prohibition against self-benefiting from a public contract under N.C. Gen. Stat. § 14-234, no officer, employee, or agent of the Onslow Water and Sewer Authority may participate directly or indirectly in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. A real or apparent conflict exists when any of the following parties has a financial or other interest in or receives a tangible personal benefit from a firm considered for award of a contract:

1. the employee, officer, or agent involved in the selection, award, or administration of a contract;
2. any member of his or her immediate family;
3. his or her partner; or
4. an organization which employs or is about to employ any of these parties.

Any officer, employee, or agent with an actual, apparent, or potential conflict of interest as defined in this policy shall report the conflict to his or her immediate supervisor. Any such conflict shall be disclosed in writing to the federal award agency or pass-through entity in accordance with applicable Federal awarding agency policy.

B. Gifts. In addition to the prohibition against accepting gifts and favors from vendors and contractors under N.C. Gen. Stat. § 133-32, officers, employees, and agents of the Onslow Water and Sewer Authority are prohibited from accepting or soliciting gifts,

EXHIBIT B

gratuities, favors, or anything of monetary value from contractors, suppliers, or parties to subcontracts. Items of nominal value valued at less than \$ 25.00 which fall into one of the following categories may be accepted:

1. promotional items;
2. honorariums for participation in meetings; or
3. meals furnished at banquets.

Any officer, employee or agent who knowingly accepts an item of nominal value allowed under this policy shall report the item to his or her immediate supervisor.

III. Violation

Employees violating this policy will be subject to discipline up to and including termination. Contractors violating this policy will result in termination of the contract and may not be eligible for future contract awards.

Onslow Water and Sewer Authority Uniform Guidance Procurement Policy

I. Purpose

The purpose of this policy is to establish guidelines that meet or exceed the procurement requirements for purchases of goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects when federal funds are being used in whole or in part to pay for the cost of the contract. To the extent that other sections of procurement policies and procedures adopted by the Onslow Water and Sewer Authority are more restrictive than those contained in this policy, the more restrictive policy shall be followed.

II. Policy

- A. **Application of Policy.** This policy applies to contracts for purchases, services, and construction or repair work funded with federal financial assistance (direct or reimbursed). The requirements of this Policy also apply to any subrecipient of the funds.

All federally funded projects, loans, grants, and sub-grants, whether funded in part or wholly, are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal awards (Uniform Guidance) codified at 2 C.F.R. Part 200 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds.

- B. **Compliance with Federal Law.** All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procurement Standards codified in 2 C.F.R. § 200.317 through § 200-326 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. The Onslow Water and Sewer Authority will follow all applicable local, state, and federal procurement requirements when expending federal funds. Should the Onslow Water and Sewer Authority have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law.
- C. **Contract Award.** All contracts shall be awarded only to the lowest responsive responsible bidder possessing the ability to perform successfully under the terms and conditions of the contract.
- D. **No Evasion.** No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this Policy or state and federal law.
- E. **Contract Requirements.** All contracts paid for in whole or in part with federal funds shall be in writing. The written contract must include or incorporate by reference the provisions required under 2 C.F.R § 200.326 and as provided for under 2 C.F.R. Part 200, Appendix II.

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- F. **Contractors' Conflict of Interest.** Designers, suppliers, and contractors that assist in the development or drafting of specifications, requirements, statements of work, invitation for bids or requests for proposals shall be excluded from competing for such requirements.
- G. **Approval and Modification.** The administrative procedures contained in this Policy are administrative and may be changed as necessary at the staff level to comply with state and federal law.

III. General Procurement Standards and Procedures:

The Requesting Department shall procure all contracts in accordance with the requirements of this Section of the Policy.

- A. **Necessity.** Purchases must be necessary to perform the scope of work and must avoid acquisition of unnecessary or duplicative items. The Requesting Department should check with the federal surplus property agency prior to buying new items when feasible and less expensive. Strategic sourcing should be considered with other departments and/or agencies who have similar needs to consolidate procurements and services to obtain better pricing.
- B. **Clear Specifications.** All solicitations must incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured, and shall include all other requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals. Technical requirements must not contain features that restrict competition.
- C. **Notice of Federal Funding.** All bid solicitations must acknowledge the use of federal funding for the contract. In addition, all prospective bidders or offerors must acknowledge that funding is contingent upon compliance with all terms and conditions of the funding award.
- D. **Compliance by Contractors.** All solicitations shall inform prospective contractors that they must comply with all applicable federal laws, regulations, executive orders, and terms and conditions of the funding award.
- E. **Fixed Price.** Solicitations must state that bidders shall submit bids on a fixed price basis and that the contract shall be awarded on this basis unless otherwise provided for in this Policy. Cost plus percentage of cost contracts are prohibited. Time and materials contracts are prohibited in most circumstances. Time and materials contracts will not be used unless no other form of contract is suitable and the contract includes a "Not to Exceed" amount. A time and materials contract shall not be awarded without express

written permission of the federal agency or state pass-through agency that awarded the funds.

- F. Use of Brand Names.** When possible, performance or functional specifications are preferred to allow for more competition leaving the determination of how to reach the required result to the contractor. Brand names may be used only when it is impractical or uneconomical to write a clear and accurate description of the requirement(s). When a brand name is listed, it is used as reference only and “or equal” must be included in the description.
- G. Lease versus Purchase.** Under certain circumstances, it may be necessary to perform an analysis of lease versus purchase alternatives to determine the most economical approach.
- H. Dividing Contract for M/WBE Participation.** If economically feasible, procurements may be divided into smaller components to allow maximum participation of small and minority businesses and women business enterprises. The procurement cannot be divided to bring the cost under bid thresholds or to evade any requirements under this Policy.
- I. Documentation.** Documentation must be maintained by the Requesting Department detailing the history of all procurements. The documentation should include the procurement method used, contract type, basis for contractor selection, price, sources solicited, public notices, cost analysis, bid documents, addenda, amendments, contractor’s responsiveness, notice of award, copies of notices to unsuccessful bidders or offerors, record of protests or disputes, bond documents, notice to proceed, purchase order, and contract. All documentation relating to the award of any contract must be made available to the granting agency upon request.
- J. Cost Estimate.** For all procurements costing \$250,000 or more, the Requesting Department shall develop an estimate of the cost of the procurement prior to soliciting bids. Cost estimates may be developed by reviewing prior contract costs, online review of similar products or services, or other means by which a good faith cost estimate may be obtained. Cost estimates for construction and repair contracts may be developed by the project designer.
- K. Contract Requirements.** The Requesting Department must prepare a written contract incorporating the provisions referenced in Section II.C of this Policy.
- L. Debarment.** No contract shall be awarded to a contractor included on the federally debarred bidder’s list.
- M. Contractor Oversight.** The Requesting Department receiving the federal funding must maintain oversight of the contract to ensure that contractor is performing in accordance with the contract terms, conditions, and specifications.

- N. Open Competition.** Solicitations shall be prepared in a way to be fair and provide open competition. The procurement process shall not restrict competition by imposing unreasonable requirements on bidders, including but not limited to unnecessary supplier experience, excessive or unnecessary bonding, specifying a brand name without allowing for “or equal” products, or other unnecessary requirements that have the effect of restricting competition.
- O. Geographic Preference.** No contract shall be awarded on the basis of a geographic preference.

IV. Specific Procurement Procedures

Either the Requesting Department shall solicit bids in accordance with the requirements under this Section of the Policy based on the type and cost of the contract.

- A. Service Contracts** (except for A/E professional services) and **Purchase Contracts costing less than \$10,000** shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. § 200.320(a)) as follows:
1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
 2. To the extent practicable, purchases must be distributed among qualified suppliers.
- B. Service Contracts** (except for A/E professional services) and **Purchase Contracts costing \$10,000 up to \$90,000** shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. § 200.320(b)) as follows:
1. Obtain price or rate quotes from an “adequate number” of qualified sources (a federal grantor agency might issue guidance interpreting “adequate number,” so the Requesting Department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
 2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
 3. Cost or price analysis is not required prior to soliciting bids.
 4. Award the contract on a fixed-price basis (a not-to-exceed basis is permissible for service contracts where obtaining a fixed price is not feasible).
 5. Award the contract to the lowest responsive, responsible bidder.
- C. Service Contracts** (except for A/E professional services) and **Purchase Contracts costing \$90,000 and above** shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (N.C. Gen. Stat. § 143-129) as follows:
1. Cost or price analysis is required prior to soliciting bids.

2. Complete specifications or purchase description must be made available to all bidders.
3. The bid must be formally advertised in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for “sound documented reasons.”
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
5. Open bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
6. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis. Governing board approval is required for purchase contracts unless the governing board has delegated award authority to an individual official or employee. Any and all bids may be rejected only for “sound documented reasons.”

D. Service Contracts (except for A/E professional services) **costing \$250,000 and above** may be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(d)) when the “sealed bid” procedure is not appropriate for the particular type of service being sought. The procedures are as follows:

1. A Request for Proposals (RFP) must be publicly advertised. Formal advertisement in a newspaper is not required so long as the method of advertisement will solicit proposals from an “adequate number” of qualified firms.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
3. Identify evaluation criteria and relative importance of each criteria (criteria weight) in the RFP.
4. Consider all responses to the publicized RFP to the maximum extent practical.
5. Must have a written method for conducting technical evaluations of proposals and selecting the winning firm.
6. Award the contract to the responsible firm with most advantageous proposal taking into account price and other factors identified in the RFP. Governing board approval is not required.
7. Award the contract on a fixed-price or cost-reimbursement basis.

E. Construction and repair contracts costing less than \$10,000 shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. § 200.320(a)) as follows:

1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.

2. To the extent practicable, contracts must be distributed among qualified suppliers.

F. Construction and repair contracts costing \$10,000 up to \$250,000 shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. § 200.320(b)) as follows:

1. Obtain price or rate quotes from an “adequate number” of qualified sources (a federal grantor agency might issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids, although price estimates may be provided by the project designer.
4. Award the contract on a fixed-price or not-to-exceed basis.
5. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required.

G. Construction and repair contracts costing \$250,000 up to \$500,000 shall be procured using the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate may be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Publically advertise the bid solicitation for a period of time sufficient to give bidders notice of opportunity to submit bids (formal advertisement in a newspaper is not required so long as other means of advertising will provide sufficient notice of the opportunity to bid). The advertisement must state the date, time, and location of the public bid opening, and indicate where specifications may be obtained.
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders. Performance and payment bonds of 100% of the contract price is required of the winning bidder.
7. Award the contract on a firm fixed-price basis.
8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required. Any and all bids may be rejected only for “sound documented reasons.”

H. Construction and repair contracts costing \$500,000 and above shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid”

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procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (N.C. Gen. Stat. § 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate should be provided by the project designer).
 2. Complete specifications must be made available to all bidders.
 3. Formally advertise the bid in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for “sound documented reasons.”
 4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
 5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed and in paper form. A minimum of 3 bids must be received in order to open all bids.
 6. A 5% bid bond is required of all bidders (a bid that does not include a bid bond cannot be counted toward the 3-bid minimum requirement). Performance and payment bonds of 100% of the contract price is required of the winning bidder.
 7. Award the contract on a firm fixed-price basis.
 8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is required and cannot be delegated. The governing board may reject and all bids only for “sound documented reasons.”
- I. **Construction or repair contracts involving a building costing \$300,000 and above** must comply with the following additional requirements under state law:
1. Formal HUB (historically underutilized business) participation required under N.C. Gen. Stat. § 143-128.2, including local government outreach efforts and bidder good faith efforts, shall apply.
 2. Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under N.C. Gen. Stat. § 143-128(a).
 3. The project shall be bid using a statutorily authorized bidding method (separate-prime, single-prime, or dual bidding) as required under N.C. Gen. Stat. § 143-129(a1).
- J. **Contracts for Architectural and Engineering Services costing under \$250,000** shall be procured using the state “Mini-Brooks Act” requirements (N.C. Gen. Stat. § 143-64.31) as follows:
1. Issue a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
 2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided for under 2 C.F.R. § 200.321.

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3. Evaluate the qualifications of respondents based on the evaluation criteria developed by the Purchasing Department and/or Requesting Department.
 4. Rank respondents based on qualifications and select the best qualified firm. Price cannot be a factor in the evaluation. Preference may be given to in-state (but not local) firms.
 5. Negotiate fair and reasonable compensation with the best qualified firm. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
 6. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.
- K. Contracts for Architectural and Engineering Services costing \$250,000 or more shall be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(d)(5)) as follows:**
1. Publically advertise a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
 2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
 3. Identify the evaluation criteria and relative importance of each criteria (the criteria weight) in the RFQ.
 4. Proposals must be solicited from an “adequate number of qualified sources” (an individual federal grantor agency may issue guidance interpreting “adequate number”).
 5. Must have a written method for conducting technical evaluations of proposals and selecting the best qualified firm.
 6. Consider all responses to the publicized RFQ to the maximum extent practical.
 7. Evaluate qualifications of respondents to rank respondents and select the most qualified firm. Preference may be given to in-state (but not local) firms provided that granting the preference leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project.
 8. Price cannot be a factor in the initial selection of the most qualified firm.
 9. Once the most qualified firm is selected, negotiate fair and reasonable compensation. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
 10. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.

V. Exceptions

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Non-competitive contracts are allowed **only** under the following conditions and with the written approval of the federal agency or state pass-through agency that awarded the federal funds:

- A. Sole Source.** A contract may be awarded without competitive bidding when the item is available from only one source. The Purchasing Department and/or Requesting Department shall document the justification for and lack of available competition for the item. A sole source contract must be approved by the governing board.
- B. Public Exigency.** A contract may be awarded without competitive bidding when there is a public exigency. A public exigency exists when there is an imminent or actual threat to public health, safety, and welfare, and the need for the item will not permit the delay resulting from a competitive bidding.
- C. Inadequate Competition.** A contract may be awarded without competitive bidding when competition is determined to be inadequate after attempts to solicit bids from a number of sources as required under this Policy does not result in a qualified winning bidder.
- D. Federal Contract.** A contract may be awarded without competitive bidding when the purchase is made from a federal contract available on the U.S. General Services Administration schedules of contracts.
- E. Awarding Agency Approval.** A contract may be awarded without competitive bidding with the express written authorization of the federal agency or state pass-through agency that awarded the federal funds so long as awarding the contract without competition is consistent with state law.