

PROFESSIONAL SERVICES AGREEMENT
(Not Construction Related)
COMPLETE ENVIRONMENT REVIEW FOR 2016-2021 HUD FUNDED PROJECTS

This Professional Services Agreement ("Agreement") is entered into and effective between CITY OF GLENDALE, an Arizona municipal corporation ("City") and COM Sense, Inc., an Arizona corporation, ("Consultant") as of the 3 day of May, 2016 ("Effective Date").

RECITALS

- A. City intends to undertake a project for the benefit of the public and with public funds that is more fully set forth in **Exhibit A**, Project (the "Project");
- B. City desires to retain the professional services of Consultant to perform certain specific duties and produce the specific work as set forth in the attached **Exhibit B**, Project Scope of Work ("Scope");
- C. Consultant desires to provide City with professional services ("Services") consistent with best consulting or architectural practices and the standards set forth in this Agreement, in order to complete the Project; and
- D. City and Consultant desire to memorialize their agreement with this document.

AGREEMENT

The parties hereby agree as follows:

1. Key Personnel; Other Consultants and Subcontractors.

- 1.1 Professional Services. Consultant will provide all Services necessary to assure the Project is completed timely and efficiently consistent within Project requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other consultants or contractors, retained by City.
- 1.2 Project Team.
 - a. Project Manager.
 - (1) Consultant will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's opinion, complete the project and handle all aspects of the Project such that the work produced by Consultant is consistent with applicable standards as detailed in this Agreement; and
 - (2) The City must approve the designated Project Manager.
 - b. Project Team.
 - (1) The Project Manager and all other employees assigned to the Project by Consultant will comprise the "Project Team."
 - (2) Project Manager will have responsibility for and will supervise all other employees assigned to the Project by Consultant.
 - c. Discharge, Reassign, Replacement.
 - (1) Consultant acknowledges the Project Team is comprised of the same persons and roles for each as may have been identified in **Exhibit A**.
 - (2) Consultant will not discharge, reassign, replace or diminish the responsibilities of any of the employees assigned to the Project who have been approved by City without City's prior written consent unless that person leaves the employment of Consultant, in which event the substitute must first be approved in writing by City.

(3) Consultant will change any of the members of the Project Team at the City's request if an employee's performance does not equal or exceed the level of competence that the City may reasonably expect of a person performing those duties, or if the acts or omissions of that person are detrimental to the development of the Project.

d. Subcontractors. Consultant shall not engage any subcontractor for the work or services to be performed under this Agreement.

2. **Schedule.** The Services will be undertaken in a manner that ensures the Project is completed timely and efficiently in accordance with the Project.

3. **Consultant's Work.**

3.1 **Standard.** Consultant must perform Services in accordance with the standards of due diligence, care, and quality prevailing among consultants having substantial experience with the successful furnishing of Services for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.

3.2 **Licensing.** Consultant warrants that:

- a. Consultant currently holds all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of Services ("Approvals"); and
- b. Neither Consultant nor any Subconsultant has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").

(1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments, or to examine Consultant's contracting ability.

(2) Consultant must notify City immediately if any Approvals or Debarment changes during the Agreement's duration. The failure of the Consultant to notify City as required will constitute a material default under the Agreement.

3.3 **Compliance.** Services will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, and other standards and criteria designated by City.

Consultant must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Consultant will require any Sub-contractor to be bound to the same requirements as stated within this section. Consultant, and on behalf of any subcontractors, warrants compliance with this section.

3.4 **Coordination; Interaction.**

- a. For projects that the City believes requires the coordination of various professional services, Consultant will work in close consultation with City to proactively interact with any other professionals retained by City on the Project ("Coordinating Project Professionals").
- b. Subject to any limitations expressly stated in the Project Budget, Consultant will meet to review the Project, Schedule, Project Budget, and in-progress work with Coordinating Project Professionals and City as often and for durations as City reasonably considers necessary in order to ensure the timely work delivery and Project completion.
- c. For projects not involving Coordinating Project Professionals, Consultant will proactively interact with any other contractors when directed by City to obtain or disseminate timely information for the proper execution of the Project.

3.5 Work Product.

- a. Ownership. Upon receipt of payment for Services furnished, Consultant grants to City exclusive ownership of and all copyrights, if any, to evaluations, reports, drawings, specifications, project manuals, surveys, estimates, reviews, minutes, all "architectural work" as defined in the United States Copyright Act, 17 U.S.C § 101, *et seq.*, and other intellectual work product as may be applicable ("Work Product").
 - (1) This grant is effective whether the Work Product is on paper (e.g., a "hard copy"), in electronic format, or in some other form.
 - (2) Consultant warrants, and agrees to indemnify, hold harmless and defend City for, from and against any claim that any Work Product infringes on third-party proprietary interests.
- b. Delivery. Consultant will deliver to City copies of the preliminary and completed Work Product promptly as they are prepared.
- c. City Use.
 - (1) City may reuse the Work Product at its sole discretion.
 - (2) In the event the Work Product is used for another project without further consultations with Consultant, the City agrees to indemnify and hold Consultant harmless from any claim arising out of the Work Product.
 - (3) In such case, City will also remove any seal and title block from the Work Product.

4. **Compensation for the Project.**

- 4.1 Compensation. Consultant's compensation for the Project, including those furnished by its Subconsultants or Subcontractors will not exceed \$45,000.00 as specifically detailed in **Exhibit D** ("Compensation").
- 4.2 Change in Scope of Project. The Compensation may be equitably adjusted if the originally contemplated Scope as outlined in the Project is significantly modified.
 - a. Adjustments to Compensation require a written amendment to this Agreement and may require City Council approval.
 - b. Additional services which are outside the Scope of the Project contained in this Agreement may not be performed by the Consultant without prior written authorization from the City.
 - c. Notwithstanding the incorporation of the Exhibits to this Agreement by reference, should any conflict arise between the provisions of this Agreement and the provisions found in the Exhibits and accompanying attachments, the provisions of this Agreement shall take priority and govern the conduct of the parties.
- 4.3 Allowances. An "Allowance" may be identified in **Exhibit D** only for work that is required by the Scope and the value of which cannot reasonably be quantified at the time of this Agreement.
 - a. As stated in Sec. 4.1 above, the Compensation must incorporate all Allowance amounts identified in **Exhibit D** and any unused allowance at the completion of the Project will remain with City.
 - b. Consultant may not add any mark-up for work identified as an Allowance and which is to be performed by a Subconsultant.
 - c. Consultant will not use any portion of an Allowance without prior written authorization from the City.
 - d. Examples of Allowance items include, but are not limited to, subsurface pothole investigations, survey, geotechnical investigations, public participation, radio path studies and material testing.

4.4 Expenses. City will reimburse Consultant for certain out-of-pocket expenses necessarily incurred by Consultant in connection with this Agreement, without mark-up (the "Reimbursable Expenses"), including, but not limited to, document reproduction, materials for book preparation, postage, courier and overnight delivery costs incurred with Federal Express or similar carriers, travel and car mileage, subject to the following:

- a. Mileage, airfare, lodging and other travel expenses will be reimbursable only to the extent these would, if incurred, be reimbursed to City of Glendale personnel under its policies and procedures for business travel expense reimbursement made available to Consultant for review prior to the Agreement's execution, and which policies and procedures will be furnished to Consultant;
- b. The Reimbursable Expenses in this section are approved in advance by City in writing; and
- c. The total of all Reimbursable Expenses paid to Consultant in connection with this Agreement will not exceed the "not to exceed" amount identified for Reimbursable Services in the Compensation.

5. Billings and Payment.

5.1 Applications.

- a. Consultant will submit periodic invoices (each, a "Payment Application") to City's Project Manager and City will remit payments based upon the Payment Application as stated below.
- b. The period covered by each Payment Application will be one calendar month ending on the last day of the month.

5.2 Payment.

- a. After a full and complete Payment Application is received, City will process and remit payment within 30 days.
- b. Payment may be subject to or conditioned upon City's receipt of:
 - (1) Completed work generated by Consultant and its Subconsultants; and
 - (2) Unconditional waivers and releases on final payment from all Subconsultants as City may reasonably request to assure the Project will be free of claims arising from required performances under this Agreement.

5.3 Review and Withholding. City's Project Manager will timely review and certify Payment Applications.

- a. If the Payment Application is rejected, the Project Manager will issue a written listing of the items not approved for payment.
- b. City may withhold an amount sufficient to pay expenses that City reasonably expects to incur in correcting the deficiency or deficiencies rejected for payment.

6. Termination.

6.1 For Convenience. City may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the effective termination date, which may not be less than 15 days following the date of delivery.

- a. Consultant will be equitably compensated for Services furnished prior to receipt of the termination notice and for reasonable costs incurred.
- b. Consultant will also be similarly compensated for any approved effort expended, and approved costs incurred, that are directly associated with Project closeout and delivery of the required items to the City.

- 6.2 For Cause. City may terminate this Agreement for cause if Consultant fails to cure any breach of this Agreement within seven days after receipt of written notice specifying the breach.
- a. Consultant will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than the equitable amount due but not paid Consultant for Services furnished, City will pay the amount due to Consultant, less City's damages, in accordance with the provisions of Sec. 5.
 - b. If City's direct damages exceed amounts otherwise due to Consultant, Consultant must pay the difference to City immediately upon demand; however, Consultant will not be subject to consequential damages more than \$1,000,000 or the amount of this Agreement, whichever is greater.

7. **Conflict.** Consultant acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.

8. **Insurance.** For the duration of the term of this Agreement, Consultant shall procure and maintain insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of all tasks or work necessary to complete the Project as herein defined. Such insurance shall cover Consultant, its agent(s), representative(s), employee(s) and any subcontractors.

8.1 **Minimum Scope and Limit of Insurance.** Coverage must be at least as broad as:

- a. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01, including products and completed operations, with limits of no less than **\$1,000,000** per occurrence for bodily injury, personal injury, and property damage. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- b. Automobile Liability: Insurance Services Office Form Number CA 0001 covering Code 1 (any auto), with limits no less than **\$1,000,000** per accident for bodily injury and property damage.
- c. Professional Liability. Consultant must maintain a Professional Liability insurance covering errors and omissions arising out of the work or services performed by Consultant, or anyone employed by Consultant, or anyone for whose acts, mistakes, errors and omissions Consultant is legally liability, with a liability insurance limit of \$5,000 for each claim and a \$20,000 annual aggregate limit.
- d. Worker's Compensation: Insurance as required by the State of Arizona, with Statutory Limits, and Employers' Liability insurance with a limit of no less than **\$1,000,000** per accident for bodily injury or disease.

8.2 **Other Insurance Provisions.** The insurance policies required by the Section above must contain, or be endorsed to contain the following insurance provisions:

- a. **The City, its officers, officials, employees and volunteers are to be covered as additional insureds** of the CGL and automobile policies for any liability arising from or in connection with the performance of all tasks or work necessary to complete the Project as herein defined. Such liability may arise, but is not limited to, liability for materials, parts or equipment furnished in connection with any tasks, or work performed by Consultant or on its behalf and for liability arising from automobiles owned, leased, hired or borrowed on behalf of the Consultant. General liability coverage can be provided in the form of an endorsement to the Consultant's existing insurance policies, provided such endorsement is at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37, if later revisions are used.

- b. For any claims related to this Project, the **Consultant's insurance coverage shall be primary insurance** with respect to the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of the Consultant's insurance and shall not contribute with it.
 - c. Each insurance policy required by this Section shall provide that coverage shall not be canceled, except after providing notice to the City.
- 8.3 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII, unless the Consultant has obtained prior approval from the City stating that a non-conforming insurer is acceptable to the City.
- 8.4 Waiver of Subrogation. **Consultant hereby agrees to waive its rights of subrogation which any insurer may acquire** from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation Policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Consultant, its employees, agent(s) and subcontractor(s).
- 8.5 Verification of Coverage. Within 15 days of the Effective Date of this Agreement, Consultant shall furnish the City with original certificates and amendatory endorsements, or copies of any applicable insurance language making the coverage required by this Agreement effective. All certificates and endorsements must be received and approved by the City before work commences. Failure to obtain, submit or secure the City's approval of the required insurance policies, certificates or endorsements prior to the City's agreement that work may commence shall not waive the Consultant's obligations to obtain and verify insurance coverage as otherwise provided in this Section. The City reserves the right to require complete, certified copies of all required insurance policies, including any endorsements or amendments, required by this Agreement at any time during the Term stated herein.
- Consultant's failure to obtain, submit or secure the City's approval of the required insurance policies, certificates or endorsements shall not be considered a Force Majeure or defense for any failure by the Consultant to comply with the terms and conditions of the Agreement, including any schedule for performance or completion of the Project.
- 8.6 Subcontractors. Consultant shall require and shall verify that all subcontractors maintain insurance meeting all requirements of this Agreement.
- 8.7 Special Risk or Circumstances. The City reserves the right to modify these insurance requirements, including any limits of coverage, based on the nature of the risk, prior experience, insurer, coverage or other circumstances unique to the Consultant, the Project or the insurer.

9. Immigration Law Compliance.

- 9.1 Consultant, and on behalf of any Subconsultant, warrants to the extent applicable under A.R.S. § 41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. § 23-214(A) which requires registration and participation with the E-Verify Program.
- 9.2 Any breach of warranty under this section is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.
- 9.3 City retains the legal right to inspect the papers of any Consultant, Subconsultant, or employee who performs work under this Agreement to ensure that the Consultant, Subconsultant, or any employee, is compliant with the warranty under this section.
- 9.4 City may conduct random inspections, and upon request of City, Consultant will provide copies of papers and records of Consultant demonstrating continued compliance with the warranty under this section. Consultant agrees to keep papers and records available for inspection by the City during normal business hours and will cooperate with City in exercise of its statutory duties and not

deny access to its business premises or applicable papers or records for the purposes of enforcement of this section.

- 9.5 Consultant agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon Consultant and expressly accrue those obligations directly to the benefit of the City. Consultant also agrees to require any Subconsultant to incorporate into each of its own subcontracts under this Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.
- 9.6 Consultant's warranty and obligations under this section to the City is continuing throughout the term of this Agreement or until such time as the City determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.
- 9.7 The "E-Verify Program" above means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.

10. Compliance with Laws and Regulations.

- 10.1 The consultant will comply with all applicable federal, state and local laws, statutes, ordinances, administrative rules, building codes, regulations, and lawful orders of any public authoring bearing on the performance of activities pursuant to this Contract. If the Agency discovers that any of the Agreement documents are in conflict with any laws, statutes, ordinances, rules, building codes, regulations, or lawful orders of a public authority, the consultant will promptly notify the City, in writing, of such conflict, specifying any necessary changes to the Agreement document or work to eliminate the conflict.
- 10.2 Funding for this Agreement is contingent on the availability of funds and continued authorization for the Project and is subject to amendment or termination due to lack of funds, or authorization, reduction of funds, and/or changes in regulations.

11. Notices.

- 11.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:
- a. The Notice is in writing; and
 - b. Delivered in person or by overnight courier service (delivery charges prepaid), certified or registered mail (return receipt requested).
 - c. Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:
 - (1) Received on a business day before 5:00 p.m. at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier service; or
 - (2) As of the next business day after receipt, if received after 5:00 p.m.
 - d. The burden of proof of the place and time of delivery is upon the Party giving the Notice.
 - e. Digitalized signatures and copies of signatures will have the same effect as original signatures.
- 11.2 Representatives.
- a. Consultant. Consultant's representative (the "Consultant's Representative") authorized to act on Consultant's behalf with respect to the Project, and his or her address for Notice delivery is:

Com Sense, Inc.
c/o Mark Appleby
3863 East Forge Ave
Mesa, AZ 85206

- b. City. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

City of Glendale
c/o Gilber Lopez
5850 W Glendale Ave, Suite 107
Glendale, Arizona 85301

With required copy to:

City Manager
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

City Attorney
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

- c. Concurrent Notices.

- (1) All notices to City's representative must be given concurrently to City Manager and City Attorney.
- (2) A notice will not be deemed to have been received by City's representative until the time that it has also been received by the City Manager and the City Attorney.
- (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Consultant identifying the designee(s) and their respective addresses for notices.

- d. Changes. Consultant or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.

12. Financing Assignment. City may assign this Agreement to any City-affiliated entity, including a non-profit corporation or other entity whose primary purpose is to own or manage the Project.

13. Entire Agreement; Survival; Counterparts; Signatures.

13.1 Integration. This Agreement contains, except as stated below, the entire agreement between City and Consultant and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.

- a. Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.
- b. Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.
- c. Inconsistencies between the solicitation, any addenda attached to the solicitation, the response or any excerpts attached as **Exhibit A**, and this Agreement, will be resolved by the terms and conditions stated in this Agreement.

13.2 Interpretation.

- a. The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.

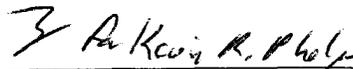
- b. The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.
 - c. The Agreement will be interpreted in accordance with the laws of the State of Arizona.
- 13.3 Survival. Except as specifically provided otherwise in this Agreement, each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.
 - 13.4 Amendment. No amendment to this Agreement will be binding unless in writing and executed by the parties. Electronic signature blocks do not constitute execution for purposes of this Agreement. Any amendment may be subject to City Council approval.
 - 13.5 Remedies. All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.
 - 13.6 Severability. If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be reformed to conform with applicable law.
 - 13.7 Counterparts. This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.
14. **Term**. The term of this Agreement commences upon the effective date and continues for a one (1) year initial period. The City may, at its option and with the approval of the Consultant, extend the term of this Agreement an additional four (4) years, renewable on an annual basis. Consultant will be notified in writing by the City of its intent to extend the Agreement period at least thirty (30) calendar days prior to the expiration of the original or any renewal Agreement period. Price adjustments will only be reviewed during the Agreement renewal period and will be a determining factor for any renewal. There are no automatic renewals of this Agreement.
 15. **Dispute Resolution**. Each claim, controversy and dispute (each a "Dispute") between Consultant and City will be resolved in accordance with **Exhibit E**. The final determination will be made by the City.
 16. **Exhibits**. The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

Exhibit A	Project
Exhibit B	Scope of Work
Exhibit C	Schedule
Exhibit D	Compensation
Exhibit E	Dispute Resolution
Exhibit F	New Federal Administrative Laws Associated With CDBG

(Signatures appear on the following page.)

The parties enter into this Agreement effective as of the date shown above.

City of Glendale,
an Arizona municipal corporation



By: Kevin R. Phelps
Its: City Manager

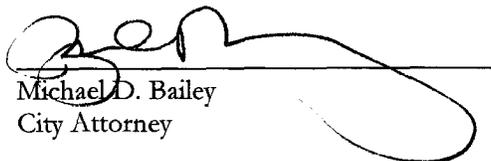
ATTEST:



Pamela Hanna
City Clerk

(SEAL)

APPROVED AS TO FORM:



Michael D. Bailey
City Attorney

Com Sense, Inc,
an Arizona Corporation



By: Mark Appleby
Its: Owner

EXHIBIT A
Professional Services Agreement

PROJECT

Annual Environmental Clearance for fiscal years 2016-2021 for projects funded with CDBG, HOME, ESG and NSP grant funds Community Revitalization receives annually from HUD.

EXHIBIT B
Professional Services Agreement

SCOPE OF WORK

See attached solitation from Com Sense, Inc.

M.C. Appleby, C.E.I #13227
3863 East Forge Avenue
Mesa, Arizona 85206



Voice 480/649-8080
FAX 480/649-8864
Appleman@Azcis.com

<http://www.azcsi.com>

Date: April 20, 2016

Robert Essel, Community Revitalization
City of Glendale
6829 N. 58th Drive, Suite 104
Glendale, Arizona 85301

RE: Quotation to Complete Environmental Review Records for 2016-2017 HUD Funded Projects

Dear Mr. Essel:

Thank you for contacting me about the environmental review needs for the City of Glendale federal programs undertakings. I am quoting for completion of clearances under §24 CFR Part 58 as prescribed by HUD. For the purpose of this proposal the reviews are broken down into activity categories as follows with individual pricing by group. In Attachment 1 with this proposal is the full scope of review as known in March, 2016.

City of Glendale Community Revitalization - Physical Improvements - Environmental Assessment and FONSI publication.

The project of City of Glendale Neighborhood Partnerships, Physical Improvements projects will require an Environmental Assessment (EA) and publication of a Finding of No Significant Impact (FONSI). It will also require submission of the Request for Release of Funds once the publication period is complete.

CDBG - AREA Clearance with Publication - no site specific identification for Facility or Residential Rehabilitation*

Important clarifications have been verified with HUD San Francisco Environmental concerning a cost and time savings we can attain by an area clearance that covers the full 5 year consolidated plan period. This is a clearance known as a Tier I review and then as individual sites are identified an APPENDIX A and is required to be completed before any work is started. This proposal does not include completion of the Appendix "A".

Glendale programs that will qualify for this approach of a 5 year long term clearance:

1. COG - Community Revitalization Division (Residential Rehabilitation Program, Delivery cost, Roof, Repair/Replacement Program, Exterior Rehabilitation Program, Lead-Based Paint Hazard Program, Temporary Relocation Program);

2. Habitat for Humanity Central - Arizona - Glendale's Emergency Home Repair Program;
3. COG-Community Housing Division - - ADA Accessibility Year 2

* Two notes, the HOME Rehabilitation activity will also be able to be conducted with this 5 year clearance, but is an independent action and formatted for review and sign-off with publication for Maricopa County, so is included in a separate section. Second, this does not include two related projects: COG -Voluntary Demolition Low- Mod and COG -Voluntary Spot Slum/Blight. These projects must complete a statutory worksheet as the location is identified and are not included as part of this quote.

HOME - COG - Housing Rehab Activities

Important clarifications have been verified with HUD San Francisco Environmental concerning a cost and time savings we can attain by an area clearance that covers the full 5 year consolidated plan period. This is a clearance known as a Tier I review and then as individual sites are identified an APPENDIX A and is required to be completed before any work is started. This proposal does not include completion of the Appendix "A".

The Glendale Housing Rehabilitation program will qualify for this approach of a 5 year long term clearance:

Related HOME funded Project - Habitat for Humanity - New Construction Housing/Housing Rehabilitation Program (includes the down payment component)

To be clear, this project does not qualify for a 5 year area clearance. Each review of the site specific address would require environmental assessment on the Statutory Worksheet. In the typical case the worksheet would reveal the project is cleared and would not require publication. As an option if provided the address location we would complete all required clearance documentation for \$525 per site. If conditions required publication those costs would be about the same as the other publications of \$390 and include all necessary documents for the County to make a release of funds.

Public Facility Improvements - Statutory Worksheet anticipated to be cleared without a requirement for publication

As needed and approved in the Annual Action Plan these are broad area improvements for public facilities including:

1. Glendale Women's Club - Clubhouse Stabilization and Restoration Project (continuation 15/16 update);
2. COG-Code Compliance Department - Aquatics Center ADA Compliance and Visual Improvements (continuation 15/16 update);

3. ValleyLife Inc. - Renovations to Special Needs Group Home Facilities (need each home address) (continuation 15/16 update);
4. AZ YWCA Metropolitan Phoenix - Re-Paving/Surfacing Parking Lot/Replace Existing Sidewalks
5. Boys & Girls Club of Metropolitan Phoenix (BGCMP) - Swift Kids Security Initiative
6. COG - Community Services Department - Renovation/Revitalization of Community & Recreation Centers (need specific location)

Each of these reviews would be about \$425

These reviews presume repair, improvement or reconstruction when the facilities and improvements are already in place and will be retained in the same use without change in size or capacity of more than 20%. Each will be assessed with a Level of Environmental Review Determination and each will have a Statutory Worksheet completed with full source documentation. No publications are required

PUBLIC SERVICE AND/OR SERVICE DIRECT ASSISTANCE ACTIVITIES -

These reviews are individually cleared using the HUD format LERD and completion of a local assessment memo that overviews the service description with citations for clearance as well as the undertaking. These projects include:

COG - Cap - Eviction Prevention (Rent Assistance) - The Society of St. Vincent de Paul - Keeping Families Together

Homeward Bound - Empowering Families

AZ YWCA Metropolitan Phoenix - YWCA Congregate Meals

Duet: Partners in Health & Aging - Independence for Seniors

Friendship Retirement Corp dba Glencroft Senior Living - Senior Health & Wellness Program

St. Mary's Food Bank Alliance - Glendale Home Food Delivery

Aid to Adoption of Special Kids (AASK_AZ) - AASK Mentoring Program

Back to School Clothing Drive Association - New Clothes, New Beginnings Annual Distribution

Boys and Girls Clubs of Metropolitan Phoenix - Swift Kids Academic Success Program

AZ YWCA Metropolitan Phoenix - Home Delivered Meal Program (Meals on Wheels)

VALLEYLIFE - Counseling for Adults with Developmental Disabilities

A New Leaf, Inc., - West Valley Vita Coalition

Community Legal Services, Inc. - Housing and Fair Housing Legal Services

Community Legal Services, Inc. - Removing Barriers to Justice for Low-Income Residents

Reviews are \$35 each for documentation and materials assembly.

* This is an exception for a potential of this undertaking to involve ground disturbing activities. If that occurs, a Statutory Worksheet would be required and this project would take longer for clearance. There would be no change in the cost factor, the Statutory Worksheet would be accomplished for the quoted \$35 for this project.

COST SUMMARY

City of Glendale Community Revitalization - Physical Improvements - Environmental Assessment and FONSI publication. TOTAL Cost Not to Exceed: \$2,210

CDBG - AREA Clearance with Publication - no site specific identification for Facility or Residential Rehabilitation. TOTAL Cost Not to Exceed: \$2,190 (1)

(1) as occurred in the 15-16 program year HUD may allow the program to use a prior Tier I completed in 2014 which would reduce this cost to only the publication (still a requirement) of \$360.

HOME - COG - Housing Rehab Activities

Glendale Housing Rehabilitation TOTAL Cost Not to Exceed: \$1,890

Habitat for Humanity - New Construction Housing Program

This would be an "on call" service as individual sites were identified of \$525.

Related HOME funded Project - Habitat for Humanity - New Construction Housing Program . Each review of the site specific address would require environmental assessment on the Statutory Worksheet. In the typical case the worksheet would reveal the project is cleared and would not require publication. As an option if provided the address location we would complete all required clearance documentation for \$525 per site. If conditions required publication those costs would be about the same as the other publications of \$390 and include all necessary documents for the County to make a release of funds. This would be an "on call" service as individual sites were identified.

Public Facility Improvements - Statutory Worksheet anticipated to be cleared without a requirement for publication. TOTAL Cost Not to Exceed: \$2,125

Public Service And/or Service Direct Assistance Activities. TOTAL Cost Not to Exceed: \$490

This is subject to change and modification as the Annual Action Plan is modified.

Those elements that require a publication should expect to have all materials ready for publication about 55 days after authorization to start work.

TOTAL OF ALL PROJECTS FOR REVIEW NOT TO EXCEED: \$8,905.00

PROVISION 1 - All file materials will be provided in individual files for City of Glendale. Electronic copies of all materials is available to the City as needed. Our office keeps all records a minimum of 6 years after completion.

PROVISION 2 - Additional services (IE especially SHPO required cultural resources survey..) if authorized, will be billed upon completion of the individual activity (see provision 3). We are anticipating that we will process through the City Preservation Officer all clearances and would provide material to your office to be forwarded to that department for the needed review return.

PROVISION 3 - This proposal will undertake and complete the environmental review records as described, however; if agencies (IE. SHPO, EPA...) responding to the review suggest or require that some special analysis beyond the scope outlined here, are required (photometric survey, cultural resources survey, deep soil studies...); these are not covered by the quotation. All additional review services are available at the hourly rate of \$55/hour plus actual material and test costs from Com Sense, INC. Before proceeding with any additional undertaking we will secure a work authorization from the client. In most cases Com Sense, INC. will provide the client with an assessment needs statement and quote covering the environmental impacts that were discovered during the review.

PROVISION 4 - This proposal is inclusive of all charges for mileage, postage, materials and other real expenses relative to completion of the described §24 CFR Part 58 environmental review at the specified projects. Additions to the scope of work undertaken in Provision 3 may include other charges as incurred. All "real costs" to the project are backed up by invoice for verification.

PROVISION 5 - Invoicing may be made upon logical completion of environmental review components. These components are defined as follows - Completion of all reviews and publication for the Exempt and Excluded Public Service, CDBG Rehabilitation and Administrative activities. Completion including publication of each of HOME funded projects - and/or Completion of publication for CDBG funded Housing Rehabilitation Program. This project would not be anticipated to require more than 3 invoices before a final submission was made for completion.

Additional Certifications

IMMIGRATION LAW COMPLIANCE

- A. Com Sense, Inc. and on behalf of any subcontractor, warrants, to the extent applicable under A.R.S. §41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. §23-214(A), which requires registration and participation with the E-Verify Program.
- B. Any breach of warranty under Subsection A above is considered a material breach of this contract and is subject to penalties up to and including termination of this contract.
- C. The City retains the legal right to inspect the papers of Com Sense, Inc. or subcontractor employee who performs work under this contract to ensure that the contractor or any subcontractor is compliant with the warranty under Subsection A above.
- D. The City may conduct random inspections, and upon request of the City, Com Sense, Inc. shall provide copies of papers and records of Contractor demonstrating continued compliance with the warranty under Subsection A above. Com Sense, Inc. agrees to keep papers and records available for inspection by the City during normal business hours and will cooperate with the City in exercise of its statutory duties and not deny access to its businesses premises or applicable papers or records for the purposes of enforcement of this section .
- E. Com Sense, Inc. agrees to incorporate into any subcontracts under this contract the same obligations imposed upon contractor and expressly accrue those obligations directly to the benefit of the City. Com Sense, Inc. also agrees to require any subcontractor to incorporate into each of its own subcontracts under this Contract the same obligations above and expressly accrue those obligations to the benefit of the City.
- F. Com Sense, Inc. warranty and obligations under this Section to the City is continuing throughout the term of this Contract or until such time as the City determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.
- G. The "E-Verify Program" above means the employment verification program administered by the United State Department of Homeland Security, the Social Security Administration, or any successor program.

PROHIBITIONS

Com Sense, Inc. Certifies under A.R.S. §§35-391 *et seq* and 35-393 *et seq*, that it does not have, and during the term of this contract will not have “scrutinized” business operations, as defined in the preceding statutory sections, in the countries of Sudan or Iran.

Work Scope Expectations from this proposal:

All mailings, contacts and documents will be provided to the City and placed in individual project files. Modifications and adjustments to the material and information is always anticipated and will be made as soon as possible when needed. Electronic copies of all material will be maintained at my office for backup a minimum of 6 years. All coordinative site reviews, Maricopa County contacts and subrecipient reviews will be conducted as part of the completion of the environmental review process. Requests may be made infrequently for the City contact references especially preservation materials. Material may be requested to be reviewed by appropriate persons in the Community Revitalization Department as dictated by progress (or unexpected changes) in assessments being conducted.

Work Scope Exclusions from this proposal:

The second tier of reviews (IE Appendix “A”) are not included.

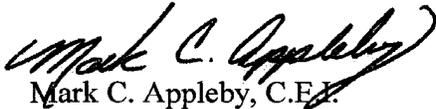
Timing and Order to Proceed

We are prepared to initiate the review within one working day of the receipt of a written notification to proceed or purchase order assignment.

The actual reviews and completion of the HUD environmental review will vary according to the element. Response from agencies such as SHPO, Tribes and ADEQ on the NSP reviews, can require longer periods, however we will prosecute them as quickly as possible.

I appreciate the opportunity to provide you with this HUD environmental review service quote. This quote is effective for 90 days from the date on the letter.

Respectfully,



Mark C. Appleby, C.E.I.
President

EXHIBIT C
Professional Services Agreement

SCHEDULE

The project will begin annually in April and be completed by November of the same fiscal year.

EXHIBIT D
Professional Services Agreement

COMPENSATION

METHOD AND AMOUNT OF COMPENSATION

Up to \$9,000.00 annually based on the amount invoiced once the project is completed.

NOT-TO-EXCEED AMOUNT

The total amount of compensation paid to Consultant for full completion of all work required by the Project during the entire term of the Project must not exceed \$45,000.

DETAILED PROJECT COMPENSATION

See Exhibit B.

EXHIBIT E
Professional Services Agreement

DISPUTE RESOLUTION

1. Disputes.

- 1.1 Commitment. The parties commit to resolving all disputes promptly, equitably, and in a good-faith, cost-effective manner.
- 1.2 Application. The provisions of this Exhibit will be used by the parties to resolve all controversies, claims, or disputes ("Dispute") arising out of or related to this Agreement-including Disputes regarding any alleged breaches of this Agreement.
- 1.3 Initiation. A party may initiate a Dispute by delivery of written notice of the Dispute, including the specifics of the Dispute, to the Representative of the other party as required in this Agreement.
- 1.4 Informal Resolution. When a Dispute notice is given, the parties will designate a member of their senior management who will be authorized to expeditiously resolve the Dispute.
- a. The parties will provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any Dispute in order to assist in resolving the Dispute as expeditiously and cost effectively as possible;
 - b. The parties' senior managers will meet within 10 business days to discuss and attempt to resolve the Dispute promptly, equitably, and in a good faith manner, and
 - c. The Senior Managers will agree to subsequent meetings if both parties agree that further meetings are necessary to reach a resolution of the Dispute.

2. Arbitration.

- 2.1 Rules. If the parties are unable to resolve the Dispute by negotiation within 30 days from the Dispute notice, and unless otherwise informal discussions are extended by the mutual agreement, the Dispute will be decided by binding arbitration in accordance with Construction Industry Rules of the AAA, as amended herein. Although the arbitration will be conducted in accordance with AAA Rules, it will not be administered by the AAA, but will be heard independently.
- a. The parties will exercise best efforts to select an arbitrator within five business days after agreement for arbitration. If the parties have not agreed upon an arbitrator within this period, the parties will submit the selection of the arbitrator to one of the principals of the mediation firm of Scott & Skelly, LLC, who will then select the arbitrator. The parties will equally share the fees and costs incurred in the selection of the arbitrator.
 - b. The arbitrator selected must be an attorney with at least 15 years' experience with commercial construction legal matters in Maricopa County, Arizona, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least 10 years.
- 2.2 Discovery. The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within 10 days of selection of an arbitrator deliver to the other Party copies of all documents in the delivering party's possession that are relevant to the dispute.

- 2.3 Hearing. The arbitration hearing will be held within 90 days of the appointment of the arbitrator. The arbitration hearing, all proceedings, and all discovery will be conducted in Glendale, Arizona unless otherwise agreed by the parties or required as a result of witness location. Telephonic hearings and other reasonable arrangements may be used to minimize costs.
- 2.4 Award. At the arbitration hearing, each Party will submit its position to the arbitrator, evidence to support that position, and the exact award sought in this matter with specificity. The arbitrator must select the award sought by one of the parties as the final judgment and may not independently alter or modify the awards sought by the parties, fashion any remedy, or make any equitable order. The arbitrator has no authority to consider or award punitive damages.
- 2.5 Final Decision. The Arbitrator's decision should be rendered within 15 days after the arbitration hearing is concluded. This decision will be final and binding on the Parties.
- 2.6 Costs. The prevailing party may enter the arbitration in any court having jurisdiction in order to convert it to a judgment. The non-prevailing party will pay all of the prevailing party's arbitration costs and expenses, including reasonable attorney's fees and costs.

3. **Services to Continue Pending Dispute**. Unless otherwise agreed to in writing, Consultant must continue to perform and maintain progress of required Services during any Dispute resolution or arbitration proceedings, and City will continue to make payment to Consultant in accordance with this Agreement.

4. **Exceptions.**

- 4.1 Third Party Claims. City and Consultant are not required to arbitrate any third-party claim, cross-claim, counter claim, or other claim or defense of a third party who is not obligated by contract to arbitrate disputes with City and Consultant.
- 4.2 Liens. City or Consultant may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice, but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Arizona Law, including, without limitation, an action under A.R.S. § 33-420, without the necessity of initiating or exhausting the procedures of this Exhibit.
- 4.3 Governmental Actions. This Exhibit does not apply to, and must not be construed to require arbitration of, any claims, actions or other process filed or issued by City of Glendale Building Safety Department or any other agency of City acting in its governmental permitting or other regulatory capacity.

EXHIBIT E
Professional Services Agreement

NEW FEDERAL ADMINISTRATIVE LAWS ASSOCIATED WITH CDBG



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF THE DEPUTY SECRETARY
WASHINGTON, DC 20410-0050**

Special Attention of:

NOTICE: SD-2015-01

Issued:

FEB 26 2015

HUD Regional Directors
HUD Field Office Directors
HUD Offices of Community Planning and Development (CPD),
Fair Housing and Equal Opportunity (FHEO),
Housing,
Native American Programs (ONAP),
Lead Hazard Control and Healthy Homes (OLHCHH),
Public and Indian Housing (PIH),
Policy Development and Research (PD&R)
HUD Grant Administrators, Grant Officers, Government Technical Monitors (GTMs), and
Government Technical Representatives (GTRs) and Recipients of HUD Federal Financial
Assistance

This notice remains effective until amended,
superseded or rescinded

SUBJECT: Transition to 2 CFR Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Guidance*

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Major Reforms and Policy Changes

The policy reforms brought about by OMB's consideration of public comments and efforts to streamline federal grant-making processes are identified as the following:

- Eliminate duplicative/conflicting guidance;
- Focus on performance over compliance for accountability;
- Encourage efficient use of information technology (IT)/shared services;
- Provide for consistent treatment of costs;
- Limit allowable costs for the best use of Federal resources;
- Incorporate standard business processes using data definitions;
- Strengthen oversight; and
- Target audit requirements on risk of waste, fraud, and abuse.

In addition to the consolidation of the OMB Circulars, major audit changes include the following:

- The Single Audit threshold is raised from \$500,000 to \$750,000, which eliminates the need for more than 5,000 audits, with a cost savings estimated at \$250 million;
- The questioned cost limit in Single Audits is raised from \$10,000 to \$25,000;
- Assessment of government-wide audit quality is to be conducted every six years (beginning in 2018).

The uniform guidance, which provides a government-wide framework for grants management, is designed to reduce administrative burden for non-Federal entities receiving Federal awards.

2. EFFECTIVE DATE AND APPLICABILITY TO HUD

The uniform guidance was applicable for Federal agencies, including HUD, effective December 26, 2013. Federal agencies, including HUD, adopted 2 CFR part 200 as requirements for Federal financial assistance programs by the interim final rule published December 19, 2014. It was made applicable to non-Federal entities (recipients of Federal financial assistance) effective December 26, 2014, with one exception: §200.110(a) was revised to give a one-year grace period for implementation of the procurement standards. As will be detailed in the 2015 OMB Compliance Supplement, non-Federal entities choosing to delay implementation for the procurement standards will need to specify in their documented policies and procedures that they continue to comply with OMB Circulars A-87 or A-110 for one additional fiscal year which begins after December 26, 2014. For example, the first full fiscal year for a non-Federal entity with a June 30th year would be the year ending June 30, 2016. See also the General Transition Rules section of this Notice.

Federal agencies, including HUD, may apply subparts A-E to for-profit entities. Exceptions to the applicability of the rule are listed in 2 CFR 200.101(d) and (e) and 2 CFR 200.102. This subpart makes clear that part 200 does not supersede any existing or future authority under law or by executive order or the Federal Acquisition Regulation (FAR). As an example, for public housing, the disposition statute at Section 18 of the U.S. Housing Act of 1937 (42 U.S.C. 1437p) supersedes the disposition instructions in §200.311(c). Subpart B also covers Authorities, Effect on other issuances, Agency implementation, OMB responsibilities, Inquiries, Effective date, English language, Conflict of interest, and Mandatory disclosures. Highlights are discussed below.

Applicability: Section 200.101 includes a table that summarizes how the guidance applies to types of Federal awards. This table must be read along with the other provisions of section 200.101:

Exceptions:

- Section 200.102(a) allows OMB to make exceptions to 2 CFR part 200 for certain classes of Federal awards or for certain non-Federal entities, but only in unusual circumstances and if such exceptions are not prohibited by law. Where the provisions of Federal statutes or regulations differ from the provisions of part 200, the provisions of the Federal statutes or regulations take precedence.
- Section 200.102(b) allows HUD to make certain exceptions on a case-by-case basis except where otherwise required by law or where OMB or other approval is expressly required by 2 CFR part 200. Under §200.102(c), HUD may apply more restrictive requirements to a class of Federal awards or non-Federal entities when approved by OMB or required by Federal statutes or regulations. HUD may also apply less restrictive requirements when making fixed amount awards as defined in Subpart A, §200.45.
- Exemptions from Subpart F, Audit Requirements, are not permitted under any circumstances.

English Language: Section 200.111 makes clear that all HUD financial assistance announcements, HUD award information (e.g., Notices of Funding Availability), and applications must be in the English language. Non-Federal entities may translate the Federal award and other documents into another language, however, in the event of any inconsistency, the English language meaning would control. Where a significant portion of the non-Federal entity's employees working on the award are not fluent in English, the non-Federal entity must provide the HUD award in English and the language(s) with which the employees are more familiar.

Conflict of Interest: Section 200.112 requires HUD to establish conflict of interest policies for Federal awards and requires non-Federal entities to disclose in writing any potential conflict of interest to HUD or the pass-through entity in accordance with HUD's policy. The general procurement standards in §200.318 require non-Federal entities to maintain written standards of conduct covering conflicts of interest, including organizational conflicts of interest. "Organizational conflicts of interest" means that, because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

6. SUBPART C – PRE-FEDERAL AWARD REQUIREMENTS AND CONTENTS OF FEDERAL AWARDS: HIGHLIGHTS

Subpart C prescribes the instructions and other pre-award information to be used in the funding announcement and application process.

Selecting the Instrument for Award: Section 200.201 requires the Federal awarding agency or pass-through entity to decide on the appropriate instrument for the Federal award (i.e., grant agreement, cooperative agreement, or Federal contract under the Federal Acquisition Regulation) in accordance with the Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301-08). The program statute or pass-through entity may have another name for

Section 200.207 authorizes Federal agencies and pass-through entities to impose additional specific award conditions on applicants or recipients who have a history of failure to comply with terms and conditions, or failure to meet performance goals, or are not otherwise responsible. The conditions include requiring reimbursements rather than advance payments, requiring additional, more detailed reports, additional monitoring, etc. If such additional requirements are imposed, HUD or the pass-through entity must notify the applicant or non-Federal entity as to the nature of, and reasons for, the requirements, actions needed, and timeframe, if applicable. Special conditions must be promptly removed once the causal conditions have been corrected.

7. **SUBPART D – POST-FEDERAL AWARD REQUIREMENTS: HIGHLIGHTS**

Subpart D describes the requirements standards for managing and administering HUD awards. It includes standards for financial and program management, property and procurement standards, performance and financial monitoring and reporting, subrecipient monitoring and management, record retention and access, remedies for noncompliance, the provisions of the Federal Funding and Accountability Transparency Act (FFATA)² and closeout. NOTE: There will be exceptions to the items listed below and they will be published by regulation. See also Section 5 of this Notice.

Performance Measurement: Section 200.301 requires, as appropriate and in accordance with OMB information collection requirements, recipients to relate financial data to performance accomplishments of the Federal award and provide cost information to demonstrate cost effective practices (e.g., through unit cost data). This is in line with the shift in 2 CFR part 200 from compliance to performance. It also requires Federal agencies to use only OMB-approved forms for performance reports. Non-Federal entities must comply with FFATA. A recipient's performance should be measured in a way that will help HUD and other non-Federal entities improve program outcomes, share lessons learned, and spread the adoption of promising practices.

Internal Controls and Protected Personally Identifiable Information: Section 200.303 sets forth requirements for internal controls. This section reflects requirements that were previously in the A-133 audit requirements. It also addresses the non-Federal entity's responsibilities to take reasonable measures to safeguard protected personally identifiable information and other information designated as sensitive by the Federal awarding agency or the pass-through entity, consistent with applicable Federal, state and local laws regarding privacy and obligations of confidentiality.

Payment: Section 200.305 describes cash management requirements applicable to states and other non-Federal entities to minimize the time elapsed between agencies' advance

² FFATA, signed September 26, 2006, requires information on Federal awards (Federal financial assistance and expenditures) to be made available to the public via a single, searchable website, which is www.USASpending.gov. The intent is to empower every American with the ability to hold the government accountable for each spending decision. The end result is to reduce wasteful spending in the government. Amendments to FFATA have expanded its scope. See also <https://www.fsr.gov/>.

because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization (§200.318(c)(2)).

- The non-Federal entity's procurement procedures must be designed to avoid acquisition of unnecessary or duplicative items and the non-Federal entity is encouraged to enter into intergovernmental or inter-entity agreements to procure or use common goods and services (§200.318(d) and (e)).
- Non-Federal entities, in conducting procurements, must conduct them in a manner providing full and open competition and are prohibited from using state or local geographical preferences in evaluating bids or proposals (except where applicable Federal statutes expressly mandate or encourage geographical preferences, such as HUD's Section 3 requirements in 24 CFR part 135) (§200.319).
- Methods of procurement now include a micro-purchase option, which is the acquisition of supplies or services that do not exceed \$3,000 (or \$2,000 for acquisitions for construction subject to the Davis-Bacon Act) (§200.320(a)).
- "Supplies" includes computing devices if the acquisition cost was less than the lesser of the capitalization level established by a non-Federal entity for financial statement purposes or \$5,000, regardless of the length of their useful life (§200.94).
- The Simplified Acquisition Threshold for small purchase procedures, which are those relatively simple and informal procurement methods for securing services, supplies or other property, is now \$150,000. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. The Simplified Acquisition Threshold is set by the Federal Acquisition Regulation (FAR) at 48 CFR Subpart 2.1 and will be periodically adjusted for inflation (§200.88 and §200.320(b)).
- The non-Federal entity's contracts must contain certain provisions which are included in Appendix II of 2 CFR part 200 (§200.326).
- Non-Federal entities have one full fiscal year after the effective date to comply with the revised procurements standards (see *Implementation Dates* in the December 19, 2014, Federal Register at <https://www.federalregister.gov/articles/2014/12/19/2014-28697/federal-awarding-agency-regulatory-implementation-of-office-of-management-and-budgets-uniform>).

Bonding Requirements: Section 200.325 permits the Federal agency to accept the recipient's bonding policy and requirements if the Federal agency has determined that the Federal interest is adequately protected, and if not, the minimum requirements (abbreviated) are as follows:

- A bid guarantee equal to five percent of the bid price.
- A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment

the non-Federal entity within the record retention period. However, amounts due can be collected after this period.

8. SUBPART E – COST PRINCIPLES: HIGHLIGHTS

Subpart E covers the principles that must be used in determining the allowable costs of work performed by a non-Federal entity under a Federal award and in the pricing of fixed-price contracts and subcontracts where costs are used in determining the appropriate prices. It covers exemptions (§200.401(c)) and basic considerations (§§200.402-200.411). The application of the cost principles should require no significant changes in the internal accounting policies and practices of non-Federal entities. The Basic Considerations for costs are largely unchanged. Changes have been made to some select items of cost.

Profit: Section 200.400(g) states that non-Federal entities may not earn or keep any profit resulting from the Federal financial assistance (unless explicitly authorized by the terms and conditions of the Federal award). This is not new.

Prior Approval: In recognition of the difficulty in determining the reasonableness and allocability of certain items of cost, non-Federal entities may seek the prior written approval of the cognizant agency for indirect costs or the Federal awarding agency in advance of incurring unusual or special costs. Prior approval is specifically required for allowability under certain circumstances as described in §200.407.

Direct Costs: Direct costs are covered in §200.413. This section is largely unchanged from previous OMB cost principles.

- Direct costs are identified specifically with the Federal award or can be easily and accurately assigned to activities of the award. Typical direct costs include employee compensation, fringe benefits, materials and other items attributable to the award.
- If directly related to a specific award, certain costs that would otherwise be included with an indirect cost rate can be direct charged, such as extraordinary utility consumption, cost of materials supplied from stock or services from specialized facilities or other institutional service operations.

Indirect Costs: Indirect costs are addressed in §200.414. This section is largely unchanged from previous OMB cost principles.

- Negotiated indirect cost rates must be accepted by all Federal awarding agencies unless certain conditions are met. A Federal awarding agency must implement and make publicly available (e.g., via the Federal Register) the policies, procedures, and general decision-making criteria the programs would follow in seeking and justifying deviations from negotiated rates.
- Pass-through entities must accept a federally recognized indirect cost rate between a subrecipient and the Federal government or, if no such rate exists, either negotiate a rate between the entity and the subrecipient or establish a de minimis indirect cost rate (see also §200.331(a)(4)).

transportation, and other incidental items, unless further restricted by the terms and conditions of the Federal award (§200.432).

- Contingency Provisions: Contingency definitions, allowances, and disallowances are set forth in §200.433.
- Fines, Penalties, Damages, and Other Settlements: Costs resulting from a recipient's violations of, alleged violations of, or failure to follow Federal, State, local, tribal, or foreign laws or regulations are unallowable (§200.441).
- Lobbying: The cost to influence activities associated with obtaining grants, contracts, cooperative agreements or loans is unallowable (§200.450).
- Organization Costs: Costs for items such as incorporation fees, attorneys, or accountants in connection with establishment or reorganization of an entity are unallowable except with prior approval of the Federal awarding agency (§200.455).
- Pre-award Costs: Are only allowable to the extent that they would have been approved if incurred after the date of the Federal award and only with prior approval of the Federal awarding agency (§200.458).

9. SUBPART F – AUDIT REQUIREMENTS: HIGHLIGHTS

Subpart F sets forth the standards for audits of non-Federal entities expending Federal awards.

Increased Audit Threshold: One of the significant changes is the raised threshold which requires a non-Federal entity to have a single or program-specific audit conducted for any year in which the non-Federal entity expends \$750,000 or more (up from \$500,000) (§200.501(a)).

Making Audits Publicly Available: Auditees must make copies of their audit available for public inspection, ensuring that protected personally identifiable information is not included. Audit reports must be submitted to the Federal Audit Clearinghouse (FAC) and all Federal agencies, pass-through entities, and others interested in an audit report must obtain it from the FAC. Indian tribes may opt out of authorizing the FAC to publish the reporting package on the Web, but are then responsible for providing the reporting package directly to any affected pass-through entities and also making it available for public inspection (§200.512(b)(2)).

Federal Agency Responsibilities: §200.513 requires Federal agencies, including HUD, to:

- Appoint a Single Audit Accountable Official (SAAO) and a Single Audit Liaison;
- Participate in a government-wide project to determine the quality of single audits;
- Use cooperative audit resolution mechanisms to improve Federal program outcomes through better audit resolution follow-up and corrective action; and
- Develop a baseline, metrics, and targets to track, over time, the effectiveness of the Federal agency's process to follow up on audit findings and the effectiveness of Single Audits in improving non-Federal agency accountability and their use in making award decisions.

programs are administered by a state public assistance agency. (Most such programs are funded by HHS; few, if any, are funded by HUD.)

- Appendix VII: This Appendix provides guidance to state and local governments and Indian tribes on developing, submitting and documenting indirect cost rate proposals.
- Appendix VIII: This Appendix lists those nonprofit organizations that are exempted from the requirements of Subpart E, *Cost Principles*.
- Appendix IX: This Appendix makes clear that existing principles at 45 CFR Part 74 Appendix E, *Principles for Determining Cost Applicable to Research and Development under Grants and Contracts with Hospitals*, remains in effect until OMB implements revised guidance for hospitals.
- Appendix X: This Appendix states that the Data Collection Form SF-SAC for Single Audits is available on the Federal Audit Clearinghouse (FAC) website. The FAC website address <http://harvester.census.gov/sac/>, given in §200.36, *Federal Audit Clearinghouse (FAC)*, for accessing the FAC, was valid as of the issuance of this Notice.
- Appendix XI: This Appendix states that the audit compliance supplement for Single Audits cited by §200.21, *Compliance supplement*, is available on OMB's website, and provides an address (<http://www.whitehouse.gov/omb/circulars>) that was valid for accessing the supplement as of the issuance of this Notice.

11. GENERAL TRANSITION RULES

HUD's regulations adopting the requirements of 2 CFR part 200 for HUD programs were published in the Federal Register on December 19, 2014

(<https://www.federalregister.gov/articles/2014/12/19/2014-28697/federal-awarding-agency-regulatory-implementation-of-office-of-management-and-budgets-uniform>).

Questions have been raised about the applicability of these requirements. The following applies:

- Federal awards made before December 26, 2014, will continue to be governed by the terms and conditions of the Federal award. The grant agreements for some HUD programs (e.g., Community Development Block Grant, HOME Investment Partnerships, Emergency Solutions Grants, Indian Housing Block Grants, Native Hawaiian Block Grants, Indian Community Development Block Grants) incorporate the regulations "as now in effect and as may be amended from time to time" and, therefore, 2 CFR part 200 will be applicable to these grants.
- New Federal awards made on or after December 26, 2014, are governed by 2 CFR part 200, including formula awards.

of the Federal award. It will not retroactively change the terms and conditions for funds a non-Federal entity has already received.

•We would anticipate that for many of the changes, non-Federal entities with both old and new awards may make changes to their entity-wide policies (for example to payroll or procurement systems). Practically speaking, these changes would impact their existing/older awards. Non-Federal entities wishing to implement entity-wide system changes to comply with the Uniform Guidance after the effective date of December 26, 2014 will not be penalized for doing so.

12. CONFORMING PROGRAM REGULATIONS AND GUIDANCE

HUD will publish conforming rule changes for its programs and will provide notification of these changes when they are made. These changes will update the program regulations to revise the sections that refer to the OMB Circulars and HUD regulations in 24 CFR parts 84 and 85, as well as to reflect the provisions of 2 CFR part 200 that are not applicable because they are inconsistent with a program statute or because OMB has given an exception to specific requirements.

HUD recognizes that there may be uncertainty pending publication of the conforming program regulations. The provisions of 2 CFR part 200 apply, consistent with the exceptions given to the HUD program for requirements which are detailed in the 2013 edition of the Code of Federal Regulations in 2 CFR parts 215, 220, 225, and 230, 24 CFR parts 84 and 85, and OMB Circulars. HUD will notify recipients through program regulations, grants or cooperative agreements, or other guidance, which subparts are applicable to specific programs.³

13. ADDITIONAL RESOURCE MATERIALS

Grant recipients are strongly encouraged to review this information to obtain a better understanding of the uniform guidance and its implications for their Federal awards. The Council on Financial Assistance Reform (COFAR) has provided additional tools to assist in the transition including:

- a. Frequently Asked Questions for New Uniform Guidance at 2 CFR 200:
[The FAQ For 2 CFR 200 \(https://cfo.gov/wp-content/uploads/2014/11/2014-11-26-Frequently-Asked-Questions.pdf\)](https://cfo.gov/wp-content/uploads/2014/11/2014-11-26-Frequently-Asked-Questions.pdf).
- b. Uniform Guidance Crosswalk from Existing Guidance to Final Guidance:
<http://www.whitehouse.gov/sites/default/files/omb/fedreg/2013/uniform-guidance-crosswalk-from-predominate-source-in-existing-guidance.pdf>.

³ Separate guidance will be issued as necessary to identify and clarify whether all provisions of part 200 apply to the Section 8 project-based and tenant-based programs, particularly with respect to financial management concerns and alternative requirements. This guidance will be based, in part, on the treatment of this assistance in [CMS Contract Management Services et al v. Massachusetts Housing Finance Agency v. United States](#) for which the Solicitor General has sought certiorari from the Supreme Court (745 F.3d 1379 (Fed. Cir. 2014)).

Questions from grant recipients, subrecipients and contractors should be directed to their HUD Headquarters or Field Office contacts, Government Technical Representatives (GTRs) or Government Technical Monitors (GTMs).

For HUD Headquarters and field office staff, operational questions should be directed to the Office of Strategic Planning and Management's Grants Management and Oversight Division at (202) 402-3964 (this is not a toll-free number), or Loyd.LaMois@hud.gov, and policy questions should be directed to the Office of the Chief Financial Officer's Financial Policy & Procedures Division at (202) 402-2277 or Scott.Moore@hud.gov. Persons with hearing or speech impairments may access the number above through TTY by calling the toll-free Federal Relay Services at (800) 877-8339.

- 200.93 Subrecipient.
- 200.94 Supplies.
- 200.95 Termination.
- 200.96 Third-party in-kind contributions.
- 200.97 Unliquidated obligations.
- 200.98 Unobligated balance.
- 200.99 Voluntary committed cost sharing.

Subpart B—General Provisions

- 200.100 Purpose.
- 200.101 Applicability.
- 200.102 Exceptions.
- 200.103 Authorities.
- 200.104 Supersession.
- 200.105 Effect on other issuances.
- 200.106 Agency implementation.
- 200.107 OMB responsibilities.
- 200.108 Inquiries.
- 200.109 Review date.
- 200.110 Effective date.
- 200.111 English language.
- 200.112 Conflict of interest.
- 200.113 Mandatory disclosures.

Subpart C—Pre-Federal Award Requirements and Contents of Federal Awards

- 200.200 Purpose.
- 200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts.
- 200.202 Requirement to provide public notice of Federal financial assistance programs.
- 200.203 Notices of funding opportunities.
- 200.204 Federal awarding agency review of merit of proposals.
- 200.205 Federal awarding agency review of risk posed by applicants.
- 200.206 Standard application requirements.
- 200.207 Specific conditions.
- 200.208 Certifications and representations.
- 200.209 Pre-award costs.
- 200.210 Information contained in a Federal award.
- 200.211 Public access to Federal award information.

Subpart D—Post Federal Award Requirements

- Standards for Financial and Program Management
- 200.300 Statutory and national policy requirements.
 - 200.301 Performance measurement.
 - 200.302 Financial management.
 - 200.303 Internal controls.
 - 200.304 Bonds.
 - 200.305 Payment.
 - 200.306 Cost sharing or matching.

- 200.307 Program income.
- 200.308 Revision of budget and program plans.
- 200.309 Period of performance.

Property Standards

- 200.310 Insurance coverage.
- 200.311 Real property.
- 200.312 Federally-owned and exempt property.
- 200.313 Equipment.
- 200.314 Supplies.
- 200.315 Intangible property.
- 200.316 Property trust relationship.

Procurement Standards

- 200.317 Procurements by states.
- 200.318 General procurement standards.
- 200.319 Competition.
- 200.320 Methods of procurement to be followed.
- 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.
- 200.322 Procurement of recovered materials.
- 200.323 Contract cost and price.
- 200.324 Federal awarding agency or passthrough entity review.
- 200.325 Bonding requirements.
- 200.326 Contract provisions.

Performance and Financial Monitoring and Reporting

- 200.327 Financial reporting.
- 200.328 Monitoring and reporting program performance.
- 200.329 Reporting on real property.

Subrecipient Monitoring and Management

- 200.330 Subrecipient and contractor determinations.
- 200.331 Requirements for pass-through entities.
- 200.332 Fixed amount subawards.

Record Retention and Access

- 200.333 Retention Requirements for Records.
- 200.334 Requests for transfer of records.
- 200.335 Methods for collection, transmission and storage of information.
- 200.336 Access to records.
- 200.337 Restrictions on public access to records.

Remedies for Noncompliance

- 200.338 Remedies for noncompliance.
- 200.339 Termination.
- 200.340 Notification of termination requirement.
- 200.341 Opportunities to object, hearings and appeals.
- 200.342 Effects of suspension and termination.

<p>200.474 Travel costs. 200.475 Trustees.</p> <p>Subpart F—Audit Requirements</p> <p>General 200.500 Purpose.</p> <p>Audits 200.501 Audit requirements. 200.502 Basis for determining Federal awards expended. 200.503 Relation to other audit requirements. 200.504 Frequency of audits. 200.505 Sanctions. 200.506 Audit costs. 200.507 Program-specific audits.</p> <p>Auditees 200.508 Auditee responsibilities. 200.509 Auditor selection. 200.510 Financial statements. 200.511 Audit findings follow-up. 200.512 Report submission.</p> <p>Federal Agencies 200.513 Responsibilities.</p> <p>Auditors 200.514 Scope of audit. 200.515 Audit reporting. 200.516 Audit findings. 200.517 Audit documentation. 200.518 Major program determination. 200.519 Criteria for Federal program risk. 200.520 Criteria for a low-risk auditee.</p> <p>Management Decisions 200.521 Management decision.</p> <p>Appendix I to Part 200—Full Text of Notice of Funding Opportunity Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs) Appendix IV to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for nonprofit Organizations</p>	<p>Appendix V to Part 200—State/Local Government Central Service Cost Allocation Plans Appendix VI to Part 200—Public Assistance Cost Allocation Plans Appendix VII to Part 220—States and Local Government and Indian Tribe Indirect Cost Proposals Appendix VIII to Part 200—Nonprofit Organizations Exempted From Subpart E—Cost Principles of Part 200 Appendix IX to Part 200—Hospital Cost Principles Appendix X to Part 200—Data Collection Form (Form SF-SAC) Appendix XI to Part 200—Compliance Supplement</p>
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