



The City of New York
Office of Management and Budget
255 Greenwich Street • New York, New York 10007

Elissa S. Granick, Compliance Officer, Counsel's Office

Re: Compliance Process for the City's Discretionary Capital Grant Program – Funding Recipient Responsibilities and Obligations

New York City Office of Management and Budget ("OMB") on behalf of the City of New York (the "City") conducts compliance reviews (the "Compliance Process") of not-for-profit organizations that have received capital funding from the City under the City's discretionary capital grant program ("Funding Recipients"). The principal goals of the Compliance Process are to verify that the Funding Recipient is complying with its obligations under the corresponding legal documents relating to the funding of the capital asset, including verifying that the Funding Recipient:

- has been reimbursed only for costs incurred and payments made for the pre-approved capital asset or project;
- has used and continues to use the City – funded property for the defined City Purpose;
- adheres to the ownership, control, operation, location, use and maintenance requirements for the capital asset or project; and
- cleared or subordinated conflicting liens and properly filed the restrictive covenant (in the case of the funding of real property acquisition or construction or reconstruction projects) or the requisite Uniform Commercial Code (UCC) financing statements and/or Notice of Liens (in the case of the funding of moveable equipment and/or vehicles) so that the City's lien is in a first priority position.

The scope of the Compliance Process may also cover the use of any City-owned property or capital asset and/or the planned use of any approved and pending capital project and, the Funding Recipient's resources and capacity to fulfill its obligations for the time remaining under the City Purpose Covenant's Performance Term. OMB may initiate the compliance review at any time during the performance term with proper notice. OMB reviews the relevant transaction documents, required books and records and other requested information about the Funding Recipient, the funded capital asset or project and the premises. The review typically involves an on-site inspection of the funded capital asset(s) or project and related books and records. OMB's Compliance Officer will also meet with senior management to discuss matters regarding the City Purpose and the use of the capital asset or project. The Funding Recipient is responsible for maintaining complete and accurate records regarding the Funding and the capital asset or project, and for sharing such records with OMB upon request. The Funding Recipient is also obligated to permit the on-site inspection of the capital asset, the Premises and the records, and to fully participate in the management meeting.

OMB will work with the Funding Recipient whenever possible to facilitate its compliance. It is

essential that OMB receive the Funding Recipient's full participation and cooperation throughout the Compliance Process. OMB's Compliance Officer will determine if the Funding Recipient complies with its contractual requirements under the discretionary capital grant's transaction documents. Upon the discovery of instances of inadvertent non-compliance with the Funding Recipient's obligations under such documents, OMB's Compliance Officer will communicate a plan of action so that such non-compliance may be cured within a reasonable timeframe by the Funding Recipient. Once notified, the Funding Recipient is obligated to take all steps necessary to cure all instances of non-compliance.

Upon the discovery of material instances of non-compliance due to fraud or other illegal activities, such findings shall be referred to the City's Department of Investigation or other appropriate law enforcement agency for investigation. The Funding Recipient is obligated to cooperate fully and faithfully with any investigation, audit and/or inquiry initiated by the City and its agents. If the Funding Recipient is unable or unwilling to cure material contractual violations, the consequences of such failure may be the denial of future funding for capital grants, forfeiture of the capital asset or project or any other legal remedies permissible under the transaction documents.