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OMB Finalizes Major Grant Reforms

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Summary

On December 26, 2013, the Office of Management and Budget (OMB) published final [guidance](#) in the *Federal Register* to implement specific reforms for federal policies relating to grants and cooperative agreements involving state and local governments as well as universities and nonprofit organizations. The reforms cover a wide range of areas, including administrative requirements, cost principles, and audit requirements.

The final guidance is similar to the notice of proposed guidance (NPG) that OMB published on February 1, 2013, although it does reflect some feedback received through the comment period. OMB received more than 300 responses from the grant community on both the NPG and the advanced notice of proposed guidance (ANPG) issued on February 28, 2012. The reforms are a result of several executive orders to reduce administrative burdens and increase flexibility, while at the same time targeting improper payments and improving program performance. Moreover, they reflect various ideas from OMB's collaboration with federal, state, and local representatives and other key groups to evaluate potential federal grant reforms.

The final guidance streamlines requirements from eight existing OMB circulars into one document—[Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#)—that applies to grants and cooperative agreements made to state, local, and tribal governments, institutions of higher education, and nonprofit entities. The consolidation is intended to eliminate duplicative and conflicting provisions, clarify where policies are uniform, and highlight the differences that exist among entities. It also makes several modifications to existing requirements. The guidance is effective on December 26, 2014, for nonfederal entities, with some flexibility for a smooth transition period.

Administrative Requirements

Administrative requirements are included in circulars A-102 (*Grants and Cooperative Agreements with State and Local Governments*), A-110 (*Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations*), and A-89 (*Catalog of Federal Domestic Assistance*). The final guidance consolidates the administrative requirements of these circulars into the uniform guidance.

The final guidance includes a number of other changes:

- Requires federal agencies to design and execute a merit review process for applicants of competitive grants or cooperative agreements.
- Prior to making an award (competitive and noncompetitive), requires federal agencies to consider each applicant's risk to the program to ensure greater transparency and less chance of waste, fraud, and abuse.
- Identifies standard information that must be included in funding opportunity announcements for competitive grants and cooperative agreements.
- Generally requires that notices of funding opportunities for competitive grants and cooperative agreements be open for a minimum of 60 days on www.grants.gov. Agencies may make a determination to provide a shorter timeframe, but no opportunity should be available for less than 30 days except under exigent circumstances.
- Identifies uniform requirements for information that agencies must include in federal award notices.
- Makes federal agencies responsible for informing grantees of national policy requirements.
- Requires federal agencies to provide grant recipients with clear performance goals, indicators, and milestones.
- Adds a new section on subrecipient monitoring to clarify oversight responsibilities (previously located in different places in multiple circulars).
- Adds a new section to make explicit the responsibility of nonfederal entities with regards to internal controls, including safeguarding information.
- Expands guidance on grant close-out requirements and extends close-out deadlines.
- Clarifies that the three-year period for document retention begins on the day the award recipient submits the final expenditure report.
- Includes new language allowing OMB, on a case-by-case basis, to waive certain requirements and approve new strategies for innovative outcome-focused grant designs; expands authority to allow for blending of funding (see OMB Memorandum [13-17](#)).

The following link provides a comparison of the circulars with the final uniform guidance:

http://www.whitehouse.gov/sites/default/files/omb/fedreg/2013/uniform_guidance_administrative_requirements_text_comparison.pdf

Cost Principles

Three OMB circulars address cost principles (A-21, *Cost Principles for Educational Institutions*; A-87, *Cost Principles for State, Local and Indian Tribal Governments*; and A-122, *Cost Principles for Non-Profit Organizations*) as well as a Department of Health and Human Services (HHS) regulation that focuses on cost principles for hospitals. OMB Circular A-87, which affects state and local governments, includes general principles for determining allowable costs,

specifies whether selected costs are allowable, and discusses the requirements for cost allocation plans and indirect cost rate proposals.

OMB's final guidance consolidates all of the cost principles into the uniform guidance, with the exception of the hospital cost principles, which may be done at a later date.

Indirect Cost Rates. The final guidance makes several changes to indirect cost rates. First, it allows certain entities that do not have a negotiated indirect cost rate to be eligible for a rate of 10% of modified total direct costs indefinitely (the NPG had placed a four-year time limit on use of this rate). (State and local governments that receive more than \$35 million in direct federal funding must submit an indirect cost rate.) Identical to the NPG, OMB gives entities with a current negotiated indirect cost rate the option of applying for a one-time extension for a period of up to four years (as long as there have been no major changes to indirect costs). If approved, an entity may not request a rate review until the extension period ends.

Additionally, the final guidance specifies that pass-through entities must honor the federally negotiated indirect rate of the subrecipient or, if a rate does not exist, either negotiate a rate with the subrecipient in accordance with federal guidance or provide the minimum flat rate. Moreover, federal agencies must accept the negotiated rates except under certain circumstances outlined in the guidance. The guidance does not make major changes to cost allocation plans, although it does update the definition of a major local government that is required to submit a central services cost allocation plan.

Time and Effort Reporting. In its ANPG, OMB emphasized its desire to explore alternatives to time-and-effort reporting, without including specific proposals. Currently, salaries and wages of employees who work on federally funded programs may be paid with federal funds as long as "time and effort" records are maintained. Based on feedback, it became clear that the audit community strongly believes that time-and-effort reporting is critical for confirming the appropriate use of funds. As a result, the proposed guidance did not focus on alternatives; instead, it broadened the language under the cost item "Compensation—Personal Services" by focusing on broad principles rather than specific examples of compliance while still allowing agencies to approve alternative methods. OMB maintained this approach in its final guidance. However, the final guidance requires nonfederal entities to have a strong system of internal controls in place to document compliance.

Other Changes. OMB implements other changes that primarily provide clarification of allowable costs. For example, similar to the NPG, the final guidance does the following:

- Clarifies the circumstances under which allocable administrative support may be charged as a direct cost, although approval of the federal awarding agency is required.
- Allows recipients to keep funds collected to cover the expense of efforts to recover improper payments.
- Makes numerous changes that would benefit research facilities or institutions of higher education.

The final uniform guidance, including a comparison with the cost principle circulars, is available at:

<http://www.whitehouse.gov/sites/default/files/omb/fedreg/2013/uniform-guidance-cost-principles-requirements-text-comparison.pdf>

Audit Requirements

Single audit requirements are contained in Circular A-133 (*Audits of States, Local Governments and Non-Profits Organizations*) and Circular A-50 (*Audit Follow-up*). Under current law, single audit requirements apply to those non-federal entities that expend \$500,000 or more a year in federal awards. Additionally, there are 14 different types of compliance requirements, such as allowable activities, allowable costs, cash management, eligibility, reporting, and subrecipient monitoring (a complete list is available [here](#)).

The OMB final guidance includes many changes to the audit requirements, with the goal of ensuring that they are more efficiently targeted to focus on high-risk entities and high-dollar awards. As recommended in the NPG, the final guidance increases the audit threshold from \$500,000 to \$750,000, and raises the threshold for an auditor to report questioned costs from \$10,000 to \$25,000. The guidance also makes changes to the major program determination (a risk-based approach to determine which federal programs should be audited) to reduce the number of major programs tested, and target audit coverage of programs with internal control weaknesses.

In the NPG, OMB proposed to eliminate seven compliance requirements: Davis Bacon; equipment and real property management; portions of matching, level of effort, and earmarking; periods of availability of federal funds (except as part of allowable/unallowable costs); procurement and suspension and debarment; program income; and real property acquisition and relocation assistance. The following compliance requirements would remain: activities allowed or unallowed, allowable costs/cost principles, cash management, eligibility, reporting, subrecipient monitoring, and special tests and provisions. While most commenters supported these changes, a number of concerns were raised. As such, the final guidance did not modify the compliance requirements; instead, OMB will pursue possible changes through the compliance supplement process.

The OMB final guidance does include the proposals in the NPG to strengthen the guidance to federal agencies on how they follow up on audit reports. Examples include:

- Require agencies to designate a senior agency official to oversee the audit resolution process.
- Require agencies to implement audit-risk metrics.
- Encourage agencies to engage in cooperative audit resolution with recipients.
- Encourage agencies to take a proactive approach to resolving weakness and deficiencies.
- Shorten the audit resolution period from six months to three months.

To aid in this process, the guidance requires online publication of single audit reports.

The audit requirement comparison chart can be found at:
<http://www.whitehouse.gov/sites/default/files/omb/fedreg/2013/uniform-guidance-audit-requirements-text-comparison.pdf>

Next Steps

All information that OMB has issued on the final guidance is available at:
http://www.whitehouse.gov/omb/grants_docs

Federal agencies must submit implementing regulations to OMB within six months. It is expected that the guidance will be effective for nonfederal entities on December 26, 2014, and will apply to new federal awards and additional funding provided after that date. The audit requirements will apply to audits of fiscal years beginning on or after December 26, 2014. Those audit requirements applying to federal agencies are effective December 26, 2013. OMB will review the guidance every five years.

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