

OMB Uniform Guidance Final Rule

Significant Improvements to Federal Grants Rules for Charitable Nonprofits

April 4, 2024

The federal Office of Management and Budget (OMB) has announced [major reforms to the Uniform Guidance](#), the set of common rules governing most federal grantmaking to charitable nonprofits, state, local, and Tribal governments, and others. The reforms correct longstanding challenges in the government grants process that have limited nonprofit effectiveness, discouraged qualified organizations from seeking and performing under federal grants, and wasted billions of dollars and countless hours in needlessly complex reporting requirements. Specifically, the revisions to the OMB Uniform Guidance, which becomes effective October 1, 2024, address longstanding problems in recovering actual costs, advance equity by removing bureaucratic barriers, and make other significant reforms that will reduce burdens and costs of seeking, performing, and reporting on grants using federal funds.

Indirect Cost Rates - Righting Wrongs Suffered by Charitable Nonprofits

In most cases, charitable nonprofits operating outside the higher education space have found themselves at the end of the grantmaking food chain and subjected to unsustainable program mandates and restrictive funding options. A key area of challenge involves indirect costs (sometimes called “overhead”), which are costs that cannot be allocated to a specific program but are spread out across an organization. The reforms in 2 CFR Sec. 200.414 correct past problems in four significant ways:

- 1. 15% *de minimis* rate:** The new version of the OMB Uniform Guidance raises the guaranteed *de minimis* rate for indirect costs from 10% to 15% of modified total direct costs. OMB states, “This change would allow for a more reasonable and realistic recovery of indirect costs, particularly for new or inexperienced organizations that may not have the capacity to undergo a formal rate negotiation, but still deserve to be fully compensated for their overhead costs.”
- 2. No Browbeating Allowed:** The revised guidance, which has the effect of law, clarifies that governments may not compel recipients and subrecipients to use an indirect rate lower than the 15% *de minimis* rate, unless required by statute. Organizations can voluntarily choose not to utilize the 15% minimum, but they cannot be forced to.

- 3. Notice of Indirect Cost Disputes:** OMB further clarifies in the Guidance that recipients and subrecipients may notify OMB of any disputes with regards to a federal agency’s application or acceptance of a federally negotiated indirect cost rates. This major change means nonprofits can turn to OMB for help when federal agencies are not following the law.
- 4. Stronger Mandate on Following Indirect Cost Rates:** The revised OMB Uniform Guidance also makes clear that pass-through entities – typically state and local governments – must accept all federally negotiated indirect cost rates (NICRAs) for subrecipients. This means that nonprofits with negotiated rates with one federal agency must be paid that same rate by all other federal, state, and local government agencies.

Reducing Complexity - Advancing Equity and Overcoming Barriers

OMB is also adopting numerous changes to advance equity and overcome barriers that many organizations have faced in accessing funding opportunities that include federal funds. In proposing the reforms, OMB stated that “unnecessary complexity means that often the recipients most in need of federal financial assistance cannot access it, including those who may be most well suited to serve the populations many federal programs are designed to serve.” The following provisions are some that de-complexify the grant-seeking process [brackets indicate 2 CFR section]:

- The exclusive use of **English language** in notices, applications, and reporting will no longer be required. [200.111]
- The revised rules encourage federal agencies to urge recipients to **engage members of the community** that will benefit from or be impacted by a federal financial assistance program. [200.202]
- Reforms to simplify and clarify **Notices of Funding Opportunities**, discussed below, are designed, according to OMB, “in consideration of applicants with less experience applying for federal financial assistance, such as applicants from underserved communities.” [202.204]
- OMB clarifies in the Uniform Guidance that a federal agency should **consider diversity when developing policies** and procedures for merit review panels. OMB also encourages federal agencies to develop programs in **consultation with the communities** that will benefit from or be impacted by a program. [200.205]

Additional Significant Reforms and Clarifications

The revised OMB Uniform Guidance also mandates the following significant reforms that will reduce burdens and costs of seeking, performing, and reporting on federal grants -

- Completely revises **Notices of Funding Opportunities** (NOFOs) to include basic information at the top of a grant announcement so that applicants can more easily make decisions about whether or not to apply. NOFOs, also called “requests for proposals” in some settings, will have to include an Executive Summary and use plain language (as opposed to jargon) that communicates program requirements specifically and clearly. [200.204; Appendix 1]

- **Up-Front Payments:** Several charitable nonprofits submitting comments urged OMB to adopt a policy in favor of up-front payments rather than relying on reimbursable payments that can come months after service performance. In response to these comments, OMB states in its executive summary that the current 2 CFR Sec. 200.305 “already recognizes advance payments as the default payment method for recipients and subrecipients, other than States, when the relevant criteria can be met.” The Final Rule states in 200.305(b): “The recipient or subrecipient must be paid in advance,” provided specific financial and written procedures are met. The section goes on to state that “[r]eimbursement is preferred when the requirements in paragraph (b) cannot be met.” This means governments can be urged to make advanced payments to nonprofits and not assume that reimbursable grants are the only option.
- Raises the **Single Audit Threshold** from \$750,000 to \$1 million. [200.501]
- OMB is changing the reporting of program performance by requiring federal agencies to eliminate reports **that are not necessary for the effective monitoring of the grant**. In short, OMB is adopting the approach of only measuring things that matter. [200.301]

Resources

- [Final Rule: Guidance for Grants and Agreements](#), pre-publication version of the final guidance, Apr. 4, 2024.
- [The Biden-Harris Administration Finalizes Guidance to Make Grants More Accessible and Transparent for Families, Communities, and Small Businesses](#), White House News Release, Apr. 4, 2024.
- [OMB Uniform Guidance](#), National Council of Nonprofits web resources, updated Apr. 4, 2024.

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