

Significant Improvements to Federal Grants Rules Proposed

Longstanding Nonprofit Concerns Addressed

The Biden Administration is proposing significant changes to the rules governing federal grantmaking that would correct longstanding challenges 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. In [announcing the reforms](#), the Administration asserted that the “proposal will materially decrease the burden on recipients of federal financial assistance, advance equity and job growth across the country, and meaningfully improve the administration of federal financial assistance.”

The [comprehensive reform proposal](#) seeks to amend the OMB Uniform Guidance that provides common rules that govern most federal grantmaking to charitable nonprofits, state, local, and tribal governments, and others. The public is invited to submit comments on the proposed rule changes by December 4, 2023.

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, those costs (sometimes called “overhead”) that cannot be allocated to a specific program but are spread out across an organization. The proposed reforms correct past problems in four significant ways:

1. **15% *de minimis* rate:** OMB proposes to raise 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 proposed guidance clarifies that federal agencies may not compel recipients and subrecipients to use an indirect rate lower than the proposed 15% rate, unless required by statute. Organizations can choose not to utilize the 15% minimum, but they can’t be forced to.
3. **Notice of Indirect Cost Disputes:** OMB proposes to clarify 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 means nonprofits can turn to OMB for help when agencies are not following the law.
4. **Stronger Mandate on Following Indirect Cost Rates:** OMB also proposes to revise the guidance to clarify that pass-through entities, typically state and local governments, must accept all federally negotiated indirect cost rates for subrecipients. This would mean that nonprofits with negotiated rates with one agency would have to be paid that same rate by other agencies.

Advancing Equity and Overcoming Barriers

A motivation for advancing some of the proposed revisions to the OMB Uniform Guidance appears to be the view of OMB 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 Administration’s announcement goes on to state, “Non-specialists face difficulties in navigating complex compliance requirements and overcoming high barriers to entry.” The following provisions are some of the ones directly connecting to removing complexity and overcoming barriers [brackets indicate 2 CFR section]:

- The exclusive use of **English language** in notices, applications, and reporting would not be required. [200.111]
- The proposed revisions seek to encourage 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]
- Proposed reforms to simplify and clarify **Notices of Funding Opportunities**, discussed above, 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 proposes to clarify that a federal agency should **consider diversity when developing policies** and procedures for merit review panels. [200.205]
- OMB also proposes to encourage 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

The reforms would also -

- Completely revise **Notices of Funding Opportunities** (NOFOs) so they 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 would have to include an Executive Summary and use plain language (as opposed to jargon) that communicates program requirements specifically and clearly, as well as limit the length of program announcements.
- Raise the **Single Audit Threshold** from \$750,000 to \$1 million.
- Measure things that matter. OMB proposes to revise the reporting of program performance by requiring federal agencies to eliminate reports **that are not necessary for the effective monitoring of the grant**.

Resources

- [Dollars Delivering Results: Biden-Harris Administration Publishes Proposed Updates to the Uniform Grants Guidance to Improve Impact of Federal Grants and Other Financial Assistance](#), White House News Release, Sept. 22, 2023.
- [Guidance for Grants and Agreements](#), published in the *Federal Register*, Oct. 5, 2023.
- [Government Grants and Contracts](#), National Council of Nonprofits web resources.

Contact

David L. Thompson, Vice President of Public Policy dthompson@councilofnonprofits.org.