

Summary of Proposed Guidance on Federal Grant Policies

The U.S. Office of Management and Budget is issuing proposed changes to grants policy to ensure integrity in the financial management and operation of federal programs and to strengthen accountability for federal dollars by improving policies that protect against waste, fraud and abuse. OMB is similarly issuing proposed guidance in an effort to increase the impact and accessibility of programs by minimizing the time spent complying with unnecessarily burdensome administrative requirements.

ADMINISTRATIVE REQUIREMENTS

Announcement of Funding Opportunities and Agency Review of Merit of Proposals and Risk Posed By Applicants

Federal agencies must comply with the announcement of funding opportunities and pre-award risk criteria for all competitive federal financial assistance awards. However, federal agencies **may** also use the announcement and risk criteria for non-competitive awards where appropriate.

.203 Public Notice

For each individual discretionary federal financial assistance program that issues competitive grants or cooperative agreements, federal awarding agencies must notify the public of funding opportunities through an announcement displayed on an OMB-designated government-wide website for finding and applying for federal assistance. The guidance lists the information that must be included in the announcement, which must contain both a summary of information and a full text.

.204 Announcements of Funding Opportunities

All notices of funding opportunity should be open for a minimum of 30 days on grants.gov.

.205 Agency Review of Merit of Proposals and Risk Posed by Applicants

Prior to making an award, whether competitive or non-competitive, a federal agency shall evaluate the risks to the program posed by each applicant if it receives an award. This review is in addition to evaluating an applicant's eligibility or quality of its application. Items that may be considered include: financial stability, quality of management systems, history of performance, eligibility, single audit reports, and applicant eligibility.

For competitive grants, agencies are also required to design and execute a merit review process.

.207 Specific Conditions for Recipients

Where a recipient fails materially to comply with the general or specific conditions of an award, federal agencies may impose additional requirements or conditions on an individual recipient. Section 207 lists the specific notification that is required to impose additional requirements or conditions on recipients.

Subchapter C – Federal Award Notice

This section provides the notification award criteria and method of notification. Award notices are to include information such as the award recipient, the recipient's DUNs number, unique identifier, and the date and amount of the award. In addition, terms and conditions and administrative requirements must be listed along with any other information that may be required by the agency.

Subchapter D –Award Terms and Conditions

This section provides the terms and conditions to be included in the award notice. This information includes terms and conditions set forth by policy, found in the authorizing statute, terms specific to the federal agency, and award performance goals.

Subchapter E – Post Award Requirements

This section includes post award information including sub-recipient monitoring, financial and program management, property standards, procurement standards, performance and financial monitoring and reporting, record retention and access, termination and enforcement, closeout, post closeout adjustments and continuing responsibilities, and collection of amounts due.

.501 – Sub-recipient Monitoring and Management – This section provides that an eligible recipient may perform or sub-award all or a portion of the award. A pass-through entity is to determine whether a relationship with another entity constitutes a sub-recipient or contractor relationship. This section also provides what a pass-through entity's responsibilities are for ensuring that a sub-recipient is complying with the terms of the award.

This section also provides that pass-through entities must either honor the indirect cost rates negotiated at the federal level, negotiate a rate in accordance with federal guidelines, or provide the minimum flat rate.

.503 –Property Standards

Equipment may apply to equipment for information technology systems which have been consolidated. Equipment that is no longer needed for the federal program for which it was purchased may be used to support other federally funded programs.

.506 –Records and Retention

The three year period for the retention of records starts on the day the award recipient submits a final expenditure report. This section also specifically authorizes awarding agencies, inspectors general and the Comptroller General of the United States to access all documentation pertinent to the award to satisfy an audit inquiry.

.808 –Closeout

Requires that federal agencies closeout actions for federal awards no later than 180 days after the final report is received.

COST PRINCIPALS

Subchapter F

OMB has consolidated the cost principals (except those for hospitals). Appendices IV-X provide specific guidance for negotiating indirect cost rates that vary by specific type of entity.

.616 - Indirect Costs

This section provides an option of extending the negotiated rate for up to four years subject to the approval of the indirect cost cognizant agency. The one-time extension can only be utilized if there have been no major changes to indirect costs.

A minimum flat rate of 10 percent is now allowable to ensure that entities without the capacity for full negotiation receive a minimum reimbursement (for no more than four years until they develop negotiating capacity).

This section also includes a list of circumstances under which agencies may make exceptions to the negotiated rate.

.621 Selected Items of Cost

C-10 Compensation – Personal Services (Time and Effort Reporting). This section consolidates reporting requirements that previously differed across types of entities and eliminates specific examples in order to clarify broad principals of how an entity may establish internal controls to allow the entity to validate costs.

C-31 Material and Supply Costs. The cost of computing devices not otherwise subject to inventory controls are allowable direct cost supplies. \$5,000 dollars is the threshold for an allowable maximum residual inventory of unused supplies as long as the cost was properly allocable to the original agreement at the time of purchase. There is no requirement to retain the supplies for use on another federal award.

C-15 Depreciation. The restrictions on depreciation reimbursements have been eliminated.

C-12 Contingency Provisions. Budgeting for contingency funds associated with a federal award for the construction or upgrade of a large facility or instrument, or for IT systems, is an acceptable and necessary practice, and the method by which contingency funds are managed and monitored is at the discretion of the federal funding agency. Reserve funds, which recipients draw down in advance of a particular event actually occurring, are unallowable.

C-24 Idle Facilities and Idle Capacity. This section allows for excess or idle capacity in consolidated data centers, telecommunications, and public safety facilities.

C-8 Collection of Improper Payments. This section allows recipients to keep the amount of funds collected to cover the expense of collections efforts to recover improper payments, where the amount collected is likely to exceed the expense of collection. The costs may be considered direct or indirect costs as is most appropriate for the entity. Amounts in excess of the expense of collection shall be treated in accordance with accepted cash management standards.

REFORMS TO AUDIT REQUIREMENTS (A-133 and A-50)

Audit Threshold

The threshold for the single audit is raised from \$500,000 to \$750,000.

Major Program Determination

The proposed guidance increases the minimum threshold for a program to be Type A from \$300,000 to \$500,000 (but does not change the alternative three percent of total federal awards expended).

The proposal also refocuses the criteria for a Type A program to qualify as high-risk. Revised criteria would result in a Type A program being designated as high-risk only when in the most recent period the program failed to receive an unqualified opinion; had a material weakness in internal controls; or had questioned costs exceeding five percent of the program's expenditures. The requirement that a Type A program be audited as major at least once every three years, regardless of whether it is high or low risk, remains the same.

OMB is also proposing to:

- Reduce the number of high-risk Type B programs that must be tested as major programs from at least one-half to at least one-fourth of the number of the low-risk Type A programs.
- Allow the auditor to stop the Type B program risk assessment process after this number of high-risk Type B programs is identified.

Further, the proposed guidance simplifies the calculation to determine relatively small Type B programs for which the auditor is not required to perform a risk assessment from the current stepped approach to a flat 25 percent of Type A/B threshold. The change allows more Type B programs to be classified as relatively small.

The proposal reduces the minimum coverage required under the percentage of coverage rule from the current 50 percent for a regular auditee and 25 percent for a low-risk auditee, to at least 40 percent for a regular and 20 percent for a low-risk auditee.

Questioned Costs

The proposed guidance increases the minimum threshold for reporting questioned costs from \$10,000 to \$25,000 to focus on audit findings presenting the greatest risk.

Streamlining Types of Compliance Requirements

.713 Responsibilities

In this section, OMB is proposing to limit the types of compliance requirements to seven requirements:

1. Activities Allowed or Unallowed.
2. Allowable Costs/Cost Principals.
3. Cash Management.
4. Eligibility.
5. Reporting.
6. Subrecipient Monitoring,
7. Special Tests and Provisions.

Additionally the proposal eliminates several types of compliance requirements. Specifically, Davis Bacon, Equipment and Real Property Management, the latter two components of Matching, Level of Effort and Earmarking, Period of Availability of Federal Funds (except to verify allowable and unallowable costs), Procurement and Suspension and Debarment, Program Income, and Real Property Acquisition and Relocation Assistance. OMB will, however, consider requests from agencies to add one or two of the removed requirements back in, either because they are required by statute or when the agency makes a strong case for how non-compliance with one of the removed requirements would result in increased risk of improper payments, waste, fraud, or abuse. The federal agency must also provided a targeted write-up identifying improper payment risks and focuses on audit tests that address such risks.

Strengthening Audit Follow-up (.713 responsibilities)

This section:

- Requires federal agencies to designate a senior accountable official.
- Requires agencies to implement audit-risk metrics, including timeliness of report submission, number of audits that did not have an unqualified auditor opinion on major programs, and number of repeat audit findings.
- Encourages cooperative audit resolution.
- Encourages a pro-active approach to resolving weaknesses and deficiencies.
- Digitizes single audit reports.

OMB is also proposing to work with the Single Audit Clearinghouse to address privacy concerns so that single audit reports may be made publically available.

Across-Agency Coordination

Language has been strengthened in .713 to make clear that it is the responsibility of the cognizant or oversight agency to coordinate audits or reviews by other federal agencies that are made in addition to the single audit.

The proposal also provides that the cognizant or oversight agency will provide management decisions for all findings in which it has funds directly implicated, and will make those management decisions publically available (if the privacy concerns can be managed with the Federal Audit Clearinghouse).