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Federal Grant & Contract News for Nonprofits - March 2013

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In February, there was a particularly important development with respect to the governing regulations for nonprofits in the federal grant and contract arena. The U.S. Office of Management and Budget ("OMB") has proposed an overhaul of the regulations that govern federal grants and, to a lesser extent, contracts, for nonprofits, including OMB Circulars A-110, A-122, and A-133, as well as five other documents.

OMB Issues Proposed Reforms to Nonprofit Circulars

A year ago, OMB sought public comment on its thoughts for reforming the various policies that govern federal grants and contracts for nonprofits. Subsequently, on February 1, 2013, OMB published proposed reforms aimed at improving the way that the federal government administers the more than \$600 billion awarded annually for grants and other types of federal financial assistance. This reform proposal, titled "Proposed Uniform Guidance: Cost Principles, Audit, and Administrative Requirements for Federal Awards," combines the multiple federal regulations that currently govern the way the federal government administers grants and, to a lesser extent, contracts, into a single, comprehensive, and streamlined uniform policy guide. According to OMB, the revisions are intended:

[T]o both increase the efficiency and effectiveness of grant programs by eliminating unnecessary and duplicative requirements and strengthen the oversight of grant dollars by focusing on areas such as eligibility, monitoring of sub-recipients, adequate reporting, and other areas that are potential indices of waste, fraud, or abuse.

Specific measures in the proposal include:

- Consolidating and streamlining all OMB guidance on grants from eight documents into one, while clarifying key differences for different entities;
- Altering how indirect costs are handled, including allowing an indirect cost minimum of 10 percent for qualifying entities and extending negotiated indirect cost rates for up to four years;
- Simplifying the reporting requirements that grantees must adhere to in justifying salaries and wages charged to grants;
- Ensuring that federal agencies better review financial risk posed by applicants and the merits of an application before providing a grant (for example, the proposals update the criteria for high-risk Type A programs);
- Reducing the 14 types of compliance requirements to be tested to six compliance items, including activities allowed or unallowed and allowable cost/cost principles, cash management, eligibility, reporting, sub-recipient monitoring, and special tests and provisions;
- Providing guidance to ensure robust oversight of sub-recipients;
- Updating the audit and program thresholds; for instance, the audit threshold is raised from \$500,000 to \$750,000, and the Type A/B program thresholds are raised from \$300,000 to \$500,000;
- Requiring additional detail to be reported in response to auditor findings, however, the questioned cost threshold for reporting will be increased from \$10,000 to \$25,000;
- Focusing more audit resources on preventing waste, fraud, and abuse; and
- Holding agencies accountable for getting results and addressing weaknesses among grant recipients.

Overall, the proposal is a welcome change to what has previously been a morass of regulation. On the other hand, nonprofits should remain mindful and vigilant in their compliance efforts given the heightened scrutiny to ferret out and eliminate waste, fraud, and abuse.

Interested parties are encouraged to submit comments to the proposed revisions; comments are due by May 2, 2013. The full text of the OMB proposed reforms can be found by [clicking here](#).

For more information, please contact [Dismas Locaria](#), [Melanie Jones Totman](#), [Elizabeth Buehler](#), or [Jeffrey Tenenbaum](#).

This article is not intended to provide legal advice or opinion and should not be relied on as such. Legal advice can only be provided in response to a specific fact situation.

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