

A New Accounting Rule: But Don't Sleep Through This One

03.10.15 | Linda J. Rosenthal, JD



It comes from one of the least exciting agencies in the nation's capital. Buzzwords are "overhead" and "reasonable indirect costs" and "cost allocation rules." It's a long-awaited overhaul of federal grant-making rules.

"What a snooze!' you say?"

"Not so fast," we say.

This was an enormous holiday present for two years in a row to the nonprofit community. All wrapped up with a great big bow, it was delivered on December 26, 2013, with an effective date set for exactly one year later: December 26, 2014. And it's nothing like the ugly Christmas sweater from your elderly aunt or the dried-out fruitcake from your neighbor that you bought for him last year.

What Those in the Know Are Saying

The Controller of the Office of Management and Budget waxed poetic about the OMB Uniform Guidance: "[T]his historic reform will transform the landscape [for government grants and contracts]. . . for generations to come." And the National Council of Nonprofits also released enthusiastic comments about interim final rules released in December implementing the OMB Uniform Guidance, calling them "... a major victory for people who depend on nonprofits every day." So – what's all this fuss about?

A Little Background

There's been a big problem for a long time. The federal government has had in place unfair rules and procedures about the financial burden that nonprofits absorb when they accept government grants and contracts. It takes money to *implement* these needed awards: both direct and indirect costs.

Since the federal government is a source of money that flows through to the states and local governments, (which make their own grants and contracts), this problem appeared in government awards at all levels and around the nation. Finally, a consensus emerged that organizations serving public and charitable purposes have been shortchanged – big time. And the fallout is on their missions and their charitable beneficiaries. The federal Office of Management and Budget led the comprehensive effort a few years ago to update and streamline government grantmaking. This culminated in the OMB Uniform Guidance and additional complicated steps and documents that any formal rulemaking involves. The National Council of Nonprofits explains that this is “... the federal government’s official recognition that all governments entering into written agreements with nonprofits to deliver services to the public have an affirmative duty to pay their fair share of the costs that those nonprofits incur.”

The New System: What’s In It For You?

The new rules apply to all written agreements signed after December 26, 2014, whether these arrangements are called “grants” or contracts.” “Governments at all levels – local, state, and federal – that hire nonprofits to deliver services are now required to reimburse nonprofits for the reasonable indirect costs (sometimes called ‘overhead’ or ‘administrative’ costs) they incur on behalf of governments when federal dollars are part of the funding stream.” The OMB Uniform Guidance also “streamlines and clarifies cost allocation and other rules . . . , removing some areas of confusion and inconsistency while treating more of a nonprofit’s expenses as direct (reimbursable) costs.” There are two sets of changes: one for nonprofits that are direct recipients of government money and another for nonprofits that are “subrecipients” from another nonprofit which directly received the assistance. There are “four areas of greatest importance to charitable nonprofits”:

- Reimbursement for reasonable indirect costs
- More costs are directly reimburseable
- A higher audit threshold
- Use of consistent, properly documented procurement processes

Actions to Take

The nonprofit community is encouraged to carefully review these new procedures that went into effect in late December. They must be proactive in enforcing these new rights for their benefit. This is “a major change in how the federal government is directing that its funds are to be used.” Organizations may encounter resistance from federal, state, or local employees, or other opposition based on lack of knowledge or understanding of these new rules. The National Council of Nonprofits has published a webpage with useful information and resources including links to its summary analysis – Know Your Rights . . . and How to Protect Them – and also offers a Uniform Guidance Implementation Report Form for nonprofits to use to report when they encounter obstacles or resistance from government officials.