

Major Overhaul of Federal Grantmaking Practices

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What is the most “... striking example of why and how nonprofits can use vigilance and advocacy to reform...” government policies and practices affecting the sector?

It’s the almost decade and a half struggle to achieve the meaningful and nonprofit-friendly overhaul – over 600 pages long! – of federal grantmaking regulations. See *The Power of Perseverance, Government Grants Edition* (April 8, 2024) by the National Council of Nonprofits, which was a prime mover in this major collaborative achievement.

“The story starts in 2010 ...” and culminates with the federal Office of Management and Budget’s recent unveiling of the brand new 2024 edition of what previously was called the “OMB Uniform Guidance.” (That name was short for “OMB Guidance for Grants and Agreements.”)

But, along with this milestone announcement, comes a new name: the “OMB Guidance for Federal Financial Assistance.” See Final Rule published in the Federal Register on April 22, 2024, superseding a “Pre-publication Version” released publicly on the internet on April 3rd.

Instead of tackling the lengthy Final Rule, see instead:

- *The Biden- Harris Administration Finalizes Guidance to Make Grants More Accessible and Transparent for Families, Communities, and Small Businesses* (April 4, 2023) Press Release, [whitehouse.gov](https://www.whitehouse.gov).
- *Significant Improvements to Federal Grants Rules for Charitable Nonprofits* (April 4, 2024), National Council of Nonprofits, www.councilofnonprofits.org.
- *Memorandum for Heads of Executive Departments and Agencies* [9 pp. PDF] (April 4, 2024), White House “Implementation Memorandum,” [whitehouse.gov](https://www.whitehouse.gov). [describing “... a Government-wide approach that will reduce burden for agencies and recipients, ensure

transparency and accountability, and identify specific opportunities for increased coordination throughout the lifecycle of Federal financial assistance—all to deliver results for the American people.”]

The White House explains: The new regulations set “the foundational requirements for agencies in making grants and providing other forms of Federal financial assistance, such as cooperative agreements and loans.”

It is a “... set of common rules governing most federal grantmaking to charitable nonprofits, state, local, and Tribal governments, and others.” The effective date is October 2024, but agencies may implement it as soon as June 21, 2024.

Success Achieved After 15 Years

In *The Power of Perseverance, Government Grants Edition*, the National Council of Nonprofits provides a bird’s-eye-view of: how and when this process started, why substantial reforms have long been urgently needed, and the ups and downs along the way.

Point A on this journey was “... 2010, when charitable organizations were still struggling to recover from the Great Recession and the federal government was just beginning to recognize that the mishmash of rules governing how federal grants funds were allocated, managed, and reported on needed a complete overhaul...”

NCN makes a point of lauding the efforts of federal officials who “... recognized that little in the old system was worth saving and that a single, unified set of grants rules was needed...”

“And to their even greater credit, the officials reached out to the charitable nonprofit community for input.” These early efforts turned into “...nonprofit-specific reforms in the resulting OMB Uniform Guidance of 2013. Those reforms guaranteed payment of indirect costs, streamlined applications and reporting, and fairer treatment.”

“On paper, the reforms were excellent.” But – as many observers predicted – “governments at all levels failed to follow the rules, continued to impose unfair burdens, and stonewalled numerous important fixes proposed by nonprofit advocates.”

Nonprofit advocates pushed back hard over the next several years. They “pointed out repeatedly that the minimum indirect cost rate set in [that earlier] Uniform Guidance was too low to make a difference and that it wasn’t being applied anyway. Nonprofits noted that they have no formal way to object to mistreatment or to get resolution when governments failed to follow the regulations.”

There were some successes here and there in some local areas, and there was some forward movement in the pandemic.

But “things changed” in the fall of 2023, when OMB released its proposed fundamental rewrite of the Uniform Guidance. To the pleasant surprise of the long-engaged nonprofit advocates, the problems and solutions they had been raising for years were included in the draft regulations...”

Key Reforms

The White House's April 4th Press Release summarizes the reforms in the [2024 OMB Guidance for Federal Financial Assistance](#) (April 22, 2024) in terms of broad goals achieved:

- Reduce unnecessary compliance costs.
- Remove barriers to entry.
- Ensure assistance serves intended communities.

The National Council of Nonprofits, in its April 4th [Significant Improvements to Federal Grants Rules for Charitable Nonprofits](#) mentions the key points in terms of concrete reforms newly mandated:

Under "Indirect Cost Rates – Righting Wrongs Suffered by Charitable Nonprofits," NCN explains that, generally, "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..." including most notably "indirect costs" often referred to as "overhead."

Key changes made:

- 15% De Minimis Rate: Raises guaranteed "de minimis rate for indirect costs from 10% to 15% of modified total costs."
- No Browbeating Allowed: Clarifies that governments generally "may not compel recipients and subrecipients to use an indirect rate lower than the 15% de minimis rate."
- Notice of Indirect Cost Disputes: Clarifies 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....They "can turn to OMB for help when federal agencies are not following the law."
- Stronger Mandate on Following Indirect Cost Rates: "Pass-through entities – typically state and local governments – must accept all federally negotiated indirect cost rates (NICRAs) for subrecipients"; that is, "nonprofits with negotiated rates with one federal agency must be paid that same rate by all other federal, state, and local government agencies."

Under "Reducing Complexity – Advancing Equity and Overcoming Barriers," NCN explains there are "numerous changes" to remedy the problem 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."

These changes include no longer requiring use of English (only) in applications or reporting as well as encouraging federal agencies "to urge recipients to engage members of the community that will benefit from or be impacted by a federal financial assistance program."

In addition, agencies should "simplify and clarify Notices of Funding Opportunities 'in consideration of applicants with less experience applying for federal financial assistance, such as applicants from underserved communities.'" They should also "consider diversity when developing policies and procedures for merit review panels" and "develop programs in consultation with the communities that will benefit from or be impacted by a program."

Additional Significant Reforms and Clarifications

The summary by the National Council of Nonprofits of the key points in the 2024 OMB Uniform Guidance also lists “significant reforms that will reduce burdens and costs of seeking, performing, and reporting on federal grants.” These include:

- Complete Revision of Notices of Funding Opportunities (NOFOs: Include “basic information at the top of a grant announcement so that applicants can more easily make decisions about whether or not to apply, along with an Executive Summary in plain language that “communicates program requirements specifically and clearly.”
- Up-Front Payments: “OMB states that ‘it already recognizes advance payments as the default payment method for recipients and subrecipients, other than States, when the relevant criteria can be met.’ Governments should “not assume that reimbursable grants are the only option.”
- Single Audit Threshold Raised From \$750,000 to \$1 million.
- Change in Reporting Program Performance: Requires federal agencies “to eliminate reports that are not necessary for the effective monitoring of the grant.”

Conclusion

“In short,” the National Council of Nonprofits observes in connection with that performance-reporting policy change: “OMB is adopting the approach of only measuring things that matter.”

Of course, additional reforms are needed, according to NCN: “OMB hasn’t addressed every nonprofit’s unique problems. But the message is clear from the 2023-24 rulemaking that perseverance – working the long game – can pay off when nonprofits present the facts, identify workable solutions, communicate them, and communicate them again and again until adopted.”

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