

Uniform Guidance: Changes for Federal Grantees

11.25.20 | Linda J. Rosenthal, JD



The United States government has a huge chunk of change – currently over \$600 billion – to award each year through federal grants.

If your organization is – or hopes to be – a recipient of any of that vast pile of money, you'll want to pay attention to significant amended rules recently made final by the federal Office of Management and Budget (OMB). See [Guidance for Grants and Agreements](#) published in the Federal Register in late August to be operational three months later.

Background of Uniform Guidance

To set the stage: The [Office of Management and Budget](#), created in 1970, is the largest component of the Executive Office of the President, reporting directly to the nation's chief executive. That is to say, it's very much an arm of whatever administration is currently in office and has a [key role in coordinating that president's vision](#) across all federal departments and agencies.

OMB does not, itself, award federal grants. Instead, it has a hand in [how the federal government is managed](#) and in the budgets of the individual departments and agencies. It also determines the application process for federal grants.

While there is an institutional history, so to speak, of the Office of Management and Budget spanning its 50-year existence, the nuts and bolts of grants administration shift from administration to administration.

Before 2014, the rules and regulations concerning federal grants were explained to the public through a series of OMB documents called "circulars." They were issued from time to time, but it was not an effective way to inform grantees about their compliance duties or otherwise coordinate

and supervise allotted federal grants.

The Obama Administration embarked on a “three-year collaborative effort across Federal agencies” to come up with “measures to significantly overhaul and strengthen Federal grant-making regulations to improve outcomes for the American people.” By late 2013, it published in the Federal Register a document called *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*. For convenience, it was, and continues to be, referred to as the *Uniform Guidance*, streamlining what were eight Federal regulations into a “single, comprehensive policy guide.”

On December 18, 2014, the Obama Administration made the *Uniform Guidance* operational, and effective for new awards granted shortly after that date.

In *Transforming the Landscape of Federal Financial Assistance* (December 18, 2014) Dave Mader, then Controller of the Office of Management and Budget, described in considerable detail the process of writing the *Uniform Guidance* document and also highlighted the specific reforms of the previously scattered system of rules and regulations. The Obama-era changes were aimed at cutting down the administrative burden on grantees while guarding against “the risk of waste and misuses of Federal funds.”

In short, the [2014] *Uniform Guidance* – a “government-wide framework for grants management” – is an authoritative set of rules and requirements for federal awards that synthesizes and supersedes guidance from earlier OMB circulars.

Changes to Uniform Guidance

The 2014 *Uniform Guidance* included a built-in mechanism for receiving and responding to public input: namely, a mandate that the document be reviewed every five years. Of course, with a change in administration in 2017, this review would necessarily reflect quite different policy views and goals.

The 2020 *Uniform Guidance* from the current administration makes clear in its opening section – the Summary – that this new document reflects the foundational shift specifically outlined in the *President’s Management Agenda, Results-Oriented Accountability for Grants Cross-Agency Priority Goal (Grants CAP Goal)*. It’s a focus on “improved stewardship and ensuring that the American people are receiving value for funds spent on grant programs.”

In the Summary, the drafters characterize the changes from the 2014 *Uniform Guidance* to the new one as “...limited in scope.” But attorneys from Venable LLP offer a different take on the extent of the modifications in the 2020 *Uniform Guidance*; see *Revisions to the Uniform Guidance Include Welcome Changes and New Areas of Risk* (September 4, 2020). “Considering that these are the first major changes to the Uniform Guidance since they were first promulgated in 2013, the revisions are extensive”; they may “range from minor and unique circumstances to large-scale changes that affect all recipients.”

Counsel add that “...the lion’s share of the changes reflects goals and initiatives from the [current] Administration” specifically, to “... measure recipient performance to improve program goals and objectives, share lessons learned, and spread the adoption of promising practices.” The new rules

“grant agencies flexibility in designing and monitoring programs and encourage the use of data collection and reliance on data to identify best practices.”

Conclusion

The 2020 *Uniform Guidance* is in place as of November 12, 2020. Notwithstanding a certain significant event in our nation a week earlier on November 3rd, it remains in effect ... until (perhaps and at a later date) it is *not*.

And undoing a formal published rule is considerably more complicated than making some pen strokes in the Oval Office on a snowy afternoon in late January.

— *Linda J. Rosenthal, J.D., FPLG Information & Research Director*