



December 4, 2023

The Honorable Shalanda Young
Director Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Mr. Steven Mackey and Mr. Andrew Reisig
Office of Federal Financial Management Office of Management and Budget
725 17th Street NW
Washington, DC 20503

RE: Response to Request for Information for Guidance for Grants and Agreements, OMB-2023-0017

Dear Ms. Young, Mr. Mackey, and Mr. Reisig:

On behalf of the nation's cities and government finance officers, we appreciate the opportunity to provide comments in response to the Office of Management and Budget's (OMB) response to request for information for guidance for grants and agreements. Our comments support the changes that the Office of Management and Budget is proposing, with one reservation. The National League of Cities (NLC) and the Government Finance Officers Association (GFOA) work to support our member communities regarding the federal awards process. Collectively, our organizations represent the nation's 19,000 cities, towns and villages and more than 22,000 government finance officials.

Our members are excited by the proposed changes to allow cities and finance officers to better serve their communities by making grant agreements easier for cities to access. Our members' understanding of these federal guidelines has risen drastically, especially with the increase in grant programs deployed since 2021. Grants have touched every community nationwide with the State and Local Fiscal Recovery Funds (SLFRF). Every community and its financial staff have had to become familiar with 2 CFR 200. The changes proposed will be welcomed by NLC's and GFOA's members.

Noteworthy Sections

Part 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

Subpart A—Acronyms and Definitions

Proposal: OMB proposes this change to ease the reader's experience and avoid the need to review Subpart A for an understanding of a single section or small set of sections. For example, OMB proposes moving the definition of “Cooperative audit resolution” to the text of Subpart F. OMB also proposes deleting the definition of “Federal awarding agency,” which OMB now proposes to incorporate within the definition of “Federal agency.”

Reason for support: For NLC members, this change is particularly important because many communities. Local staff, especially part-time staff, do not have the bandwidth to read Subpart A just to look for one or two items in 2 CFR 200. This will make the user experience better and more accessible to less familiar financial staff. For more experienced financial staff, this just makes the user experience easier.

Subpart B—General Provisions

Proposal: OMB proposes multiple clarifying revisions in section 200.102 to improve agency and recipient understanding of the availability and use of exceptions to, or deviations from, OMB's Uniform Guidance in part 200.

Reason for support: for the less sophisticated users of 2 CFR 200, more clearly delineating the exceptions of part 200 will help ensure compliance with grants and agreements. For the more sophisticated municipal financial professionals, clarity is always welcome. This change, which seems small in nature, will go a long way to increasing overall compliance with 2 CFR 200.

Proposal: In section 200.111 OMB proposes new guidance to permit Federal agencies to request, receive, and distribute Federal award information in a language other than English when it is appropriate for a specific program or Federal award. This proposal would allow for more flexibility when working in international environments or in communities where English is not the primary language.

Reason for support: The Office of Management and Budget does not update 2 CFR 200 frequently, and for good reason. Non-federal entities need to rely on stable rules for grants and agreements. But this provision will be welcomed by cities, towns and villages as well as finance officials. This is a forward-looking policy that acknowledges demographic change in the nation.

Subpart C—Pre-Federal Award Requirements and Contents of Federal Awards

Proposal: OMB proposes to revise section 200.203 on Assistance Listings to reinforce the importance of communicating in plain language and highlighting any program-related customer service initiatives.

Reason for support: A key finding for NLC from the experience with the SLFRF program is the need for customer service. Many small and mid-sized cities relied on NLC or GFOA to guide them through this program. NLC and GFOA will not be able to provide customer support for most federal awards, so making sure it is clear to recipients upfront what is available and by using plain language will help them better decide on the allocation of resources.

Proposal: OMB proposes to revise section 200.204 on notices of funding opportunities in a number of ways to encourage federal agencies to focus more on communicating requirements to the public in an accessible and comprehensible manner. For example, OMB proposes including an Executive Summary requirement and encouraging agencies to use plain language when publishing opportunities. OMB also proposes that agencies should communicate program requirements specifically and clearly and limit the length of program announcements. As noted in the proposed changes to the guidance, this is particularly important in the consideration of applicants with less experience applying for Federal financial assistance, such as applicants from underserved communities. OMB also proposes to encourage federal agencies to identify all eligible applicants for funding opportunities—for example, by providing greater specificity on different types of nonprofit organizations such as labor unions. In proposing these revisions, OMB aims to make notices of funding opportunities more consistent and transparent. OMB also aims to ensure applicants are not unintentionally excluded from funding opportunities.

Reason for support: All of these recommendations are completely supported by NLC and GFOA. This will expand opportunities for cities and the financial professionals who work in them.

Subpart D—Post Federal Award Requirements

Proposal: OMB proposes to revise section 200.307 on program income by providing clarifications in paragraph (a) regarding use and expenditure of program income, including allowing program income for certain closeout costs.

Reason for support: This is a win for cities and financial professionals. Allowing another source of funding to be used for closeout costs is welcome.

Proposal: In section 200.320 on procurement methods, OMB proposes to change “small purchases” to “simplified acquisitions” to further align with standard terminology. In paragraph (a), OMB proposes to clarify that “micro-purchases” and “simplified acquisitions” are types of “informal procurement methods for small purchases.” OMB also proposes removing the requirement that local and tribal governments must open sealed bids in public; this requirement may be inconsistent with state or tribal policies and procedures.

Reason for support: Realigning terms to a more standard terminology will be a welcome simplification of 2 CFR 200. Additionally, NLC welcomes the requirement of opening sealed bids in public. Cities should follow local practices and have a choice.

Proposal: OMB proposes to add a new paragraph (b) in section 200.323. Executive Order 14057 of December 8, 2021 (“Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability”) establishes that it is the policy of this Administration to lead by example and pursue a whole-of-government approach on sustainability and expanding American technologies, industries, and jobs that support sustainability and climate resilience. The Executive Order tasks the Federal government with pursuing new strategies to improve the Nation's preparedness and resilience to the effects of a changing climate, including financial management strategies. In support of this policy, OMB proposes to add a new paragraph (b) in section 200.323 encouraging Federal award recipients, to the extent permitted by law, to purchase, acquire, or use products and services that can be reused, refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable.

Measured support: NLC understands the policy goals, and in so doing, supports the ‘encouragement’. However, NLC does not support imposing an unfunded mandate on local governments, maintaining the ability to preserve local authority and decision-making and avoiding penalties/repercussions if local governments choose not to partake.

Subpart E—Cost Principles

Proposal: In section 200.407, OMB has removed ten items from the prior written approval requirements to reduce Federal agency and recipient burden. These proposed revisions no longer require prior written approval for such items as real property, equipment, direct costs, entertainment costs, exchange rates, memberships, participant support costs, selling and marketing costs, and taxes. In this section, OMB also proposes to remove the reference to requiring prior written approval for use of grants agreements, cooperative agreements, and contracts, but other requirements throughout the Uniform Guidance in part 200 would continue to apply to use of these instruments.

Reason for support: NLC and GFOA agree that removing red tape from recipients and allowing them to perform on their grant or agreement with 10 fewer items that they need prior written approval for is a win.

Subpart F—Audit Requirements

Proposal: In this subpart, OMB proposes to raise the audit threshold from \$750,000 to \$1,000,000 in section 200.501.

Reason for support: With the SLFRF, Bipartisan Infrastructure Law, and Inflation Reduction Act grants either out the door or coming soon, many communities will be subject to a single audit. With so many communities procuring auditors to perform a single audit, they are expensive and in short supply. This will alleviate the strain on cities of all sizes and the financial professionals who work in them.

Appendix I to Part 200—Full Text of Notice of Funding Opportunity

Proposal: OMB proposes to revise this appendix in its entirety in support of the goal of simplifying and clarifying the grant solicitation and application process, which is a key objective under Executive Order 14058 on Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government. The proposed changes to the notice of funding opportunity in Appendix I are intended to improve the quality and accessibility of funding opportunities. Specifically, the proposed revisions to Appendix I intend to: (1) follow plain language principles; (2) group similar items together to streamline content; (3) align sections more closely to the application process; (4) include basic information at the top of a funding opportunity so that applicants can more easily make decisions about whether or not to apply; (5) clearly define what must be included in a section of the funding opportunity versus what is at an agency's discretion; and (6) provide flexibility to agencies while also giving applicants a common way to find information in every funding opportunity.

Reason for support: All of this will make the lives of finance professionals and the cities that employ them better. All of these changes will warmly welcomed and embraced by the financial professional communities and their cities.

Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals

Proposal: OMB proposes to update this appendix to adjust the exclusion threshold of subawards from \$25,000 to \$50,000 under modified total direct costs (MTDC).

Reason for support: Local governments remain a top target for domestic and international cyber criminals, particularly for costly and damaging ransomware attacks. Given the extreme mismatch between the sophistication of cyber threats facing public entities and the resources available to secure them, NLC supports OMB's inclusion of cybersecurity expenses in 200.455(c) and 200.413(c) as a direct cost. NLC encourages OMB to also explicitly include cybersecurity within the definition of "information technology systems," to clarify that cybersecurity is included in the category of "similar procedures, services (including support services), and related resources."

Proposal: OMB also proposes a revision to underscore that federal agencies must accept indirect cost proposals developed by state or local departments or agencies receiving less than \$35 million in their fiscal year. The proposed revision to this appendix also provides that federal agencies cannot compel these State or local governmental departments or agencies to accept the *de minimis* rate, or any other rate established by the Federal agency, in place of their indirect cost proposals. OMB emphasizes,

however, that any such indirect cost proposals must be developed in accordance with the requirements of part 200 and maintained for audit—along with related supporting documentation.

Reason for support: Flexibility for grant recipients is a primary goal of our efforts. Providing cities and their finance officers with the ability to propose indirect costs to cognizant agencies as a broader compliance effort gives direct recipients flexibility. Accuracy in the indirect cost determination provides for greater assurances of allocations in each budget cycle. This revision ensures that cities and finance officers of prime recipient communities have both flexibility and broader options to support precision in reporting.

Conclusion

NLC and GFOA are strongly behind the proposed changes to 2 CFR 200. Both organizations supported a legislative route, lobbying the hill and an administrative route, by commenting on 2 CFR 200 earlier this year to bring changes to the grant and agreements process. The proposed changes represent progress for how to apply for grants and agreements, the administration of the grant and agreements, and the closeout.

NLC and GFOA stand ready to assist in these efforts and other efforts of mutual interest that assist cities, their finance officers and local jurisdictions across the country.

Sincerely,



Clarence E. Anthony
CEO and Executive Director
National League of Cities



Emily S. Brock
Director of Federal Policy
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