

- **INDIRECT COSTS** – As noted above, a pass-through entity making a subaward must permit the subrecipient to apply an indirect cost rate to the subaward funds. For subrecipients that have a federally recognized indirect cost rate negotiated with the federal government (a federally negotiated indirect cost rate or FNICR), the pass-through entity must recognize that rate. For subrecipients without an FNICR, the pass-through entity must generally let the subrecipient use an indirect cost rate that is 10% of modified total direct costs (the Super Circular calls this rate a “de minimis” indirect cost rate), unless the subrecipient asks to negotiate a lower rate. Nonprofits that receive funds directly from the federal government and that have never received a FNICR may choose to use the 10% de minimis indirect cost rate indefinitely, without having to go through the process of negotiating a rate. Non-federal entities that have FNICRs may apply for a one-time extension of a current rate for up to four years.
- **PROCUREMENT PROCEDURES AND THRESHOLDS** – The Super Circular’s procurement rules are significantly different from those that currently apply to nonprofits. Fortunately, as noted above, the COFAR FAQ provide for a one-year grace period for compliance with the new procurement rules. In preparation for compliance, CSBG network organizations should compare their procurement policies and procedures to the Super Circular’s requirements and thresholds and make any necessary or desired changes to those policies and procedures.
- **DOCUMENTATION OF COMPENSATION FOR PERSONAL SERVICES** – Although the Super Circular provides for more flexibility in documenting staff time and effort spent on federal grants and no longer specifically requires personnel activity reports (PARs), it is not clear exactly what documentation will be sufficient. Therefore, many organizations receiving federal grant funds are choosing to continue using PARs until more information is available.
- **CHANGE FROM USE ALLOWANCE TO DEPRECIATION** – CSBG network organizations currently employing a use allowance to recover costs associated with the use of buildings, other capital improvements and equipment will be required to switch to the depreciation method of recovering such costs.

The remainder of this newsletter provides a section-by-section review of those OMB Circular changes in Subparts C through F most likely to affect CSBG network organizations. While this newsletter provides an overview of the changes, it is not all-inclusive; we therefore urge CSBG network organizations to review the Super Circular itself – using this newsletter as a roadmap – for a complete understanding of the new rules along with [COFAR’s FAQ](#).

See endnotes on page 23



Administrative Requirements Review

By Michael Shepsis, Esq., CAPLAW

This portion of the newsletter provides a section-by-section overview of changes to OMB administrative requirements for federal awards; these changes are contained in the Super Circular’s Subpart C – Pre-Award Requirements and Subpart D – Post-Award Requirements.

Pre-Award Requirements (Subpart C)

The pre-award requirements part of the Super Circular can be found in sections 200.200 through 200.211. Much of the language in this part comes from OMB Circulars A-110 and A-102.

Requirement to Provide Public Notice of Federal Financial Assistance Programs (§ 200.202)

Each federal awarding agency must provide public notice of federal assistance programs in the Catalogue of Federal Domestic Assistance (CFDA). This requirement is from Circular A-89 which currently identifies the type of federal domestic assistance available.

Notices of Funding Opportunities (§ 200.203)

“...specifies the information that must be included in notices of funding opportunities.”

The Super Circular establishes standards not found previously in Circular A-110 or A-102 on how federal awarding agencies must announce competitive funding opportunities. Information that must be included in notices of funding opportunities is now specified and requires funding opportunities must generally be available for at least 60 days, and never less than 30 days.

Federal Awarding Agency Review of Risk Posed by Applicants (§ 200.205)

Federal awarding agencies must evaluate applicants for competitive awards and cooperative agreements on the basis of risk prior to making an award and may impose

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Administrative Requirements (continued from page 7)

additional conditions on an award. In assessing risk, federal awarding agencies must review information available through any OMB-designated repository of government wide eligibility qualification or financial integrity information, such as Federal Awardee Performance and Integrity Information System (FAPIIS), Dun and Bradstreet, and the U.S. Treasury's "Do Not Pay" list. Federal awarding agencies may also consider criteria including: the applicant's financial stability; quality of its management systems; its history of performance; reports and findings from its audits; its ability to implement effectively implement statutory, regulatory, or other requirements imposed on non-federal entities.

Specific Conditions (§ 200.207)

Based on some language from Circular A-102 and similar language from Circular A-110, federal awarding agencies and pass-through entities may impose special award conditions pursuant to the following: the criteria for the risk-based review described in section 200.205; the non-federal entity's history of failure to comply with the terms and conditions of a federal award; the entity's failure to meet expected performance goals; or the funding source's determination that it is not otherwise responsible. The Super Circular provides a non-exhaustive list of examples of specific award conditions that may be imposed, including: paying the non-federal entity on a cost reimbursement basis; requiring additional, more detailed financial reports; requiring additional monitoring; requiring the non-federal entity to obtain technical or management assistance; and establishing additional prior approval requirements. If specific conditions will be applied, the federal awarding agency or pass-through entity must notify the applicant or non-federal entity of: the nature of the additional requirements; why they are being imposed; the actions that must be taken to remove them; the time frame for completing those actions; and a method

for requesting reconsideration of additional requirements. Any special conditions must be promptly removed once the problems that triggered them have been corrected.

Information Contained in a Federal Award (§ 200.210)

A standard set of data elements will now be included in all federal awards. This addition will result in non-federal entities receiving a consistent set of information for each federal award and will reduce the administrative burden and costs associated with managing this information.

Public Access to Federal Award Information (§ 200.211)

Similar to requirements in Circular A-110 and A-102, federal awarding agencies must announce awards publicly. However, now all notices must be published on an OMB-designated [government wide website](#).

Post Federal Award Requirements (Subpart D)

The post-award requirements of the Super Circular can be found in sections 200.300 through 200.345. Much of the language in these sections comes from Circulars A-110 and A-102. Some sections also include language from Circular A-133. Included in this subpart are major changes to the procurement rules, which are particularly significant for nonprofits.

"Included in this subpart are major changes to the procurement rules..."

Performance Measurement (§ 200.301)

Federal awarding agencies must now require recipients to: use OMB-approved government wide standard information collections when providing financial and performance information; relate financial data that is tied to performance accomplishments of the award at issue; and provide cost information to demonstrate cost effective practices. These requirements are based on language from A-110 and A-102. New language specifies that the recipient's performance should be measured in a way that will help the federal awarding agency and other non-federal entities improve program outcomes, share lessons learned, and spread the adoption of promising practices. Federal awarding agencies are to provide recipients with clear performance goals, indicators, and milestones as detailed in the award.

Financial Management (§ 200.302)

States and other non-federal entities must have financial management systems, including records documenting compliance with federal statutes and regulations and the terms and conditions of federal awards, that are sufficient to permit the preparation of required reports and tracing of funds to a level of expenditures adequate to establish that funds have been used according to federal statutes, regulations and award terms and conditions. Also, a non-federal entity's financial management system must provide for the identification, in its accounts, of all federal awards

received and expended and the federal program under which they were received. The Super Circular clarifies that sufficient identification must include, as applicable, CFDA title and number, federal award identification number and year, the name of the federal agency, and the name of the pass-through entity, if any.

“The Super Circular clarifies that sufficient identification must include...”

Internal Controls (§ 200.303)

In an effort to mitigate risk of waste, fraud, and abuse, the Super Circular has inserted requirements on internal controls into the post-award section. Previously, requirements on internal controls appeared in Circular A-133. Non-federal entities must establish and maintain effective internal controls that provide reasonable assurance that they are managing awards in compliance with federal statutes, regulations, and award terms and conditions. Internal controls should comply with the standards issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) known as the [“Internal Control Integrated Framework”](#) and with the [Standards for Internal Control in the Federal Government](#) known informally as the “Green Book,” which, although issued by the U.S. Comptroller General for federal agencies, may be adopted by state and local governmental entities, as well as nonprofit organizations, as a framework for an internal control system. Non-federal entities must evaluate and monitor their compliance with statutes, regulations and award terms and conditions and take prompt action when instances of noncompliance are identified in audit findings. In addition, they must take reasonable measures to safeguard “protected personally identifiable information” and other information the federal awarding agency or pass-through entity designates as sensitive or that the non-federal entity considers sensitive due to applicable privacy laws and confidentiality obligations.

Payment (§ 200.305)

Non-federal entities may now retain up to \$500 per year in interest on advances; interest above this amount earned on advanced funds must be remitted annually to the Department of Health and Human Services, Payment Management System, Rockville, MD 20852.

Cost Sharing or Matching (§ 200.306)

As under current circulars, the Super Circular outlines criteria for funding source acceptance of shared costs or matching funds and contributions, including cash and third party in-kind contributions. It also clarifies that funds used as a matching contribution may not be paid by the federal government under another federal award, except where the statute authorizing the grant program that is the source of the contribution specifically provides that funds can be applied to matching or cost sharing requirements of another federal program.

Equipment (§ 200.313)

Disposition instructions for equipment are now only necessary if required by the terms of the award. Otherwise, equipment with a current per unit fair market value of \$5000 or less may be retained, sold, or disposed of with no further obligations to the funding source. Where obtaining disposition instructions is required, the rules are similar to the currently existing ones in Circular A-110.

Supplies (§ 200.314)

Although the rules on use and disposition of supplies have not changed, the term “supplies” now includes computing devices with an acquisition cost of less than \$5,000.

New Procurement Rules

The Super Circular provides detailed new guidance on procurement, which is based mostly on the procurement rules currently applicable to state and local governments. Therefore, nonprofit organizations will find the changes particularly significant. CSBG network organizations should carefully review their current procurement policies against the rules in sections 200.317 through 200.329 to determine whether any revisions to their policies will be necessary or desirable. Fortunately, as noted above, the COFAR FAQ indicates that there is a one-year grace period for implementation of the new procurement rules. (Bear in mind that where an organization’s procurement policy includes lower thresholds or other requirements that are stricter than the rules outlined in the Super Circular, the policy will govern. In contrast, where a policy is more permissive than the Super Circular requirements, the Super Circular will govern.)

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Administrative Requirements

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General Procurement Standards (§ 200.318)

WRITTEN STANDARDS ON ORGANIZATIONAL CONFLICTS OF INTEREST - A non-federal entity with a parent, subsidiary or affiliate organization that is not a state or local government must cover organizational conflicts of interest in its written standards of conduct addressing procurement. For this purpose, an “organizational conflict of interest” is a situation where the non-federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a parent, subsidiary or affiliate organization.

REQUIRED AND ENCOURAGED PROCUREMENT PRACTICES -

The Super Circular includes language from current guidance requiring that a non-federal entity’s procurement procedures must avoid the acquisition of unnecessary or duplicative items, and that consolidating or breaking out procurements should be contemplated to obtain a less costly purchase. It also states that, where appropriate, non-federal entities are to conduct an analysis to determine where leasing may be more economical than purchasing. In addition, it encourages non-federal entities to enter into state and local intergovernmental agreements or inter-entity agreements for procurement or use of common or shared goods or services to achieve greater economic efficiency and reduce costs. Grantees are encouraged to use federal excess and surplus property as an alternative to purchasing new equipment and property if cost savings can be achieved. The Super Circular also promotes the use of value engineering clauses in construction contracts that require a systematic analysis of each contract item or task to ensure that its essential function is provided at the overall lowest cost.

RECORDS DETAILING PROCUREMENT HISTORY - For all procurements, non-federal entities must maintain records to sufficiently detail the history of the procurement. The records must include at the least the rationale for the method of procurement chosen (methods are outlined in section 200.320), the selection of the contract type, the selection or rejection of contractors, and the basis for the contract price.

Competition (§ 200.319)

All procurement transactions must be conducted in a manner involving full and open competition (however, a cost or price analysis is no longer required for all procurements, only certain ones, see discussion of section 200.323 below). A non-exhaustive list of situations that are considered to restrict competition is provided and includes:

“...a cost or price analysis is no longer required for all procurements, only certain ones...”

- Placing unreasonable qualification requirements on firms that wish to do business with the grantee;
- Requiring unnecessary experience and excessive bonding;
- Noncompetitive pricing practices between firms or between affiliated companies;
- Noncompetitive contracts to consultants on retainer contracts;
- Organizational conflicts of interest;
- Requiring exclusively “brand name” products where “an equal” alternative product exists;
- Arbitrary actions during the procurement process.

New for nonprofits is the prohibition against state or local geographical preferences except where required or encouraged by federal statute. Also, non-federal entities must ensure that lists of pre-qualified vendors are current and include enough vendors to ensure maximum open and free competition.

Methods of Procurement to be Followed (§ 200.320)

The Super Circular outlines the following five permissible methods of procurement:

MICRO-PURCHASES. Procurement of supplies or services for which the aggregate dollar amount does not exceed \$3,000 (or \$2,000 in the case of construction projects subject to the Davis-Bacon Act) may be conducted without soliciting competitive quotations if the non-federal entity considers the price to be reasonable. Micro-purchases should be distributed equitably among qualified suppliers. For example, a purchase of paper in the amount of \$2,000 can be treated as a micro-purchase, for which no competitive rate quotations are necessary and no cost or price analysis is required. However, in accordance with the non-federal entity’s written policies, which may include strategic sourcing or bulk purchase arrangements, the non-federal entity must consider whether to make the purchase from any one of a number of office supply vendors. The non-federal entity’s policies may require that the purchase of office supplies rotate among qualified suppliers if they offer the same rates.¹ The micro-purchase threshold will be adjusted for inflation.

SMALL PURCHASES. A simplified procurement process is permissible for purchases of services, supplies, or property that do not exceed the "Simplified Acquisition Threshold," which has been increased to \$150,000 and which will be adjusted for inflation. In such procurement a grantee must obtain price and rate quotes from an adequate number of qualified sources. Non-federal entities should specify in their written procurement policies what they consider to be an "adequate" number of sources and how price or rate quotations are to be obtained (e.g., in writing, orally, vendor price list on website or via online search). A cost or price analysis is not required under small purchase procedures.

For example, a purchase order for insulation supplies in the amount of \$10,000 for a CAA's weatherization program can be treated as a small purchase order. This purchase order requires a rate quote from at least two sources, which can be obtained in writing from two suppliers or by research done on public websites. A cost or price analysis is not required. In addition, if the insulation must be of special quality that is offered by only one company or only one company can deliver in the time frame required, the purchase order may be made under the sole source purchase (noncompetitive proposal) provision in section 200.320(f).

Procurement transactions that exceed the Simplified Acquisition Threshold must be conducted through either sealed bid or competitive proposal procedures, unless the criteria for sole source purchases (noncompetitive proposals) are satisfied.

SEALED BIDS (FORMAL ADVERTISING). For procurement transactions that will exceed the Simplified Acquisition Threshold, a non-federal entity may use the sealed bidding method to publicly solicit and award a firm fixed price contract (lump sum or unit price) to a responsible bidder whose bid conforms with all the material terms and conditions of the solicitation and is the lowest in price. For sealed bidding to be feasible, the following conditions must exist:

- A complete, adequate, and realistic specification or purchase description is available;
- Two or more responsible bidders exist; and
- The procurement need lends itself to a firm fixed price contract and the selection of a bidder can be principally made on the basis of price.

Where these conditions exist, sealed bidding is the preferred method for procuring construction.

If the sealed bid method is used, the following requirements apply:

- The invitation for bids must be publicly advertised, bids must be solicited from an adequate number of suppliers, and sufficient response time must be provided prior to the date set for opening the bids;
- The invitation for bids must include all specifications and pertinent attachments and define the items or services needed for the bidder to properly respond;
- All bids must be publicly opened at the time and place prescribed in the invitation for bids; and
- A firm fixed price contract must be awarded in writing to the lowest responsive and responsible bidder.

Notwithstanding the requirements above, a grantee may reject any or all bids if it has a sound documented reason.

COMPETITIVE PROPOSALS. Where the sealed bid method is not appropriate, a non-federal entity may conduct a competitive proposal process whereby more than one source submits an offer and either a fixed price or cost-reimbursement type contract is awarded to the most responsive offer. If this method is used then the following requirements apply:

- Requests for proposals must be publicized and identify all evaluation criteria along with its relative importance and any response to the publicized request must be considered to the maximum extent practical;
- Proposals must be solicited from an adequate number of qualified sources;
- The non-federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting vendors; and
- Contracts must be awarded based on price and other factors to the responsible firm whose proposal is most advantageous to the program.

Special rules apply to procurements of architectural or engineering services through the competitive proposal process.



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NONCOMPETITIVE PROPOSALS (SOLE SOURCE PROCUREMENT).

The use of noncompetitive proposals are permitted where only one source for procurement is considered, if any one or more of the following situations applies:

- The item is only available from a single source;
- Public exigency or emergency for the required procurement that will not permit a delay for competitive solicitation;
- The non-federal entity has requested in writing and obtained express authorization from the federal awarding agency or pass-through entity to use sole source procedures; or
- After soliciting a number of sources, the non-federal entity has determined that competition was inadequate.

Contracting with Small and Minority Businesses, Women's Business Enterprises and Labor Surplus Area Firms (§ 200.321)

Non-federal entities must take "all necessary affirmative steps" to assure that minority businesses, women's business enterprises and labor surplus area firms are used when possible. A labor surplus area is defined by the U.S. Department of Labor as generally an area with an annual unemployment rate 20% or more above the average annual unemployment rate for all states.



Contract Cost and Price (§ 200.323)

"Where a cost or price analysis is required, it must be conducted prior to receiving bids or proposals."

A cost or price analysis is only required on procurements that are in excess of the Simplified Acquisition Threshold (now set at \$150,000). Where a cost or price analysis is required, it must be conducted prior to receiving bids or proposals. A non-federal entity must negotiate profit as a separate element of

the price for each procurement contract that exceeds the Simplified Acquisition Threshold or in which there is no price competition. To establish a fair and reasonable profit, the non-federal entity must consider: the complexity of the work to be performed; the risk borne by the contractor; the contractor's investment; the amount of subcontracting; the quality of the contractor's record of past performance; and industry profit rates in the surrounding geographical area for similar work. As under existing OMB Circulars, the cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

Federal Awarding Agency or Pass-Through Entity Review (§ 200.324)

New for nonprofits is the requirement that non-federal entities must make available certain information and records regarding a procurement for pre-procurement review, upon request of the federal awarding agency or pass-through entity. This requirement applies to technical specifications on proposed procurements where the funding source believes that a review is needed to ensure that the item or service specified is the one being proposed for purchase. It also applies to procurement documents such as requests for proposals, invitations for bids, or independent cost estimates in any of the following circumstances:

- The non-federal entity's procurement procedures or operation fail to comply with the Super Circular's procurement standards;
- The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
- The procurement, which is expected to exceed the Simplified Acquisition Threshold, requires the use of a "brand name" product;
- The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to someone other than the lowest bidder under a sealed bid procurement; or
- A proposed contract modification changes the scope of a contract or increases the contract amount in excess of the Simplified Acquisition Threshold.



Reporting on Real Property (§ 200.329)

The federal awarding agency or pass-through entity must now require a non-federal entity to report at least annually on the status of real property in which the federal government has an interest. Where the interest extends 15 years or more, the funding source may allow reporting at various multiyear frequencies.

Subrecipient and Contractor Determinations (§ 200.330)

This section is mostly from Circular A-133 and provides information for pass-through entities on how to distinguish between a subrecipient and a contractor (i.e., vendor) when drafting contracts for the disbursement of federal funds. The following characteristics support the classification of an entity as a subrecipient rather than a vendor:

- It determines who is eligible to receive what federal assistance;
- It has its performance measured in relation to whether objectives of a federal program were met;
- It has responsibility for programmatic decision making;
- It is responsible for adherence to applicable federal program requirements specified in the federal award; and
- It uses the federal award funds in accordance with its agreement with the pass-through entity to carry out a program for public purposes specified in the federal statute authorizing the program in question, rather than providing goods or services for the benefit of the pass-through entity.

Requirements for Pass-Through Entities (§ 200.331)

A pass-through entity must ensure that every subaward is clearly identified to the subrecipient as a subaward and includes certain specified information and requirements. If any of this information later changes, a pass-through entity must modify the subaward to reflect the changes. Perhaps the most significant piece of required information is the applicable indirect cost rate for the subaward. For a subrecipient that has a federally recognized indirect cost rate negotiated with the federal government (a federally negotiated indirect cost rate or FNICR), the pass-through

entity must recognize that rate. For a subrecipient without a FNICR, the pass-through entity must generally let the subrecipient use an indirect cost rate that is 10% of modified total direct costs (the Super Circular calls this rate a “de minimis” indirect cost rate), unless the subrecipient asks to negotiate a lower rate.² CSBG network organizations that make subawards to other entities will need to update their standard subaward document(s) to include this required information.

Pass-through entities must also:

- Evaluate a subrecipient’s risk of noncompliance for purposes of determining the appropriate level monitoring;
- Consider imposing specific subaward conditions;
- Monitor a subrecipient’s activities as necessary to ensure that the subaward is used for authorized purposes in compliance with federal statutes, regulations, and terms and conditions of the subaward, and that subaward performance goals are achieved;
- Verify that the subrecipient is audited as required by Subpart F of the Super Circular;
- Consider whether the results of a subrecipient’s audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to a pass-through entity’s records; and
- Consider taking enforcement action against a noncompliant subrecipient.

Fixed Amount Subawards (§ 200.332)

With prior written approval from the federal awarding agency, a pass-through entity may now provide subawards based on fixed amounts up to the Simplified Acquisition Threshold. A fixed amount award is an award based primarily on performance or results where a specific level of support is provided without regard to actual costs incurred.³

Methods of Collection, Transmission and Storage of Information (§ 200.335)

The Super Circular permits and encourages the electronic storage of records. It also provides that when original records are electronic and cannot be altered there is no need to create and retain paper copies.

“The Super Circular permits and encourages the electronic storage of records.”

Restrictions on Public Access to Records (§ 200.337)

A federal awarding agency is prohibited from placing restrictions on a non-federal entity that would limit public access to records pertinent to the federal award, except in limited situations. Such situations include: when those records contain protected personally identifiable information; when the federal awarding agency can demonstrate that the records will be kept confidential and

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Administrative Requirements

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would have been exempted from disclosure under the federal Freedom of Information Act; or when the records would be kept confidential as controlled unclassified information under Executive Order 13556 if they had belonged to the federal awarding agency. In general, records that remain under a non-federal entity's control will not be subject to the federal Freedom of Information Act. Unless required by federal, state or local statute, non-federal entities are not required to permit public access to their records.

Remedies for Noncompliance (§ 200.338)

In addition to the sanctions for noncompliance that already exist under current OMB Circulars, the Super Circular specifies that noncompliance may lead to suspension or debarment proceedings as authorized in 2 C.F.R. Part 180.

Termination (§ 200.339)

The federal awarding agency or pass-through entity may also now terminate an award for cause. Keep in mind that federal program statutes and regulations (such as the federal CSBG Act and regulations and the Head Start Act and regulations) often specify additional termination procedures and requirements.

Opportunities to Object, Hearings and Appeals (§ 200.341)

Federal awarding agencies must comply with any requirements for hearings, appeals, or other administrative proceedings which the grantee may be entitled to under any applicable law or regulation.

Closeout (§ 200.343)

A federal awarding agency or pass-through entity is required to complete all closeout actions no later than one year after receipt and acceptance of all required final reports.

Post-Closeout Adjustments and Continuing Responsibilities (§ 200.344)

Federal awarding agencies and pass-through entities must now make any cost disallowance determinations and notify the non-federal entity within the existing three-year record retention period.⁴

Collection of Amounts Due (§ 200.345)

The federal government may collect amounts due to it at any time.

See endnotes on page 23



Cost Principles Analysis

By Allison Ma'luf, Esq., CAPLAW

The cost principles part of the Super Circular is based primarily on language from OMB Circular A-122 and therefore will be more familiar to nonprofit organizations in the CSBG network and less so to state and local government entities.

General Provisions

Policy Guide (§ 200.400)

The cost principles now begin with a Policy Guide which is general, introductory language that is mostly from OMB Circulars A-87 and A-21 and new for nonprofits currently covered by OMB Circular A-122. This language sets the tone for the revised cost principles and emphasizes the implementation of a framework to better mitigate the risk of waste, fraud and abuse. All non-federal entities will be responsible for:

- Administering federal funds efficiently and effectively using sound management practices;
- Complying with funding source requirements;
- Maintaining internal accounting policies and practices consistent with cost principles;
- Supporting costs charged with adequate documentation; and
- Not earning or keeping any profit unless expressly authorized by award terms and conditions.

"The Policy Guide... assumes that most non-federal entities have been following these principles and that their continued application should not require any significant changes..."

The Policy Guide also assumes that most non-federal entities have been following these principles and that their continued application should not require any significant changes in the non-federal entities' internal accounting policies and practices. For instance, guidance from COFAR explains that the inclusion of the prohibition against earning a profit is intended only to make long-standing requirements

Article End Notes

Navigating the OMB Super Circular Changes

1. 78 Federal Register (Fed. Reg.) 78590 (Dec. 26, 2013); 2 C.F.R. Part 200.
2. 78 Fed. Reg. 78590, 78590-78594.
3. 78 Fed. Reg. 78590, 78590-78591.
4. 2 C.F.R. § 200.101(b)(1).
5. 2 C.F.R. § 200.101(e).
6. 2 C.F.R. § 200.101(d).
7. 42 U.S.C. § 9916(a)(1)(B).
8. 2 C.F.R. § 200.110(a). The federal agencies were required to submit draft implementing regulations to OMB by June 26, 2014; however, as of press time, the draft regulations had not been released to the public.
9. COFAR FAQ 200.110-12 (updated from previous Q II-1) (Aug. 29, 2014).
10. COFAR FAQ 200.110-7.
11. COFAR FAQ 200.110-11.
12. COFAR FAQ 200.110.110-13 (Previously Q II-2).
13. COFAR FAQ 200.110-6.
14. COFAR FAQ 200.110-1.
15. COFAR FAQ 200.110-2.
16. 2 C.F.R. § 200.110(b); COFAR FAQ 200.110-12 (updated from previous Q II-1).
17. 2 C.F.R. § 200.102.
18. 2 C.F.R. §§ 200.104 and 200.105.
19. 2 C.F.R. § 200.108.
20. 2 C.F.R. § 200.112.

Administrative Requirements Review

1. COFAR FAQ 200.320-1.
2. COFAR FAQ 200.31-6 and 200.331-7.
3. 2 C.F.R. § 200.45.
4. Note that the three-year record retention period will be

extended if any litigation, claim or audit is started before the end of the three-year period or if the non-federal entity is notified by the federal government or the pass-through entity to extend the retention period. 2 C.F.R. § 200.333.

Cost Principles Analysis

1. COFAR FAQ 200.400-3.
2. 2 C.F.R. § 200.19.
3. COFAR FAQ 200.414-2.
4. COFAR FAQ 200.414-3.
5. 2 C.F.R. § 200.68.
6. COFAR FAQ 200.331-5.
7. 2 C.F.R. § 200.420.
8. 2 C.F.R. § 200.53.
9. COFAR FAQ 200.430-1.

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