

## Is There Such a Thing as Too Transparent?

Written by Nick Sanders  
Tuesday, 03 March 2020 00:00

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On January 22, 2020, the Office of Management and Budget (OMB) proposed [a revision](#) to its Guidance for Grants and Agreements (found at Title 2 of the Code of Federal Regulations). If you are an entity subject to the OMG Guidance, you probably know about the proposed revision. You may even be working on your comments to be submitted for consideration.

For those who may not be as attuned to what's happening (or what is proposed to be happening), the OMB stated that the "proposed revisions are intended to reduce recipient burden, provide guidance on implementing new statutory requirements, and improve Federal financial assistance management, transparency, and oversight."

Well, that's nice, isn't it? Who could disagree with those objectives?

Further, in the Background section of the Federal Register notice, the OMB stated—

Based on feedback and ongoing engagement with the grants management community, the current Administration established the Results-Oriented Accountability for Grants Cross Agency Priority Goal (Grants CAP Goal) in the President's Management Agenda on March 20, 2018 (available at: <https://www.performance.gov/CAP/grants/>). The Grants CAP Goal recognizes that grants managers report spending a disproportionate amount of time using antiquated processes to monitor compliance. Efficiencies could be gained from modernization and grants managers could instead shift their time to analyze data to improve results. To address this challenge, the Grants CAP Goal Executive Steering Committee (ESC), which reports to the Chief Financial Officer's Council (CFOC), identified four strategies to work toward maximizing the value of grant funding by developing a risk-based, data-driven framework that balances compliance requirements with demonstrating successful results for the American taxpayer.

1. Strategy 1: Standardize the Grants Management Business Process and Data
2. Strategy 2: Build Shared IT Infrastructure

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### 3. Strategy 3: Manage Risk

### 4. Strategy 4: Achieve Program Goals and Objectives

The proposed revisions support those four strategic goals, or so OMB asserted.

Readers, in many years of reviewing proposed Federal rule-making, we have learned to watch for certain words, such as “consistency,” “transparency,” and “standardization”. When we see those words, we put our hands in our pocket to hold on to our wallet. This may be one of those times.

We are not going to recap all the proposed revisions to the Guidance, of which there are many. The link is in the first sentence and you can go read the Federal Register notice yourself. If you do take the time to review the proposed rule, perhaps you will ask yourself whether this is yet another example of sneaky stuff being implemented in the name of transparency and standardization.

We would like to point out one interesting aspect of the proposed rule. We can't take credit for noticing it; this particular aspect was brought to our attention by an industry group.

What do you think of this?

*Lastly, for transparency purposes, a proposed revision adds a new subsection to 200.414(h) to require that all grantees' negotiated agreements for indirect cost rates are collected and displayed on public website. The agency responsible for this task and the public website will be designated by OMB.*

As we understand the proposal, should your entity agree to receive a Federal grant or other agreement, and should you have to negotiate indirect cost rates as part of receiving that grant or agreement, then you also agree that your indirect cost rates will be publicly posted for all to

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see.

For transparency purposes.

Now, if this were about for-profit entities that compete for Federal funds, that right there would be a deal-breaker. The company would say “*How about no?*” and walk away quickly. There are not many more proprietary things than a commercial company’s indirect cost rates.

But this is not that. This is for other entities, such as educational and health institutions. Generally speaking, those entities are not-for-profit and we suspect they do not compete among themselves based on estimated costs. So maybe—just maybe—this is not the same deal-breaker for them that it would be for the commercial entities.

So we’re not sure what to think about this proposal.

Is it an overreach, or maybe not such a big deal after all? We really do not know.

But the question is: for the entities affected by the proposed rule—those that must comply with the OMB Guidance found in Title 2 of the CFR—what do they think about it?

What will they agree to as a condition of receiving Federal funds?

How far are they willing to go in the name of transparency?

Is this business as usual, or is there really such a thing as too much transparency?

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You can email us and let us know your thoughts.

But better yet, you can submit your thoughts, in the form of a public comment on the proposed rule, to the OMB directly. There's a link to do so on the Federal Register page. As we type this, 12 comments have been received so far.

You have until 23 March 2020 to submit your thoughts and comments to the rule-makers, should you be so inclined.