



NARC

Building Regional Communities

National Association of Regional Councils

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MEMORADUM

TO: NARC Membership
FROM: Mia Colson, Grants Manager
DATE: January 15, 2015
SUBJECT: OMB *Super Circular* Overview

OVERVIEW

On December 26, 2013 the Office of Management Budget (OMB) issued the “[*Super Circular*](#),” a rule streamlining eight Federal regulations (including OMB Circulars A-110, A-122, and A-133) into a single, comprehensive policy guide. The *Super Circular* has important implications for all nonprofit recipients of, and applicants for, Federal grants and cooperative agreements (“awards”). This reform aims to minimize time spent complying with unnecessarily burdensome administrative requirements and maximizing time spent on program objectives. It is important to note that while the *Super Circular* became effective on December 26, 2013, administrative requirements and cost principles will apply to new awards and additional funding on existing awards made after December 26, 2014. Existing Federal awards will continue to be governed by the terms and conditions of those Federal awards.

This memo provides NARC members with an overview of changes made regarding nonprofits in the *Super Circular*, which can be found [HERE](#).

CHANGES IN BRIEF

Overall, the *Super Circular* improves upon current policies. Below is a snapshot of the changes related to nonprofits:

- Negotiated indirect cost rates should be honored for awardees and sub awardees. Nonprofits without a negotiated rate can adopt an automatic ten percent indirect cost rate.
- Fundraising costs can be approved by a funder when done to raise money for project objectives.
- Procurement rules are strengthened:
 - Conflict of interest policy is now required by federal agencies;
 - Mandatory disclosures are now required by recipients; and
 - Stricter rules are in place for competitive procurement when the purchase is above the competitive threshold, but the rules are less strict when conducting simplified acquisition (i.e. below the dollar-based competitive bid threshold).
- Timesheet rules are modified (agencies can establish rules that meet basic standards).
- The A-133 audit threshold increased, from \$500,000 to \$750,000.

PRE-AWARD PROCESS (See sections 200.200- 200.211)

The *Super Circular* increased uniformity aimed at standardization and fairness in the awarding process, including creating 99 new standard definitions. For example, “contractor” is used rather than “vendor” and the words “must” and “should” distinguish between a requirement and a recommended practice.



Standard application requirements include that Federal awarding agencies must not impose additional or inconsistent requirements, unless they are based on Federal statute, regulation, or Executive Order; OMB permits an exception in accordance with 2 CFR 200.102; or OMB approves information in the Federal award in accordance with 2 CFR 200.210.

CONFLICTS OF INTEREST (Section 200.112)

Nonprofits are now required to report conflicts of interests (COI) in the pre-award setting. Organizations should educate their team on what might be a COI; put together a plan of how the organization will assess COI and whether the government needs to be informed; and develop a template mitigation plan for any future COIs as part of their risk assessment.

PROCUREMENT (Sections 200.317 - 200.326)

Procurement records must be maintained to detail the history of all procurements. Previously, the rule required only records for procurements over the small purchase threshold. Competition is required and the words “to the maximum extent practical” are removed. Cost or price analysis is now required only when the purchase is in excess of the Simplified Acquisition Threshold (which is less restrictive than previous). Simplified acquisition can be set as high as \$25,000, or in some cases \$150,000, depending on federal department funding and recipient status.

Five methods of procurement are now described in great detail:

- Procurement by micro-purchase (can be set up to \$3,000);
- Procurement by small purchase (relatively informal procurement up to \$150,000);
- Procurement by sealed bids (formal advertising);
- Procurement by competitive proposal; and
- Procurement by noncompetitive proposal (sole source or single source).

Procurement by non-competitive proposals means procurement through a solicitation of a proposal from only one source. This process will meet the OMB requirements detailed in 2 CFR 200.320. Communication with funders is highly recommended to confirm a consensus regarding this approach. It may be used only when one or more of the following circumstances apply:

- The item is available only from a single source;
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
- After solicitation from a number of sources, competition is determined inadequate.

Guidance is strengthened regarding contracting with small and minority businesses, women’s businesses, and labor surplus area firms. “Whenever possible” changed to “must take all necessary affirmative steps to assure.”

INDIRECT COST RULES (Section 200.414)

There are 19 changes to the Indirect Cost Rules. Because of the diverse nature of nonprofits, Federal agencies no longer specify the types of costs that can be classified as indirect. Federal



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agencies must generally accept a nonprofit's negotiated indirect rate. A federal awarding agency may use a different rate when required by a Federal statute or regulation or approved by a Federal awarding agency head. This approval must be based upon documented justification listed in the grant announcement, and OMB must be notified.

Requires pass-through entities (e.g. states and local governments) to honor a nonprofit's negotiated indirect cost rates or negotiate a rate. This is a significant change because in the past, many state and local governments did not pay indirect costs or capped the rate.

Nonprofits are empowered to use an automatic indirect cost rate of ten percent, which can be used indefinitely or, alternatively, they can negotiate a higher rate. This allows nonprofits to choose a course that makes the most business sense for the organization.

Indirect vs. direct costs: In certain circumstances, program administration costs (e.g. secretarial staff dedicated to a specific program) can now be counted as direct costs. Previously, grantees were sometimes required to treat these as indirect costs.

Administrative and clerical salaries are usually indirect costs, but now direct charging may be appropriate if:

- The services are integral to a project or activity;
- Individuals involved can be specifically identified with the project or activity;
- Costs are explicitly included in the budget or have prior written approval from the awarding agency; or
- The costs are also not covered as indirect costs.

INCREASE OF INTERNAL CONTROLS (Section 200.303)

OMB highlighted the internal control requirements of the *Super Circular* as “extremely important.” The *Super Circular* no longer includes a distinct set of internal control requirements. It asks nonprofits to broadly comply with Federal and state law for internal controls, including GAO's *Standards for Internal Controls in the Federal Government* or [Green Book](#), and the Committee of Sponsoring Organizations of the Treadway Commissions' [Internal Controls Integration Framework](#).

LIMITED ALLOWABLE COSTS (Sections 200.405; 200.420- 200.475)

The language in this section is strengthened, removed, or modified in areas such as conferences, morale, relocations, and student activities to limit allowable costs under Federal awards. The purpose of this change is to ensure the best use of Federal resources.

“Employee morale” justification is removed from the circular, while rules regarding “entertainment” costs are more flexible. For example, “costs of entertainment, including amusement, diversion, and social activities and any associated costs are unallowable, except where specific costs that might otherwise be considered entertainment have a programmatic purpose and are authorized either in the approved budget for the Federal award or with prior written approval of the Federal awarding agency.” (See section 200.438)

**INCREASED FAMILY-FRIENDLY POLICIES**

Provisions in the uniform guidance throughout the *Super Circular* provide flexibilities that, when implemented by non-Federal entity-wide policy, better allow for employees of non-Federal entities to balance their personal responsibilities while maintaining successful careers. For example, cost principles regarding grant related travel allow for “temporary dependent care costs” (baby sitter, elderly care). (See section 200.474)

TIMESHEET (TIME AND EFFORT) RULES (Section 200.430)

The “time and effort reporting” section is now called “Standards for Documentation of Personnel Expenses,” which includes charges to federal awards for salaries and wages that must be based on records that accurately reflect the work performed. These records must:

- Be supported by a system of internal control that provides reasonable assurance that the charges are accurate, allowable, and properly allocated;
- Be incorporated into the official records of the non-Federal entity;
- Reasonably reflect the total activity for which the employee is compensated by the non-Federal entity, not exceeding 100% of compensated activities;
- Encompass both federally assisted and all other activities compensated by the non-Federal entity on an integrated basis, but may include the use of subsidiary records as defined in the non-Federal entity’s written policy;
- Comply with the established accounting policies and practices of the non-Federal entity; and
- Support the distribution of the employee’s salary or wages among specific activities or cost objectives if the employee works on more than one Federal award; a Federal award and non-Federal award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity.

Budget estimates (i.e. estimates determined before the services are performed) alone do not qualify as support for charges to Federal awards, but may be used for interim accounting purposes, provided that:

- The system for establishing the estimates produces reasonable approximations of the activity actually performed;
- Significant changes in the corresponding work activity (as defined by the non-Federal entity’s written policies) are identified and entered into the records in a timely manner. Short term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term; and
- The non-Federal entity’s system of internal controls includes processes to review after-the-fact interim charges made to Federal awards based on budget estimates. All necessary adjustments must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.



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For records which meet the aforementioned standards, the non-Federal entity will not be required to provide additional support or documentation for the work performed.

In accordance with the U.S. Department of Labor regulations implementing the *Fair Labor Standards Act* (FLSA) (29 CFR Part 516), charges for the salaries and wages of nonexempt employees, in addition to the supporting documentation described in this section, must also be supported by records indicating the total number of hours worked each day.

FOR MORE INFORMATION

- [The Super Circular](#)
- [The Office of Executive Councils](#), Chief Financial Officers Council provides recorded webinars and information on the changes.
- [The White House](#) compiled side-by-sides and crosswalks explaining and identifying revisions.
- [The U.S. Government Accountability Office's Green Book](#) provides an overview of the Federal internal control standards.
- [The Committee of Sponsoring Organizations of the Treadway Commission](#) provides guidance on internal control.

CONTACT INFORMATION

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