



December 4, 2023

Office of Federal Financial Management  
Office of Management and Budget (OMB)

**RE: OMB's Proposal to Revise Parts of the Guidance for Grants and Agreements Located in Title 2 of Code of Federal Regulations (Docket OMB-2023-0017)**

On behalf of the New York State Council for Community Behavioral Healthcare (NYS Council), thank you for the opportunity to comment on the OMB's proposal to revise parts of the Guidance for Grants and Agreements located in Title 2 of the Code of Federal Regulations.

The NYS Council is a statewide membership organization composed of 130 community-based organizations that provide recovery-focused mental health and/or substance abuse/chemical dependence and addiction treatment programs and services for New Yorkers in need. NYS Council members offer a broad array of behavioral health services designed to meet the unique needs of children and adolescents, individuals and families seeking our assistance. Our services are available in a variety of community settings including freestanding agencies, behavioral health divisions of general hospitals, and county mental hygiene programs.

Not-for-profit organizations are key partners that help the Federal government accomplish many of its policy, regulatory, and programmatic goals related to mental health and substance use treatment. Most of the proposed changes will enhance the financial, administrative, and operational structures of these not-for-profit organizations by clarifying requirements and reducing the administrative burden on small organizations that serve the public good. As an organization representing these organizations, we support most of the proposed changes.

Below, we have outlined our comments aligned to the numbered section used in OMB's proposed guidance, and we have placed our comments in the order in which topics appear.

Specific proposed changes that the NYS Council supports include:

**[200.414] Indirect Costs.** The proposed change of raising the de minimis rate from 10 percent to 15 percent will provide additional support to organizations without a negotiated indirect cost agreement. Often these types of organizations must find additional non-Federal dollars to cover the administrative costs of managing Federal grants which limits many not-for-profit organizations competing for Federal grants.

The NYS Council supports modifying the definition of Modified Total Direct Costs (MTDCs) to include the direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$50,000 of each subaward. The 15% MTDC rate will make the de minimis rate a more viable option for many recipients and subrecipients. This will more accurately reflect the administrative costs needed to manage and monitor subrecipients' programmatic and financial activities to ensure compliance with all regulations and requirements.

We also encourage OMB to strengthen the regulatory language providing that the underlying costs comprising a de minimis rate are not subject to further review by stating the de minimis rate is a form of "predetermined" indirect cost rate.

However, we would request that the OMB provide additional clarification about the exact meaning of the proposed exclusion threshold of subawards. The language "regardless of the period of performance of the subawards under the award" is unclear and leaves the interpretation of whether this phrase is specific to the entire period of performance (e.g., multiple years) or each individual period of performance (e.g., each year) of each subaward.

**[200.501] Audit Requirements.** The NYS Council supports raising the audit threshold from \$750,000 to \$1,000,000. This proposed change will remove a significant financial and time burden for grantees with smaller amount of Federal grants and only require audits for organizations with a significant portfolio of Federal grant awards.

The NYS Council also requests that OMB reconsider the proposed guidance specific to these two items:

**[200.201] Fixed Amount Awards.** The proposed new language which states "At the end of a fixed amount award, the recipient or subrecipient must certify in writing to the Federal agency or pass-through entity that the project was completed as agreed to in the Federal award and that all expenditures were incurred in accordance with § 200.403" is problematic. It seems to make fixed amount awards cost-reimbursable. The NYS Council requests that OMB keep the current language regarding certification.

**[200.413] Unallowable Indirect Costs.** The proposed new language that all unallowable G&A costs must go into direct cost base is overly broad and could lead to distortions of rates to the disadvantage of recipients. The NYS Council requests the OMB maintain the current language as it already provides an adequate, logically correct standard.

The NYS Council appreciates the opportunity to provide these comments. We welcome any questions or further discussion about the recommendations described here. Please contact Lauri Cole, Executive Director, at [lauri@nyscouncil.org](mailto:lauri@nyscouncil.org). Thank you for your time and consideration.

Sincerely,



Lauri Cole  
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NYS Council for Community Behavioral Healthcare