

M-20-11, Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel Coronavirus (COVID-19)

M-20-17, Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel Coronavirus (COVID-19) due to Loss of Operations

The U.S. Office of Management and Budget (OMB) issued two guidance documents in March 2020 that provide federal agencies with short-term flexibility in administering federal grant agreements in the wake of the COVID-19 pandemic.

OMB's first guidance document (M-20-11), issued on March 9, 2020, was narrowly crafted to apply only to those grant recipients receiving federal funds for "the continued research and services necessary to carry out the emergency response related to COVID-19" during the 90-day Public Health Emergency Period declared by the U.S. Department of Health and Human Services (HHS).

OMB's second guidance document (M-20-17), issued on March 19, 2020, provides similar administrative relief "to an expanded scope of recipients affected by the loss of operational capacity and increased costs due to the COVID-19 crisis." This second guidance applies to "both recipients with COVID-19 related grants and other types of federal grants," and applies for a limited period of time.

Both memorandums identify exceptions to the administrative, financial, management and audit requirements under 2 C.F.R. part 200, which governs federal grants. The exceptions include the following:

1. **Flexibility with SAM registration/recertification:** OMB's guidance permits awarding agencies to relax the requirement for active SAM registration at the time of application, in order to expeditiously issue funding. OMB also affords "[c]urrent registrants in SAM with active registrations expiring before May 16, 2020," a "one-time extension of 60 days." Note that the requirement to review FAPIIS through SAM at the time of award still applies. Presumably, OMB's intention is to entice entities new to the federal space (i.e., those not already registered in SAM) to apply for federal grants for research or services to carry out emergency response related to COVID-19, without delay.
2. **Flexibility with application deadlines:** OMB's guidance allows awarding agencies to "provide flexibility with regard to the submission of competing applications in response to specific announcements, as well as unsolicited applications."
3. **Waiver for Notice of Funding Opportunities ("NOFOs") publications:** Under 2 C.F.R. § 200.203, awarding agencies generally must make all funding opportunities available for application for at least 60 calendar days and "no less than 30 calendar days[.]" OMB's

guidance waives this requirement, allowing awarding agencies to publish emergency NOFOs for less than 30 days without justifying shortening the timeframe. Grant recipients should be aware of this shortened timeframe and be prepared to timely respond to emergency NOFOs related to COVID-19.

4. **No-cost extensions on expiring awards:** OMB's guidance allows awarding agencies to extend awards active as of March 31, 2020, and scheduled to expire prior to Dec. 31, 2020, automatically at no-cost for up to one year in order to allow recipient assessments, the resumption of individual projects, and a report on program progress and financial status.
5. **Abbreviated non-competitive continuation requests:** For non-competitive continuation requests (i.e., a request to authorize a subsequent budget period within an existing project, see 2 C.F.R. § 910.126) due from April 1, 2020, to Dec. 31, 2020, from projects with planned future support, OMB's guidance allows awarding agencies to accept a brief statement from grant recipients to verify that they are in a position to resume/restore their project activities and accept a planned continuation award (as opposed to the application process). As with the other flexibilities, this should allow recipients to continue necessary work responsive to COVID-19 without interruption.
6. **Allowability of salaries and other project activities:** OMB's guidance permits awarding agencies to allow grant recipients to continue to charge salaries and benefits to currently active federal awards consistent with the recipients' policy of paying salaries from all sources (federal and non-federal). The guidance also permits agencies to allow other costs to be charged to federal awards, including those necessary to resume activities supported by the federal award, consistent with the cost principles and benefit to the project. With regard to grant recipients affected by the loss of operational capacity and increased costs due to COVID-19, the guidance notes that awarding agencies must require grant recipients to "maintain appropriate records and cost documentation" in order to "substantiate the charging of any salaries and other project activities costs related to interruption of operations or services." It is worth noting that maintaining appropriate records and cost documentation is required by 2 C.F.R. §§ 200.302 and 200.333 notwithstanding the COVID-19 crisis and that grant recipients should continue to abide by these requirements regardless of whether COVID-19 has impacted its operational capacity or costs.
7. **Allowability of costs not normally chargeable to awards:** OMB's guidance, recognizing the impact COVID-19 has had on travel plans and in-person events and activities, permits awarding agencies to allow recipients who "incur costs related to the cancellation of events, travel, or other activities necessary and reasonable for the performance of the award, or the pausing and restarting of grant funded activities due to the public health emergency, to charge these costs to their award without regard" to various cost principles (2 C.F.R. §§ 200.403–200.405). The guidance notes that awarding agencies "may allow recipients to charge the full cost of cancellation" when the travel or event is conducted under the grant. Again, appropriate recordkeeping and cost documentation is required.
8. **Prior approval requirements:** OMB's guidance allows agencies to waive prior approval requirements as necessary to effectively address the response related to COVID-19. The guidance reiterates that all charged costs must be consistent with the cost principles and Federal cost guidelines, except where waived or exempted by OMB's guidance.
9. **Exemption from certain procurement requirements:** OMB's guidance permits awarding agencies to waive the competition requirements prescribed by 2 C.F.R. § 200.319(b),

pertaining to geographical preferences in the evaluation of bids or proposals, and 2 C.F.R. § 200.321, pertaining to contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. Allowing awarding agencies to waive these competition requirements should streamline federal assistance awards.

10. **Extension of financial and other reporting:** Awarding agencies are permitted to allow recipients to delay submission of financial and other reports up to three months beyond the normal due date without impacting grant recipients' ability to continue to draw down Federal funds. Extending these reporting requirements will allow grant recipients to focus on the necessary research and services in response to COVID-19 with fewer administrative burdens. The guidance notes, however, "that these reports must be submitted at the end of the postponed period."
11. **Extension of currently approved indirect cost rates:** OMB's guidance permits awarding agencies to allow grant recipients to "use the currently approved indirect cost rates (i.e., predetermined, fixed or provisional rates) to recover their indirect costs on federal awards." The guidance allows awarding agencies to approve grantee requests "for an extension on the use of the current rates for one additional year without submission of an indirect cost proposal" and/or "for an extension of the indirect cost rate proposal submission to finalize the current rates and establish future rates."
12. **Extension of closeout:** Awarding agencies are permitted to allow the recipient to delay the submission of any reports required by the terms of the award, so long as the grant recipient provides the awarding agency with proper notice about the reporting delay. Any delay in submitting closeout reports by the grant recipient "may not exceed one year after the award expires."
13. **Extension of Single Audit submission:** OMB's guidance directs that awarding agencies "should allow recipients and subrecipients" that have not yet filed their single audits and that have fiscal year-ends through June 30, 2020, to delay the completion and submission of the reporting package for up to six months beyond the normal due date. Note that for grant recipients performing "continued research and services necessary to carry out the emergency response related to COVID-19," this requirement is extended to one year beyond the original due date. As with the other flexibilities announced by OMB, extending the Single Audit submission date will allow grant recipients to focus on either containing and mitigating COVID-19 or otherwise dealing with loss of operational capacity and increased costs due to the COVID-19 crisis.
14. **Pre-award costs:** The cost principles require grant recipients to obtain the awarding agency's prior approval to incur certain costs, including pre-award costs (defined as costs "incurred prior to the effective date of the federal award directly pursuant to the negotiation and in anticipation of the federal award where such costs are necessary for efficient and timely performance of the scope of work"). See 2 C.F.R. § 200.458. OMB's guidance permits agencies to allow all necessary pre-award costs incurred from Jan. 20, 2020, through the Public Health Emergency Period and prior to the effective date of a federal award. **This flexibility applies only to those grant recipients whose Federal award is related to responding to the COVID-19 crisis**, and it is not included in the guidance issued March 19, 2020.

For further information about the impact of COVID-19 on federal grant recipients or contractors, please visit our [Government Contracts Blog](#) or contact authors [Robert Tompkins](#), [Christian Nagel](#) or [Kelsey Hayes](#), or another member of our [Government Contracts Group](#).

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