

March 13, 2023

To: Office of Management and Budget

Subject: Response to Request for Information on Uniform Guidance for Grants and Agreements

To Whom it May Concern,

We are a coalition of non-profit organizations, current and former executives from federal, state and local government, and other leaders who are committed to building state and local capacity to use data, evidence, and cross-program innovation to improve outcomes for low-income and disadvantaged populations. We appreciate the opportunity to provide input to OMB's upcoming revisions to 2 CFR. Our comments focus on 2 CFR 200, the Uniform Guidance, which sets grants administration policies for federal grants to state and local governments.

We urge OMB to use the upcoming guidance revisions as an opportunity to launch a deep, coordinated review of federal grants administration and reporting processes. These processes, largely unchanged for decades, drive how states and localities administer over \$900 billion annually in federal aid to serve low-income and disadvantaged populations. The review should directly engage state and local government partners to correct the mismatch between stated federal goals – focused on outcomes, equity, customer experience, evidence-based decision-making, and fraud reduction – and the inefficient, compliance-focused processes imposed by the federal government that consume scarce state and local resources and detract from those goals.

Our core recommendations are summarized below. Additional detail is provided in the Appendix.

1. Modernize accountability processes to advance collaborative, outcome-focused, evidence-based performance improvements

Problem: There is a mismatch between the Congressional and Executive Branch policy focus on improving outcomes of individuals and families and federal grants administration and reporting processes. While these administrative processes are intended to ensure accountability in state and locally administered programs, they often undermine state and local efforts to improve outcomes and cost-effectiveness of federal investments.

- Over the past two decades, Republican and Democratic policymakers in Congress and the Executive Branch have increasingly embraced the use of data and evidence to promote cross-program innovation and drive resources to more effective practices. Unfortunately, federal grants administration and reporting functions, which are primary determinants of how grantee and subgrantee staff allocate their time, have not been modernized in ways that enable grantees and subgrantees to shift their focus from compliance to outcomes. For example:
 - State and local fiscal staff, fearful that comingling of funds will result in audit findings and disallowed costs, enforce risk-averse accounting practices that discourage braiding and blending funds to support cross-program coordination and shared data and analytics infrastructure.
 - State and local grantees and their service providers routinely complain about excessive reporting burden that is costly and not generating useful information for performance improvement. The federal government’s failure to coordinate across programs and levels of government to develop standardized data elements and definitions as well as meaningful performance reporting is a key barrier hindering cross-program coordination, innovation, and use of data and evidence for improvement.

- Many aspects of Federal grants administration and reporting are established through administrative action – not statute – by OMB and federal agencies. These processes should be continually reviewed and updated to leverage new technologies and other capabilities that enable grant funds to be used more effectively. OMB – which sits at the intersection of programmatic policy and management implementation – has not established a feedback loop with state and local grantees and their service providers to provide insights on whether grants management and reporting processes are advancing or hindering achievement of programmatic policy goals.

- OMB created an important opportunity for two-way collaboration to develop innovative, outcome-focused accountability approaches in 2014 when it included a new provision in 2 CFR 200.102(e) which read:

On a case-by-case basis, OMB will approve new strategies for Federal awards when proposed by the Federal awarding agency in accordance with OMB guidance (such as [M-13-17](#)) to develop additional evidence relevant to addressing important policy challenges or to promote cost-effectiveness in and across Federal programs. Proposals may draw on the innovative program designs discussed in M-13-17 to expand or improve the use of effective practices in

delivering Federal financial assistance while also encouraging innovation in service delivery.

At the time, OMB officials described this as a key reform that would spur collaboration between federal, state and local governments to create new, outcome-focused reporting processes that would reduce burden and increase flexibility for innovation. To our knowledge, OMB has not taken steps to work with agencies or grantees to implement this provision (or the slightly modified version in section 102(d) of OMB's 2020 guidance.)

Recommendation 1.1: OMB and federal agencies should institute new processes for intergovernmental collaboration and problem-solving that bring together policymakers, program administrators, data and evaluation experts, grants administrators, and service providers from different levels of government to:

- Understand the barriers to cross-program coordination, outcome-focused innovation, and use of data and evidence to improve effectiveness and efficiency in grant programs;
- Determine which barriers are the result of Congressional statutes, regulatory and administrative requirements, or myths and misinterpretations of federal requirements.
- Identify actions to overcome the barriers -- focusing on what that can be implemented without legislation – to strengthen state and local capacity to redirect resources from unproductive activities to activities that improve outcomes and cost-effectiveness; and
- Devise pilots in a few high-priority areas using the Exceptions provision in 2 CFR 200.102 that can serve as a proof of concept for broader adoption of streamlined, outcome-focused reporting that improves accountability for results while reducing reporting burden.

Recommendation 1.2: OMB, with input from federal agencies and state and local partners, should review, realign and update its fragmented organizational responsibilities and processes that have lost touch with the needs of grantees, reinforced programmatic silos, and generated significant and costly compliance burden. In addition to grants administration policy, key OMB functional areas that should be working synchronously to enable grantees and service providers to shift their focus to outcomes include information collection and regulatory review, Government Performance and Results Act implementation, evaluation and evidence-building, customer experience initiatives, digital services, and budget policy and execution. OMB should also work with HHS to rationalize and simplify cost allocation rules for integrated data systems that can be financed through federal grant programs, including Medicaid.

2. Modernize financing practices that will strengthen integrated data infrastructure, analytics, and evaluation capacity

Problem: The federal government has not clearly communicated to grantees that use of data and evidence is an essential, expected aspect of administering every federal program and the permissible ways that grant funds may be used to build and maintain this capacity.

- There is often a presumption by grantees, federal program staff, and auditors that absent explicit permission, grant funds should not be used for data and evaluation. Selective efforts by the Obama, Trump, and Biden administrations in a few targeted areas have not communicated a consistent policy. These prior, disconnected efforts include:
 - During the Obama administration, Congress provided significant new funding for ED’s State Longitudinal Data Systems, and HHS, USDA, and OMB created targeted cost allocation waivers to make increased Medicaid funding available for integrated enrollment systems for some low-income programs.
 - During the Trump administration, OMB revised the Uniform Guidance to clarify that evaluation is an allowable cost (either as direct or indirect),¹ though many federal agency staff and grantees are unaware of this policy.
 - During the Biden administration, OMB and Treasury guidance on pandemic-related assistance encourages use of grant funding for data and evidence-building.

- Without integrated data capacity, states and localities using federal funds to serve overlapping populations will not be able to gain essential insights for improving outcomes and cost-effectiveness, such as:
 - Which eligible clients are in greatest need of benefits and services?
 - Which mix of services is optimal for different clients and how could their delivery be better coordinated?
 - What outcomes are being achieved, for whom, and what gaps must be closed?
 - What strategies and interventions have the greatest impact and are most cost-effective?
 - What resources are being wasted on fraud and inefficiency that could be redeployed to effective uses?

- Some states and localities (e.g., Indiana, Ohio, Allegheny County), despite confusing federal guidance, have built and are maintaining robust integrated data systems that integrate health, human services, education, workforce, criminal justice, and other data,

¹ 2 CFR 200.413 (b)

using blended and braided funding from federal programs. These systems are not costly, with basic implementation possible for several million dollars.

- Most provisions of federal grant guidance on cost allocation and financing data systems have remained largely unchanged for twenty years. See Cost Allocation Service [Best Practices Manual](#), [ASMB C-10](#), and [Cost Allocation Methodologies Toolkit](#). As such, the guidance fails to recognize the enormous technology advances that can transform how government policymakers, employees, clients, and the public access and utilize data. The outdated Uniform Guidance treats IT investments as capital investments and does not address the growing trend toward cloud-based infrastructure, which has dramatically altered how governments build data capacity and procure data services.

Recommendation 2.1: The Uniform Guidance should set the expectation that grantees will build and maintain efficient data infrastructure and analytics capacity that can support cross-program coordination and use of data and evidence including demographic data (within the bounds of federal nondiscrimination law). The guidance should adopt a “yes unless” policy to clarify that grant funds may be used for this purpose except where there is a statutory prohibition. The OMB guidance and Audit Supplement should identify programs with statutory restrictions that prohibit or set caps on financing of integrated data systems. See Appendix.

Recommendation 2.2: The Uniform Guidance should clarify that it is permissible for funds from different sources to support a single integrated data system. To do this, the guidance should: (a) update cost allocation rules to explicitly include integrated data systems as an allowable component of statewide and central service cost-allocation plans; (b) clarify the circumstances when direct or indirect costs are allowable for data and evaluation capacity; and (c) create a simplified methodology for reasonably allocating integrated data and evaluation costs that provides a “safe harbor” for audit purposes. The new rules should be designed to reduce unnecessary documentation and workload for program, fiscal, and auditing staff if the grantee can demonstrate that their integrated systems meet federal standards for cost-efficiency, privacy, security, and capacity to utilize data across a wide range of programs. See Appendix.

Recommendation 2.3: The Uniform Guidance should modernize capital regulations to incorporate cloud-based infrastructure. See Appendix.

3. *Related recommendations submitted to OMB in 2020*

In 2020, OMB requested public comments on its proposed revisions to 2 CFR 200. Many of our organizations collaborated on a joint response, [here](#), which includes several recommendations

for strengthening grants administration that are not addressed above. These include issuing Notices of Funding Opportunities that are easy to understand and clarifying that grant funds may be spent on strategic planning, cross-program coordination, and outcome-based contracts.

Recommendation 3: OMB should amend the Uniform Guidance to incorporate other revisions to improve the impact of federal grants that many of our organizations recommended in March 2020.

The above recommendations and additional detail in the Appendix reflect ideas that have emerged from conversations across our organizations and with our state and local partners who share a commitment to using data, evidence, and cross-program innovation to improve outcomes for low-income and disadvantaged populations. Representatives from our coalition would welcome the opportunity to meet with OMB officials to discuss these recommendations and ways that our organizations could facilitate constructive problem-solving with state and local partners.

Sincerely,

Appendix - Modernize financing practices that will strengthen integrated data infrastructure, analytics, and evaluation capacity

Recommendation 2.1: Set the expectation that grantees will build and maintain efficient data infrastructure and analytics capacity

Recipients of Federal awards are required to “measure performance to show achievement of program goals and objectives”² and ensure program integrity.³ Further guidance documents have expanded on these requirements:

- “The need to collaborate extends within and across agencies as well; evidence-based government requires cross-agency work including data sharing in support of addressing Learning Agenda and evaluation activities; engaging on cross-cutting priorities, such as equity and climate change; and addressing shared operational and management challenges.”⁴
- Federal agency evaluation policies must apply to “recipients of Federal awards that are performing work on behalf of the agency.”⁵
- “Evaluation is a scientific activity, and agencies must uphold scientific integrity as they undertake evaluation activities.”⁶
- Evidence-building should be built into program design from the outset. Human-centered design should inform the design of processes and delivery. Programs should be designed to collect and use data or use existing data that is needed for measuring progress and building evidence on program effectiveness, including implementation activities, performance reporting, and program evaluation, as appropriate.⁷

These requirements must be seen from the perspective of state and local governments that must manage multiple federal programs with overlapping client populations. In 2022, over \$900 billion was allocated to states for programs serving low-income and vulnerable populations, including health, nutrition, income support, education, employment, housing, criminal justice, transportation and other social services. A significant proportion of clients receive [more than one](#) Federal social safety net program. As of 2015, about [80 Federal programs targeted the same population](#).

² 2 CFR 200.301

³ 2 CFR Part 200.303

⁴ Page 5 of [M-21-27](#)

⁵ Page 12 of [M-21-27](#)

⁶ Page 12 of [M-21-27](#) (see also [Presidential Memo](#))

⁷ [M-22-12](#)

Program evaluation requires considering how other programs may be affecting your client population. Otherwise, you have no basis for differentiating between the effects of the program versus the outside effects. As a result, ***any direct review of the program outcomes requires integrated data*** across programs with shared client populations. In addition, matching data across programs can be used to improve program operations and is a significant tool for detecting fraud.⁸

Because of their usefulness, many states have built multiple integrated data systems. In particular, the Department of Education and the Department of Labor have funded State Longitudinal Data Systems and the Department of Health and Human Services has funded integrated data systems with Medicaid funds. The utility of these systems is reduced and costs and security risks are increased when there are multiple systems with overlapping client information. Federal grant regulations should embrace the need for integrated data and encourage grant recipients to create a single system or centralized capacity to link data across program sectors. Some of this sentiment already exists. State and local governments are “encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.”⁹

Recommendation 2.2: Update cost allocation rules for integrated data systems and evaluation capacity.

The Office of Management and Budget (OMB) has made it clear that evaluation costs are allowable costs (either as direct or indirect) of federal awards.¹⁰ In addition, “evaluation” is defined to include a variety of types of evaluation. Per section 101(a) of the Evidence Act, “[t]he term ‘evaluation’ means an assessment using systematic data collection and analysis of one or more programs, policies, and organizations intended to assess their effectiveness and efficiency.”¹¹ Therefore, any grant funds may be used to build integrated data and evaluation capacity to support the purpose of the grant, if not in violation of specific program requirements. However, there is still a great degree of uncertainty that makes it difficult for state and local governments to invest federal funds in data and evaluation capacity. **The Uniform Guidance should update cost allocation rules to explicitly include integrated data systems as an allowable component of statewide and central service cost-allocation plans.**

⁸ GAO-15-593SP, [A Framework for Managing Fraud Risks in Federal Programs](#), page 39

⁹ 2 CFR 200.318 (e)

¹⁰ Page 16 of [M-21-27](#) and page 7 of [M-22-12](#). See also 2 CFR 200.413 (b).

¹¹ [5 U.S.C. § 311\(3\)](#)

How to distinguish direct from indirect costs for evaluation is one source of confusion. Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect costs.¹² Indirect and direct costs have different rules and grant recipients often are managing a large number of separate grants. As a result, the flexibility causes confusion about how data and evaluation has been funded in the past and which resulting path can and should be used now. **The Uniform Guidance should clarify the circumstances when direct or indirect costs are allowable for data and evaluation capacity.**

Second, federal guidance on cost allocation for central services focuses on the principle of distribution of costs in proportion to the benefits received by the programs, to the extent possible.¹³ However, in a situation where integrated data and evaluation is the central service, it is not possible to clearly identify which programs receive which benefits of integrated data and evaluation due to the multi-program nature of the evaluation and the nature of evaluation itself. This is because:

- Many evaluations involve data from multiple programs, and even evaluations that focus on one program are using data from outside the program.
- Evaluating one program may create benefits to other programs.
- Utilization of centralized data services by individual programs may vary significantly from year to year. Outsized benefits can accrue to a number of programs in a particular year. Other programs that contribute data and funding to integrated data systems may not realize significant benefits until a future evaluation is completed.
- The lack of a clear benefit chain in multi-program analysis has characteristics that are similar to research and development. Research and development costs have been seen as unallowable under federal guidance.¹⁴

As a result, there is uncertainty and confusion in state and local governments concerning the use of central service cost allocation to fund integrated data systems and evaluation services for state and local agencies. The federal uniform grant regulation does contemplate this situation in general. “If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then, . . . the costs may be allocated or transferred to benefitted projects on any reasonable documented basis.”¹⁵ **The Uniform Guidance should create a simplified methodology for reasonably allocating integrated data and evaluation costs that provides a “safe harbor” for audit purposes.**

¹² 2 CFR 200.413 (a), and 2 CFR Appendix-VII-to-part-200 A.1.

¹³ [2 CFR 200.405\(d\)](#)

¹⁴ See these cost recovery [training materials](#), slide 8

¹⁵ [2 CFR 200.405 \(d\)](#), see also [2 CFR Appendix-VII-to-Part-200 C.2.c](#)

Integrated data systems and evaluation capacity is extremely useful at improving program performance. So useful, that the Center for Medicaid Services [has allowed](#) states to use Medicaid funds at a 90% match, traditionally only available for Medicaid management information system eligibility enhancements, to build integrated data systems with programs outside of Medicaid. The administrative data from these programs is added with the idea that the value they bring to Medicaid program evaluation is worth the high match rate, even if some evaluation from the infrastructure does not use Medicaid data. This principle should be adopted by all federal grant programs.

As discussed above, OMB has made it clear that direct or indirect expenditures from grants may fund evaluation and related data initiatives¹⁶ - implying broad discretion in the use of grant funds for these purposes. In addition, grant recipients often have leftover grant funds after a program has been implemented. **If these leftover funds were from a program participating in an integrated data system and evaluation capacity, they should be able to be used to expand the system and incorporate data from other programs.**

Recommendation 2.3: Modernize capital regulations to incorporate cloud-based infrastructure.

Much modern data and IT infrastructure takes place in the cloud, but the federal unified grant regulation has not been updated to reflect cloud-based services. Equipment and capital greater than \$5,000 are not allowable as indirect costs¹⁷ or require prior written approval as direct costs.¹⁸ On the other hand, rental costs and right-to-use assets do not have the same restrictions.¹⁹ This is a pretty strong incentive for grant recipients to consider cloud-based data warehouse and software-as-a-service data transformation rather than direct equipment and capital purchase or development. However, there is a great deal of uncertainty that this is what is intended. Are cloud services really favored even when a largely equivalent outcome could be achieved with direct capital expenditures? Even housing the integrated data that is owned by the state or local government in a cloud service raises capital questions. Is the integrated data itself, built over time and project-by-project, also a capital asset?

This issue is particularly difficult for states because of the popularity of these services. They have a consistent funding structure that works well with the state requirements for balanced budgets. The lack of resolution on this issue stands in contrast to OMB policies on direct federal

¹⁶ Page 16 of [M-21-27](#) and page 7 of [M-22-12](#). See also [2 CFR 200.413\(b\)](#).

¹⁷ [2 CFR 200.439\(b\)\(7\)](#)

¹⁸ [2 CFR Part 200.439\(b\)\(1\)-\(3\)](#)

¹⁹ [2 CFR Part 200.465\(a\)](#) and [2 CFR 200.1 Capital asset \(2\)](#)

IT investments, which were updated during the Obama administration to speed the transition by federal agencies to cost-efficient, secure, cloud-based services for their own operations.