

## Client Alert

---

December 29, 2014

# OMB and Federal Agencies Publish Final Rule on Grants and Cooperative Agreements

By Tina D. Reynolds and Catherine L. Chapple

On December 19, 2014, the White House Office of Management and Budget (OMB) and 28 federal agencies published in the Federal Register a consolidated interim final rule to implement OMB's December 2013 final guidance on administrative requirements, cost principles and audit requirements for federal grants and cooperative agreements.

The December 26, 2013 Uniform Guidance—which also became known as the “OmniCircular” or “SuperCircular”—was the culmination of a lengthy process begun by the Council on Financial Assistance Reform (COFAR), an interagency group created in 2011 and charged with assisting OMB in cutting government red tape and reducing waste, fraud, and abuse in connection with grants and cooperative agreements. The Uniform Guidance consolidated instruction previously found in eight separate OMB Circulars that applied primarily to “non-Federal entities”—defined by OMB to include non-profit organizations, institutes of higher education (IHEs), state and local governments, and Indian tribes. *See prior [client alert](#).*

The interim final rule is effective December 26, 2014, with the exception that non-Federal entities have been given a one year reprieve to implement the procurement standards at 2 CFR 200.317 through 200.326. OMB has indicated that it will publish a 2015 Compliance Supplement to assist non-Federal entities in meeting the new requirements. Interested parties may comment upon the interim final rule through February 17, 2015.

OMB has made a few changes to the December 2013 guidance, primarily to make technical corrections. Thus, for example, prior references to the Central Contractor Registration (CCR) and Excluded Parties List System (EPLS), which no longer exist, were revised to refer to the new System for Award Management (SAM). OMB also clarified in several instances, particularly around audit requirements, that the requirements are not optional. It thus changed the word “should” to “must” to reflect the mandatory nature of longstanding policies.

The individual agency implementing regulations are designed to transfer and consolidate existing policies and regulations into the agency-specific portions of 2 CFR. Any agencies that received OMB approval for exceptions to the Uniform Guidance have included the language in their portion of the regulations. Three agencies—the National Science Foundation, the Department of Education, and the Department of Health and Human Services—requested and received special accommodations for the formats of their implementing regulations.

The December 19 interim final rule can be found here: <http://www.gpo.gov/fdsys/pkg/FR-2014-12-19/pdf/2014-28697.pdf>.

# Client Alert

---

**Contact:**

**Tina D. Reynolds**  
(703) 760-7701  
[treynolds@mofo.com](mailto:treynolds@mofo.com)

**Catherine L. Chapple**  
(703) 760-7729  
[cchapple@mofo.com](mailto:cchapple@mofo.com)

**About Morrison & Foerster:**

We are Morrison & Foerster—a global firm of exceptional credentials. Our clients include some of the largest financial institutions, investment banks, Fortune 100, technology and life science companies. We've been included on *The American Lawyer's* A-List for 11 straight years, and *Fortune* named us one of the "100 Best Companies to Work For." Our lawyers are committed to achieving innovative and business-minded results for our clients, while preserving the differences that make us stronger. This is MoFo. Visit us at [www.mofo.com](http://www.mofo.com).

*Because of the generality of this update, the information provided herein may not be applicable in all situations and should not be acted upon without specific legal advice based on particular situations. Prior results do not guarantee a similar outcome.*