May 31, 2013

Mr. Norman Dong
Deputy Controller
Office of Federal Financial Management
Office of Management and Budget
725 17th Street, N.W.
Washington, D.C. 20025

Re: Comments on OMB Reform Proposal, Docket No. 2013-0001

Dear Mr. Dong:

Community Action Program Legal Services ("CAPLAW") is a nonprofit organization whose members are local Community Action Agencies ("CAAs"), all of whom are funded by the federal Community Services Block Grant through the states, and state associations of CAAs. The vast majority of CAAs also receive other federal grant funds, such as Head Start and the Low-Income Heating Assistance Program, to provide opportunities for low-income people and to move individuals and families from poverty to self-sufficiency. Most CAAs, of which there are about 1000, are nonprofits; the balance are units of local governments. CAPLAW provides training and technical assistance to CAAs, CAA associations, and state CSBG offices on legal, financial, and management issues, including many federal grant issues.

CAPLAW appreciates this opportunity to comment on OMB’s proposed reforms. In general, we support the revisions to the guidance and the circulars, although we do have some specific comments, objections, and requests for clarification, as discussed below.

General Comments

- Some of the revisions that are small, but have a potentially major impact, were not included in OMB’s summary of the revisions, and therefore due to the length of the reform documents, likely were not noticed by many of the nonprofit grantees that would be affected. We recommend that OMB allow additional comment time on such revisions, which are discussed below under specific comments.

- We support the addition of a Definitions Appendix. Any term that is defined in Appendix I should be bolded in the text throughout the circular.

- The requirement for prior approval has been added to too many specific items in the cost principles. Although presumably inclusion of a particular item in an approved budget would constitute “prior approval,” some agencies may require a level of detail that is not practical for inclusion in a budget. The increase in prior approval requirements would also lead to a much more frequent need for prior approval by the funder for budget
revisions under Section 502(h)(3)(F). We recommend that OMB provide and publish for comment a list of all of the costs or other activities that would require prior approval under the proposed revision and review to determine if some of those requirements can be removed.

**Specific Comments**

__.401 - __.404 Inclusion of Terms and Conditions in Federal Award Notice.** We support the new provisions that would require federal agencies to include more information in funding award notices, particularly references to relevant statutory provisions.

__.501 Subrecipient Monitoring and Management.** The current “vendor” language from OMB Circular A-133, Section __. 210 should be retained, rather than changing it to “contractor,” because state pass-through entities frequently refer to subrecipients as “contractors.” Use of that same term here will cause confusion and may erroneously suggest that states should follow the federal procurement rules in making subawards.

__.502 Standards for Financial and Program Management

** (e) Payment.** The proposed revision would no longer require advance payments be made to recipients and subrecipients as the general rule; instead advance payments would be permissible. This change has not been called out by OMB in its summary of revisions and would be extremely harmful to nonprofit grantees, many of which do not have the financial capacity to front the funds necessary to carry out grant-funded activities. The language from current section 215.22(b), which states that “[r]ecipients are to be paid in advance,” assuming certain conditions are met, should be retained. Otherwise, additional notice and comment time should be given so that the broader community of nonprofits is aware of this very significant change.

(f) Cost Sharing or Matching

(1)(E) This section states that one of the requirements for cost sharing is that the contributions “[a]re not paid by the Federal government under another Federal award, except where authorized by Federal statute to be used for cost sharing or matching.” Although this is not new language, clarification and consistency with other parts of the circular and other regulations would be helpful.

Does “Federal statute” above refer only to the federal statute authorizing the program whose funds would be used as match, or does it also refer to the federal statute authorizing the program that requires the match? For example, the statute authorizing HUD’s Emergency Shelter Grant, 42 USC 11375, provides in section (a), “each recipient under this part shall be required to supplement the assistance provided under this part with an equal amount of funds from sources other than this part.” HUD has apparently read that language to authorize the use of other federal funds as match for its program, so long as the other federal program does not prohibit such use. The HUD ESG regulation provides at 24 CFR 576.201:
(b) Eligible sources of matching contributions.

(1) Subject to the requirement for States under paragraph (a)(2) of this section, the recipient may require its subrecipients to make matching contributions consistent with this section to help meet the recipient's matching requirement.

(2) Matching contributions may be obtained from any source, including any Federal source other than the ESG program, as well as state, local, and private sources. However, the following requirements apply to matching contributions from a Federal source of funds:

(i) The recipient must ensure the laws governing any funds to be used as matching contributions do not prohibit those funds from being used to match Emergency Solutions Grant (ESG) funds.

Does that ESG statute, as interpreted by the HUD regulation, then serve as the "Federal statute" justifying use of any other federal funds for matching the ESG program (and others like it) so long as the other federal program doesn't prohibit the use, even if the other federal program doesn't expressly authorize such use? Or does the statute authorizing the program whose funds would be used as match need to expressly permit the use as match?

And a later section of the proposed revised OMB circular, although itself identical to the current version of OMB Circular A-122, is worded differently than this section (f) in that it does not expressly allow for use of federal funds as match if the federal statute permits. It provides, at .605(f), only that in order for a cost to be allowable, it must, among other things, "not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period." Although a potential override of OMB Circulars by federal statute is always understood, at least by lawyers, consistency within the OMB guidance, as well as clarification as to its application in situations such as above, would be helpful.

(9)(C) This provision would require that if indirect costs were used as a match, a special indirect cost rate for allocating to individual projects or programs the value of the contributions must be established. Why is that needed?

(h)(5) Revision of Budget and Program Plans. In the third line, after "project," the word "exceeds" seems to be missing.

_.503 Property Standards

(b) Real Property

(2) Use. This proposed provision would prohibit grantees from encumbering federally-financed real property except as authorized by federal statute. Although it is similar in that respect to OMB Circular A-102, the language in Section 215.32(a), the parallel section of Circular A-110, which permits encumbrance of the property
with approval of the federal agency, should be included in lieu of an outright prohibition on encumbrance.

(3) **Disposition.** This section should provide examples of how to calculate the Federal awarding agency’s percentage of participation (including an example indicating that the use of federal funds to pay depreciation on real property acquired solely with non-federal funds does not establish federal participation in the property), and specify that Federal agencies and recipients must agree at the time of award of funds to be used for real property purchases and/or improvements how the Federal agency’s percentage of participation will be calculated.

(d) **Equipment**

(3) **Use.** We support the deletion of prior approval requirements for use of equipment purchased with federal funds on projects other than the award for which it was purchased because it will eliminate red tape and delays.

(5) **Disposition.** The new language in (A) appears to give greater discretion to grantees to dispose of equipment than is currently the case; it would no longer require instructions from the federal awarding agency prior to disposition except “when provided.” It then continues in (D) to provide that the federal agency “may direct the recipient or subrecipient to take disposition actions” “where a recipient or subrecipient fails to take appropriate disposition actions.” Although expanded discretion to grantees on this issue is welcome, it may put grantees who take disposition action without instructions from the federal awarding agency in a risky position because funding agencies may provide them with subsequent disposition instructions at odds with how the grantee actually handled the disposition, long after the grantee is able to rectify the problem. We recommend deleting “in accordance with Federal awarding agency disposition instructions when provided” from (5) and replacing it with language requiring the federal agencies to notify the grantee in advance, through the award announcement or otherwise, if and when disposition instructions will be provided.

(A) We support this language expressly permitting grantees to retain, sell, or otherwise dispose of equipment with a per-unit fair market value of less than $5,000 without further obligation to the federal government.

(B) This section should provide examples of how to determine the Federal awarding agency’s percentage of participation in purchases of equipment, supplies and intangible property (including an example indicating that the use of federal funds to pay depreciation on equipment does not establish federal participation in the property), since the calculation methodology in this section is to be used in the case of dispositions of these types of property. In addition, this section should specify that Federal agencies and recipients must agree at the time of award of funds to be used for equipment purchases how the Federal agency’s percentage of participation will be calculated.
(g) **Property Trust Relationship.** It would be helpful for this section to clarify that the use of federal funds to pay depreciation costs does not create a federal interest in that property. This section applies to real property, equipment, intangible property and debt instruments "acquired and improved with Federal Funds." Section C-15 indicates that depreciation is compensation "for the use of buildings, other capital improvements, and equipment" and is not an acquisition and/or improvement cost.

_.504 Procurement Standards._ From the perspective of nonprofit recipients and subrecipients, this proposed revision is generally clearer than the parallel section in OMB Circular A-110. However, there are some inconsistencies. For example, Section (f)(1) seems to suggest that cost or price analysis would only need to be conducted in connection with procurements over $150,000 (small purchase threshold). But section (d) states that "some form of cost or price analysis is required" for all of the "below methods," which includes small purchases. And section (b)(9) sets out the documentation requirements for all procurements, which include the rationale for the contractor selection or rejection and the basis for the contract price. Is this documentation different than a "cost or price analysis"? A clearer, unified approach to the required analysis and documentation for each type of procurement process would be helpful. In the case of small purchases, it would be preferable to limit the documentation and analysis required as stated in Section (f)(1). Perhaps a "micro" purchase threshold category should be added, say under $5000, where only very minimal documentation is required – i.e., less than the documentation otherwise required under (b)(9).

(b)(3) **Procurement Standards.** A definition of the term “partner” as it applies to this section should be included in this section or in Appendix I – Definitions.

(b)(12) **Grievances.** This provision suggests that any procurement protests would need to be reported to the federal agency and that such vendors would have the right to protest to and review by the federal agency. This has not been the case before under Circular A-110 for nonprofits, is not needed, and should not be added here, unless nonprofits are exempted. The current version of A-110 requires nonprofit grantees to, on request, make available for federal agency, pre-award review and procurement documents if, for example, a proposed award over the small purchase threshold is to be made to other than the apparent low bidder. That language should be retained here in lieu of the grievance process set forth in this proposed section. If, however, the proposed provision is added, it should at least establish a limited timeframe for the conclusion of the protest process.

(j)(2) **Contract Cost and Price.** Recipients should not be required to negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost or price analysis is performed. This has never been a requirement for nonprofits under A-110, why is it needed now? In addition, there is the issue raised above of whether cost or price analysis is required for all procurement or just those above the small purchase threshold.

(i) **Contract Provisions**
1. **Criteria.** The text in this section seems to be misplaced; it addresses notices of grant funding opportunities, not procurement.

__.505 **Performance and Financial Monitoring and Reporting**

(c) **Financial Reporting.** Please include a reference to where recipients and subrecipients can find the “OMB-approved government-wide data elements for collection of financial information.”

(e) **Reporting on Real Property.** Most of this section, other than the reporting required under section 1, should be included in Section .503 on Property Standards, rather than here.

(1) Clarification is needed on reporting on the “status” of real property. The section title provides for reporting “critical changes,” but the text doesn’t limit reporting to that. Some examples of the type of reportable changes would be helpful. Also, add the following sentence before (2): "Depreciation costs are not part of "total project costs" and charging such costs to federal funds does not create a federal interest in that property.”

(2) This section requires federal agencies to specify the requirements for prior approvals for purchases of, or improvements to, real property “under a federal award.” Presumably, this is required only where federal funds are used for such purposes. Non-federal, non-match funds could be used to purchase a building in which grant activities would be carried out. In that case, prior approval would not be needed. To clarify, replace “under a federal award” with “with Federal funds.”

__.506 **Record Retention and Access**

(b) We support the revision of this section to permit recipients and subrecipients to create and maintain electronic, rather than paper, records, without further authorization by the federal agency. It would also be helpful for OMB to clarify the circumstances under which recipients may use and rely on electronic signatures.

(c) We support the clarification on when federal agencies may place restrictions on recipients’ access to confidential information.

__.508 **Closeout.** We support requiring federal agencies to close out grants within 180 days.

__.509 **Post-Closeout Adjustments and Continuing Responsibilities.** The following sentence should be added at the end of (a), “except that the Federal agency or pass-through entity shall make any cost disallowance determination and notify the recipient or subrecipient of such determination and the basis for it within the three year record retention period.” We have seen situations where federal agencies have questioned costs seven years later, long after grantees had discarded records that could have been used to defend their position
.510(a) **Collection of Amounts Due.** The following sentence should be added after the first sentence of subparagraph (a): "The Federal agency or pass-through entity shall make any such determination and notify the recipient or subrecipient of such determination and the basis for it within the three year record retention period." We have seen situations where federal agencies have questioned costs seven years later, long after grantees had discarded records that could have been used to defend their position.

.606 (d) **Reasonable Costs.** The revision would delete members and clients from the list of entities and individuals to whom responsibilities should be considered in determining whether a price is reasonable. What is the rationale for that? Clients, particularly when the award is intended to serve clients, should be a relevant factor.

.607(b) and (e) **Allocable Costs.** To the extent that paragraph (b) would require that all donated services receive an allocation of indirect costs, this is inconsistent with Section C-13(5), which requires an allocation of indirect costs only under certain circumstances. The language in .607(b) should be modified to be consistent with Section C-13(5). The second sentence of paragraph (c) is a helpful clarification.

.613 **Collection of Unallowable Costs.** A recipient should have the option of replacing unallowable costs with allowable costs that have been or will be incurred during the award period.

.616 **Indirect Costs.** We support the provision in (c) expressly requiring federal agencies, in most cases, and pass-through entities to honor the federal indirect cost rate. However, it would be clearer if the first sentence of (c) added "and pass-through entities" and the requirement of honoring the rate or using another rate or the 10% were also added to paragraph 5. The 10% alternative rate provided in (e) is helpful, but there should be no time limitation. Allow all recipients to use the 10% rate for as long as they want to, even if they currently have a negotiated rate or had one in the past. In addition, please clarify whether or not the rate must be supported by documentation that the recipient did in fact, at the end of the year, actually incur indirect costs at the 10% rate.

We recommend that a standard be established as to when a federal agency may opt out of the negotiated cost rate, such as establishing a benefit of doing so both to the federal agency and the recipient. We also recommend that a federal agency be barred from setting a rate that is below 10%, unless required by statute.

.621 **Selected Items of Cost.** The new sentence in the first paragraph ("In the case of a discrepancy between the provisions of a specific Federal award and the provisions below, the award should govern.") is at odds with previous language and with standard procedure, which require that an award must be consistent with all applicable federal laws and regulations. Assuming that this proposed uniform guidance is promulgated as a regulation by awarding federal agencies, then this guidance should trump any inconsistent award language, unless there is a superseding statute or more specific federal regulation that governs the program. The sentence should be deleted.
Allowability of Assessable Payments under the Affordable Care Act. Clarification is needed on the issue of whether the assessable payments to be paid under the Affordable Care Act by recipients that are large employers and do not provide qualifying health insurance to their full-time employees are allowable costs. To CAPLAW’s knowledge, no existing guidance specifically addresses this issue.

Under the current and proposed cost principles, costs resulting from violations of, or failure of the organization to comply with federal, state, and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of an award or instructions in writing from the awarding agency. The Affordable Care Act, however, gives large employers a choice of whether to “pay” the assessable payments or to “play” by providing qualifying health insurance to its full-time employees. Only if an employer neither plays nor pays would it be violating or failing to comply with the Act. Therefore, fees paid for failing to “play” should not be considered unallowable under this provision. Taxes that a recipient is required to pay are generally allowable, except for taxes from which an exemption is available to the recipient. It is not clear, however, whether the fees for failure to play would be considered taxes that a recipient is required to pay. It is also unclear whether Affordable Care Act fees could be said to benefit an organization’s federal awards and thus be allocable to those awards.

Communications. The communications cost item (paragraph 7 in current version of Circular A-122) should be reinserted as a separate selected item of cost. Although the crosswalk indicates that this is included as part of Cost C-1 (Advertising and public relations), that item does not cover the majority of communications costs. Guidelines on the allowability of costs associated with mobile communications devices (both employer-provided devices and reimbursements for employee-provided devices) would be helpful.

C-10 (9) Compensation – Personal Services – Standards for Documentation of Personnel Expenses. We generally support the proposed revisions. However, we are seeking clarification on a few points, as lettered in the proposal:

(A) Please confirm that the ability to aggregate costs in a “residual category and subsequently distribute[] them” includes compensation costs not included in a federally approved indirect cost rate, as well as those that are included in such a cost rate. Also, this proposed authority to aggregate costs would require distribution by a “method mutually agreed to.” Presumably this refers to an agreement between the recipient and the funding source(s). However, this is not practical because the nature of such costs is that there will be multiple funding sources, which would then need to agree on the method; an unlikely result given our experience with inconsistent interpretation of the compensation allocation documentation requirements even within one program, let alone among different federal and state agencies. This approval requirement would effectively negate the greater flexibility that this proposed revision seems to be aimed towards. We recommend that the language “mutually agreed to” be deleted.
(B) Why is the certification period for employees working on only one federal grant six months when paragraph (C)(i) provides that certified reports reflecting the distribution of compensation charges for each employee whose compensation is charged directly in whole or in part to federal grants need only be prepared for periods of 12 months? It should be 12 months for all employees.

(C) Subsections (ii) and (v) indicate that no additional support or documentation beyond certifications of distribution percentages is required. Please confirm that this means that documentation in the nature of the Personnel Activity Reports or something similar now required under Circular A-122 for nonprofits would not be required. Please confirm, if correct, that employees would not be required to maintain records of their activities, such as "met with clients" or "prepared budget," but instead would simply certify that X% of time was spent on a particular grant A and Y% on Grant B during the relevant time period. A provision should be added that if a recipient chose to continue using Personnel Activity Reports as now required under Circular A-122, the PAR would be sufficient to satisfy documentation requirements; no separate certifications would be required. Clarification on these issues in the proposed revision, or at least a published response by OMB to the comments, would be appreciated.

(F)(i) Substitute Methods Using Sampling. This section seems to require that all employees be sampled for the entire time period, which would negate the benefit of using sampling rather than actual reporting. Please clarify.

C-11 (7)(B) Compensation – Fringe Benefits (Pension Plan Costs). This provision, which is not new, states that in order for pension plan costs to be allowable, among other things, “the methods of cost allocation are not discriminatory.” The provision should clarify what is meant by “discriminatory” in this context. In the alternative, use the language now contained in the pension plan costs section of Circular A-21: “the methods of cost allocation are equitable for all activities.”

C-11 (7)(D) Compensation – Fringe Benefits (Pension Plan Costs) The citation to (48 9904-412) should be changed to (48 C.F.R. § 9904-412) to clarify that this is a citation to the Code of Federal Regulations.

C-12 (6)(A) and (B) Contributions and Donations (Services). For volunteer services donated both individually (A) and by a third party employer, the value of the donation for cost-sharing purposes should include both the salary and the fringe benefits that would be paid for the relevant work donated, as is currently the case.

C-15 Depreciation. The provision in the current version of Circular A-122 for charging a use allowance as an alternative to depreciation, which would be removed in this revision, should be retained. It appropriately allows recipients to cover costs once the building has been fully depreciated.

C-19 Fines, Penalties, Damages and Other Settlements.
The inclusion of “damages and other settlements” in the title of this item of cost indicates that costs of settlements of alleged violations or alleged failures to comply with laws and regulations are unallowable. However, unlike with fines and penalties where a government body has made a determination that the recipient has violated or failed to comply with a law or regulations, a settlement of claims brought by a private party of alleged violations or failures neither involves a dispute with a government entity, nor an adjudication establishing that the recipient violated or failed to comply with a law or regulation. In many cases, recipients agree to settlements to minimize costs rather than as an admission of violation or failure to comply. Therefore, references to damages and other settlements should be removed from this section, which should solely address fines and penalties.

C-20 (1) Fundraising and Investment Management Cost. We support the addition of the second sentence to the extent that it would permit fundraising costs for the purposes of extending the federal program objectives, but object to the special requirement of prior approval. There is no need for a special approval category, nor would it add anything to accountability for funds since there are no criteria listed for when prior approval should or should not be granted. In addition, section C-39, relating to proposal costs, should be cross-referenced here since funders, when applying Circular A-122, have often incorrectly challenged proposal costs as unallowable fundraising costs.

C-27 (1) Interest. Some have questioned whether language in some program authorization statutes barring the use of program funds for the purchase or improvement of land or the purchase, construction, or permanent improvement of buildings might prohibit the use of such funds to pay the interest portion of loans in connection with property or facility purchases or construction. It is our understanding, however, that interest is generally considered a carrying cost of the property, rather than part of the acquisition or construction cost, and therefore grantees should not be barred from charging interest to federal grant funds, unless otherwise expressly prohibited by law. We therefore recommend that you add the following sentence to the first paragraph to clarify: “Such interest and/or financing costs are not part of the asset cost, unless otherwise expressly stated by federal statute.”

C-28 Lobbying. The proposed revision would expand significantly the reach of the restrictions as compared to the current version of OMB Circular A-122 by covering not just legislation, referenda, and election-related political activities at the state and federal levels, but also activities relating to regulations and policies at federal, state, and local levels. In other words, this would expressly prohibit use of federal funds to, for example, comment on proposed regulations. We recognize that in 2002 Congress broadened the scope of the Anti-Lobbying Act (18 USC § 2013), to include efforts to influence any “law” or policy,” but the Act does not expressly include “regulation.” Although there is not uniformity on whether the definition of “law” always includes “regulation,” the term “law” sometimes is considered to include only laws passed by legislatures, not regulations promulgated by agencies pursuant to a statute. In any event, the Anti-Lobbying Act has traditionally been interpreted by both the U.S. Department of Justice and the Government Accountability Office, which have enforced the law, as applying narrowly only to grassroots lobbying, not to the broad scope of activity that could be included in the literal words of the statute.
This is a very important issue that was not included by OMB in any summaries of the proposed revisions or referenced in the first OMB notice on potential grant reform ideas published in February 2012. Therefore, it is likely that it is an issue that the broader public has not yet picked up on. OMB should seek additional comment specifically on this issue and advice from the Department of Justice and the GAO (if it has not already done so) before promulgating this revision to the rule. If this provision is retained by OMB, it should define “policy.” This is such a broad term that it could theoretically prohibit communication about almost any government action.

In addition, the proposed revision adds an important phrase, “Notwithstanding other provisions of this guidance” to paragraph (3)(A) preceding the specific restrictions on unallowable activities. But section (3)(B) provides that certain activities, such as technical presentations on grant performance, are excepted from the coverage of (3)(B). So the “notwithstanding other provisions” language in (3)(A) seems to cancel out the exception language in (3)(B). We therefore recommend that the “Notwithstanding” language be deleted from (3)(A).

In (3)(B), a new condition is added to the exemptions: “if otherwise allowable under subsection (1)(A).” It is unclear, however, how any costs theoretically excluded from the lobbying restrictions under (3)(B) would still be allowable under the new (1)(A). Examples of this would be helpful.

C-32 Meetings and Conferences (External). The words “of which” appear to be missing after “primary purpose.”

C-39 Proposal Costs. We generally support this revision, which expressly allows proposal costs. However, prior approval should not be required to charge the costs directly to grants, rather than as an indirect cost. This would be consistent with the current version of the HHS administrative requirements, see 42 CFR 74.27(b)(1).

C-44 Rental Costs. The term “institution” should be replaced with “entity” to be consistent with the rest of the document and relevant to the wider audience of recipients and subrecipients.

C-54 Trustees. The requirement of prior written approval for travel by trustees and directors should not be added to this provision, at least for nonprofits. It is not currently in OMB Circular A-122. Community Action Agencies (“CAAs”), and some other federally-funded anti-poverty organizations, are required by federal law to include low-income individuals on their board of directors. Costs for mileage or other costs to attend board meetings, particularly for rural organizations, can be significant for low-income individuals. In addition, since training on specific roles and responsibilities for grantee board members is required by the Head Start Act (many CAAs are Head Start grantees) and is a proposed standard for all CAAs, board members may need to attend regional or national conferences to receive high quality board training. Special prior approval should not be required in either situation. If the prior approval requirement is retained, local travel should be exempted.

Appendix 1 – Definitions.
Approval or Authorization of the Awarding or Cognizant Federal Agency. Add "relevant Notice of Funding Opportunity or recipient or subrecipient application for funding or budget" after "Federal award document." Often the specific reference to a particular cost is included in these documents rather than the award document itself.

Rejected Costs. Shouldn't the definition also include costs disallowed by a recipient or subrecipient if they are paid with federal funds?

Intermediate Cost Objective. It would be helpful to provide some examples here.

Property. (a)(1). Insert "permanent" before "land."


(1) In the last line, add back in after "such" the current language from OMB Circular A-110—"remedial actions." It is common for contracts to provide an opportunity to correct noncompliance with contract terms before imposing penalties or sanctions. OMB should continue to permit that.

(2) This provision requiring compliance with standards and policies relating to energy efficiency contained in the state energy conservation plan is new and recipients and particularly nonprofit subrecipients may not be familiar with such a plan or where to find it. Information should be provided, such as a link, indicating where to find such a plan, and states acting as pass-through entities should in particular be required to provide more information about this to nonprofit subrecipients.

Appendix V—Indirect Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations

B.3.b.(1) This provision refers to use allowances, but the OMB revision would eliminate use allowances. Although as stated earlier, we recommend the retention of use allowance, if they are eliminated, references to them need to be eliminated throughout the circular.

Thank you for your consideration of these comments.

Sincerely,

Anita Lichtblau, Esq.
Executive Director and General Counsel