

PUBLICATION

American Rescue Plan: OMB Memo Gives Insight into Oversight and Compliance Requirements Applicable to Funds

Authors: Wendy Huff Ellard

March 19, 2021

The Acting Director of the Office of Management and Budget (OMB) has issued a guidance memorandum to all executive departments and agency heads to emphasize the importance of accountability and transparency of federal government spending with respect to assistance provided under the American Rescue Plan Act of 2021 (ARP). OMB's memo, referenced as M-21-20, also imparts a duty to all agencies to maintain effective stewardship of these funds, which includes supporting all Americans, and as such, requires advancing racial equity and supporting underserved communities across our country.

In the memo, OMB confirms its continuing work with the Pandemic Response Accountability Committee (PRAC) and agency inspectors general to strengthen payment integrity to minimize the risk of waste, fraud, and abuse. OMB directs that, to provide the highest integrity in the management of financial assistance, agencies must apply the requirements of 2 C.F.R. to federal financial assistance funded through the ARP to the maximum extent authorized by law. This applies to all types of financial assistance awards funded through the ARP, including the application of those provisions that would typically apply only to grants and cooperative agreements, and including applicability to assistance provided to for-profits.

OMB "doubles-down" on its mandate that agencies must comply with all requirements, as the memo requires that, for any new programs under the ARP, agencies must submit their proposed implementation plan of 2 C.F.R. to OMB for approval prior to program administration and award issuance. OMB indicates that compliance exceptions will only be allowed if imposition of the requirement would present insurmountable challenges to program implementation.

Compliance with 2 C.F.R. and other OMB guidance as noted in the memo will certainly increase accountability for these funds. However, OMB's directives also indicate enhanced oversight from OMB, and the agencies, and likely a robust audit plan for all programs funded pursuant to the ARP. Grantees and subgrantees should closely monitor the requirements for any funding and exercise great diligence to ensure full compliance and mitigate later audit risks and deobligation of funding.

For more information please contact [Wendy Huff Ellard](#), or any member of [Baker Donelson's Disaster Recovery Group](#).