

Applicant Eligibility for Financial Assistance and Types of Nonprofit Organizations (e.g., Labor Organizations and Neighborhood Associations)

Controller Alerts are designed to highlight emerging financial management issues that may require agency attention or action. These Alerts are intended to inform the Chief Financial Officer (CFO) community of key issues where the Office of Management and Budget (OMB) believes further action may be warranted, but do not constitute official guidance or prescribe specific tasks for agencies beyond consideration of appropriate steps to address the issue.

The purpose of this Controller Alert is to alert agencies of the importance of properly identifying all eligible applicants for Federal financial assistance awards, for example 501(c) 4 or 501(c) 5 nonprofit organizations that are labor unions, neighborhood associations, or other types of eligible organizations, including those that reach or represent potentially underserved communities. Agencies should pay particular attention to eligibility during program design, when drafting or updating Assistance Listings at SAM.gov, and when developing the Notice of Funding Opportunity and posting it on Grants.gov.

OMB has heard both from the public and from Federal agencies about the importance of encouraging first-time applicants, applicants from underserved communities, local community-based organizations, or consortia of organizations to apply for Federal programs. Executive Order 13985 on *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* called on Federal agencies to allocate “Federal resources in a manner that increases investment in underserved communities, as well as individuals from those communities.” Executive Order 14025 on *Worker Organizing and Empowerment* established that it is the policy of the Biden-Harris Administration “to encourage worker organizing and collective bargaining,” including by directing Federal agencies to identify statutory, regulatory, or other changes that may be necessary to make policies, practices, and programs more effective means of supporting worker organizing and collective bargaining.”

Far too often, agencies provide continued funding to recipients that have a long history of working with that particular agency. If agencies have inadvertently limited certain organizations’ eligibility in the past, then a preference towards existing applicants could continue to exclude those organizations. Consistent with 2 *CFR* 200.205, *Federal awarding agency review of merit of proposals*, agencies should have a merit review process in place to select the most qualified recipients, paying particular attention to entities such as labor organizations that may inadvertently been excluded in previous funding announcements. However, often actions are required even earlier in the process to ensure that funding opportunities are made available to the broadest range of applicants possible.

To the extent practicable and permitted under the program’s statutory authority, agencies are encouraged to actively consider the full range of potentially eligible applicant types when formulating new and managing long-established programs. Certain applicant types can be inadvertently excluded from applying for certain programs, if agencies abstain from careful review and simply default to “typical” categories of organizational eligibility, such as specifying “501(c)3” organizations when they really intend to include all types of nonprofit organizations, which may include organizations with other tax-liability status. In this example, selecting only

“501(c)3” organizations could inadvertently exclude organizations such as labor unions or neighborhood associations, which are typically registered as “501(c)4” or “501(c)5”.

There are several stages in the financial assistance management lifecycle where agencies should pay particular attention to the types of organization selected as eligible applicants. *2 CFR 200.202, Program planning and design*; *2 CFR 200.203, Requirement to provide public notice of Federal financial assistance programs*; and *2 CFR 200.204, Notices of funding opportunities*, provide requirements for agencies to conduct thoughtful program design, publish the notice of the eligibility requirements publicly in the Assistance Listings at SAM.gov, and identify these same requirements in each publicly available Notice of Funding Opportunity. This includes indicating “specific eligibility information, including any factors or priorities that affect an applicant's or its application's eligibility for selection.” *Appendix I to Part 200 - Full Text of Notice of Funding Opportunity, C Eligibility Information; 1 Eligible Applicants* also states that “announcements must clearly identify the types of entities that are eligible to apply. If there are no restrictions on eligibility, this section may simply indicate that all potential applicants are eligible. If there are restrictions on eligibility, it is important to be clear about the specific types of entities that are eligible, not just the types that are ineligible.”

OMB encourages agencies to carefully consider all types of potentially eligible applicants when complying with these provisions, as appropriate at each stage. At the program planning and design stage, agencies should review statutory authorizing language to determine the broadest range of eligible organizations, and ensure that these are explicitly reflected in their Assistance Listings on SAM.gov. Notice of Funding Opportunities should be closely reviewed as they are updated with each funding cycle to ensure all eligible applicants are listed. Once agencies have completed their determination of eligible recipients, they should review their outreach and stakeholder engagement plans to be sure that awareness of publicly posted notices of funding opportunities appropriately reaches potentially interested audiences. This should include targeted outreach to entities that may have been excluded in the past, such as labor organizations.

If you have questions about this Controller Alert please contact the OMB grants team at MBX.OMB.OFFM.Grants@OMB.eop.gov.