

**National Governors Association (NGA)**  
**National Conference of State Legislatures (NCSL)**  
**American Federation of State, County and Municipal Employees (AFSCME)**  
**National Association of Counties (NACo)**  
**International City/County Management Association (ICMA)**  
**American Federation of Teachers (AFT)**  
**National Association of State Auditors, Comptrollers and Treasurers (NASACT)**  
**National Association of State Treasurers (NAST)**  
**National Association of State Budget Officers (NASBO)**  
**Government Finance Officers Association (GFOA)**  
**National Education Association (NEA)**  
**National Association of Police Organizations (NAPO)**  
**National Conference of State Social Security Administrators (NCSSSA)**  
**National Council on Teacher Retirement (NCTR)**  
**National Conference of Public Employee Retirement Systems (NCPERS)**  
**National Association of State Retirement Administrators (NASRA)**

December 4, 2023

By Electronic Mail

U.S. Office of Management and Budget  
725 17th Street, NW Washington, DC 20500

**RE: [200.431] Compensation - Fringe Benefits**

On behalf of the national organizations listed above, representing state and local governments and their elected officials, finance officers, retirement plans and employees, we are writing regarding the proposed revisions released on October 5, 2023 to pension cost principles of the Office of Management and Budget (OMB) Guidance for Grants and Agreements. OMB states that its objectives for the current proposed revisions include: (1) incorporating statutory requirements and administration priorities; (2) reducing agency and recipient burden; (3) clarifying sections that recipients or agencies have interpreted in different ways; and (4) rewriting applicable sections in plain language, improving flow, and addressing inconsistent use of terms. However, as written, the proposed language concerning pension costs is markedly inconsistent with this stated intent. Specifically, the new language in §200.431(g)(6)(v) regarding unfunded pension costs is unclearly written; contradicts other parts of §200.431(g), as well as pension funding and accounting standards; and would lead to discretionary interpretations, inconsistent applications, and significant increases in costs and burdens for both recipients and federal agencies. **We strongly recommend this new subpart be removed or modified to be clear and consistent with other parts of OMB's pension cost principles that allow for the payment of actuarially determined contributions recognized by Generally Accepted Accounting Principles (GAAP).**

In particular, proposed §200.431(g)(6)(v) contains the following new restriction: *"In all cases, the payments for unfunded pension costs may not exceed the contribution rate of the employee's current pension costs."* This proposed language is imprecise, unclear, and confusingly inconsistent with pension funding terminology. Furthermore, it does not correspond to other parts of OMB's pension cost principles that distinctly allow for pension contributions based on an actuarial cost method recognized by GAAP. For example:

- §200.431(g)(6) states, “Pension plan costs may be computed using a pay-as-you-go method or an actuarial cost method recognized by GAAP and following the recipient’s or subrecipient’s established written policies.”
- §200.431(g)(6)(ii) states, “Pension costs calculated using an actuarial cost method recognized by GAAP are allowable for a given fiscal year if they are funded for that year within six months after the end of that year.”
- 200.431(g)(6)(iii) states, “Amounts funded by the recipient or subrecipient in excess of the costs calculated using an actuarial cost-based method recognized by GAAP for a fiscal year may be used as the recipient’s or subrecipient’s contribution in future periods.”
- §200.431(g)(6)(iv) states, “When a recipient or subrecipient establishes or converts to an acceptable actuarial cost method, as defined by GAAP, and funds pension costs in accordance with this method, the unfunded liability at the time of conversion is allowable if amortized over a period of years in accordance with GAAP.”

**Thus, we urge OMB to either omit this new and ambiguous restriction from the final rules or to modify the language to be clear and consistent with other parts of OMB’s pension cost principles, such as: “In all cases, any payments toward unfunded pension costs must be part of an actuarially determined contribution calculated in accordance with established actuarial standards recognized by GAAP.”**

State and local laws governing pension contributions typically require employers to pay the actuarially determined contribution rate and this is the minimum required contribution, which is a legally mandated portion of the payroll cost and is not discretionary. Contributions made according to an actuarial cost method recognized by GAAP have historically been considered a reasonable method for calculating pension contributions under OMB’s pension cost principles. Requiring an alternate reimbursable contribution amount that differs from the actuarially determined contribution would create significant costs and administrative complexities for systems and employers, possibly requiring separate actuarial valuations and significant (and likely manual) effort and burden for grantees, subrecipients, auditors, and Federal agencies. The actuarially determined contribution (which may be mandated by law at the time services are rendered) should be considered a current pension cost. Any other interpretation could become financially burdensome for governments trying to operate Federal programs from which employees are paid.

Finally, our comments above also apply to the reimbursement of post-retirement health plan (PRHP) costs as discussed in §200.431(h). **We similarly urge OMB to either omit the new and ambiguous restriction in §200.431(h)(5) from the final rules or to modify the language to be clear and consistent with other parts of OMB’s PRHP cost principles, such as: “In all cases, any payments toward unfunded PRHP costs must be part of an actuarially determined contribution calculated in accordance with established actuarial standards recognized by GAAP.”**

We would be happy to discuss these comments with representatives of OMB if you have any questions or would like further information. Please feel free to contact our organizations’ representatives below:

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