



# Local Opportunities Coalition

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## Federal Investment, Community Solutions

## Empowering States & Localities: Making Federal Funds Work for our Communities

### Overview

The [Local Opportunities Coalition](#) is leading the charge to transform government spending and undo decades of restrictions that have held back cities and states from investing in their communities. We have been advocating for several changes to the Office of Management and Budget's (OMB) Uniform Guidance--which dictates how states and localities can spend federal money-- as a way to ensure cities and states have the tools they need to create good-paying, family-sustaining jobs when they receive federal funding.

The OMB recently issued a Notice of Proposed Rulemaking, proposing [new updates](#) to the Uniform Guidance, which include many of the recommendations the coalition has been pushing for. These include: provisions that allow recipients to incentivize the creation of quality jobs in their contracts, promote greater racial and gender equity in spending, and the removal of the ban on geographic preferences (which had prevented cities from hiring locally). With these changes, cities and states will be allowed to take job quality and racial equity into account when contracting and keep the economic benefits of federally-funded projects in the communities that need them the most.

### What is the OMB Uniform Guidance?

- The Uniform Guidance is a set of federal regulations housed at the Office of Management and Budget that determines how states and localities can spend federal money and how they award federally-funded contracts to private companies.
- Since the 1980s, the OMB's Uniform Guidance has made it difficult for states and cities to attach labor and equity standards to federally-funded contracting by indicating that this might impede fair and open competition.
- The Uniform Guidance also prevents state and local agencies that receive federal assistance from implementing local hire policies, even though local officials, labor unions, and community groups have argued for years that connecting infrastructure projects with good jobs for local workers is not only something that communities desperately want, but something that would have a major positive impact on regional economies.

### What the Proposed Updates Get Right

- **Removes the Ban on Local Hire-** The administration's proposals remove the ban on the use of geographic preferences, and permits states and localities to incorporate local hire policies. Local hire policies can help marginalized communities address historic inequities by providing

access to quality careers. By removing this ban, local and state governments will also have the ability to prioritize contracting with small local businesses.

The proposed guidance also incorporates language clarifying that a variety of pro-worker and pro-equity measures are not prohibited by the guidance, thus allowing states and localities to incorporate language into their contracting that they had previously been unsure was permitted:

- **Incentivizes Quality Jobs**- Recipients of federal funds will not be prohibited from incorporating a scoring mechanism that rewards bidders committing to specific numbers and types of U.S. jobs, as well as certain compensation and benefits. This makes it clear that policy tools like the USEP can be used on federally-funded projects.
- **Allows for PLAs** - Permits the use of Project Labor Agreements (PLAs) or other pre-hire collective bargaining agreements.
- **Targeted Hire** - Permits governments to require their contractors to use hiring preferences for workers in target populations. Agencies can use targeted hire policies to target disadvantaged communities who may benefit from equitable hiring practices.
- **Including disadvantaged communities in local hire** - Permits disadvantaged communities as defined by Justice40, as well as communities with high unemployment or high levels of poverty, as a way to determine which geographic areas to target for constructions.
- **First Right of Refusal** - Permits governments to include language mandating that employees of an incumbent contractor receive first right of refusal under a successor contract. This will prevent the unnecessary replacement of incumbent workers with lower-paid, inexperienced, or temporary workers and will provide stability to all participants in federally awarded projects, including the communities they serve.
- **Community Benefits** - Permits non-federal agencies to ensure the contracted project provides community benefits.

The guidance includes several other pro-worker and pro-community mandates and encouragements as well:

- **Protects Against Misclassification** - Requires non-federal agencies to consider the proper classification of employees as an element of contractor responsibility, and continues to require that agencies only award contracts to responsible contractors.
- **Sustainable Contracting** - Encourages recipients and subrecipients of federally-assisted procurement opportunities to use sustainable products and services in their projects.
- **Account for the Workforce Impacts in Cost-Benefit Analysis** - Mandates that when a recipient or subrecipient performs a cost-benefit analysis for the contract, this analysis must include an analysis on the project's potential workforce impacts if the project will displace public sector employees.
- **Protects Workers' Right to Unionize** - Stipulates that any contractor receiving federal funds cannot use those funds towards influencing employees not to form a union.

**What is Missing from the Updated Guidance** - *The Local Opportunities Coalition recommends including the following additional updates to the final rule.*



- **Living wage requirement** - The updated guidance does not explicitly permit recipients and subrecipients to provide a living wage requirement for contractors to employees under federally-funded contracts. We suggest adding language to allow federally-assisted contracts to set standards around wages.
- **Clarify Permission Language** - The updated language states that “Federal agencies *can* allow recipients and subrecipients to use such practices if consistent with [applicable laws].” This language indicates potential further bureaucratic hoops for non-federal agencies to jump through. We suggest that the OMB update its guidance language to permit recipients and subrecipients of federal funds to use the practices laid out above so long as they are consistent with applicable laws, regulations, and requirements. The OMB can do this by adjusting language to “Federal agencies *will allow* recipients...”. This language will provide greater clarity to recipients that they will be able to administer policies like PLAs, local hire, community benefits, and local hire without further administrative approval.
- **Clarify Local Hire Language** - We suggest that the OMB add “service” to the applicable contractors who may use hiring preferences for disadvantaged communities. By adding “service” to this language, local hire policies can apply more broadly to industries beyond just construction.
- **Stronger Community Engagement Language** - We suggest including stronger language around community engagement in program planning and design.

## LEARN MORE

The Office of Management and Budget is soliciting public comments now to update the Uniform Guidance. We can make this change happen by encouraging the Biden Administration to follow through with the powerful new regulations they have put forth to update the Uniform Guidance.

Take action & learn more [here!](#)

## CONTACT

**Valerie Lizárraga, Campaign & Organizing Manager** - [vlizarraga@jobstomoveamerica.org](mailto:vlizarraga@jobstomoveamerica.org)

**Anna Smith, Senior Policy Coordinator** - [asmith@jobstomoveamerica.org](mailto:asmith@jobstomoveamerica.org)