July 13, 2026

Russell Vought, Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Re: RIN 0348-AB88, Regulation for Federal Financial Assistance [Docket ID: OMB-2026-0034]

Dear Director Vought,

On behalf of the Institute for Progress and the Niskanen Center, we are pleased to share joint comments on the Office of Management and Budget's (OMB) proposed rule regarding "Regulation for Federal Financial Assistance" published in the Federal Register on May 29, 2026.

Background

The **Institute for Progress** (IFP) is a non-partisan think tank focused on innovation policy. Our organization works to accelerate and shape the direction of scientific, technological, and industrial progress. We work with policymakers across the political spectrum to make it easier to build the future in the United States. We believe effective science and technology policy reforms should aim to maximize the net social return on investment (ROI) of Research and Development (R&D) investments.

The **Niskanen Center** is a nonprofit public policy organization that advocates for a government that provides social insurance and essential public goods, fosters market competition and innovation, invests in state capacity, and does not impede productive enterprise. We are committed to the principles of liberal democracy and an open society that encourages engagement, cooperation, discussion, and learning.

Both of our organizations work extensively on issues where federal financial assistance is a primary delivery vehicle for public policy implementation: housing, transportation, energy, science, technology, among others. We also share a keen interest in the administration of federal programs and the ways in which choices in *implementation* impact the efficacy of policy choices by Congress, the President, and other policymakers. Thoughtful choices about how to manage the federal government must go hand-in-hand with thoughtful questions about what the government does in the first place — one requires the other and, in our experience, ignoring the former imperils the latter.

Summary of our View

OMB's stated goals for this proposed rule — accountability, transparency, oversight, and burden reduction for awardees — are important ones. Given how crucial federal financial assistance is to the missions of many agencies, we support efforts to improve the administration of federal financial assistance, particularly with a focus on recentering outcomes, merit, and evidence in the award process. We welcome renewed attention to a thoughtful rework of the Uniform Guidance.

After careful consideration, however, we believe that this proposed rule is more likely to have significant negative impacts on those ends than it is to advance them: it imposes large, unquantified costs and destabilizing distortions on one of the core governing mechanisms in the government's toolkit — costs the proposal neither measures nor weighs against less burdensome options. As a consequence, we oppose final adoption of the rule.

There are some proposals in this rule that we could support on their own merits. For example, multi-year awards in § 200.202(f) could reduce churn around annual reapplication processes. Several provisions in § 200.204 could also reduce applicant burden: streamlining Notices of Funding Opportunities (NOFOs), adding a Statement of Interest (SOI) step for large-volume and complex programs, continuing plain-language efforts, and allowing some requirements to be completed by the award date rather than at application.

These process reforms represent a small fraction of the change OMB contemplates. The rule's more consequential provisions would fundamentally alter the relationship between the federal government and its grantees and result in less innovation, fewer breakthroughs, weaker international competitiveness, and other significant consequences for the US. For example, grants are a workhorse of federal research and development, which is itself an engine of American economic strength. These structural changes would also have profound impacts on the government's ability to administer these programs. The economic literature demonstrates that grants are best suited for funding innovation that advances fundamental knowledge, requires long timelines, and relies on identifiable, capable teams. By significantly weakening the credibility of multi-year commitments, the rule would undermine science-reform efforts — including the long-horizon funding that independent, team-based, infrastructure-intensive frontier research requires.

Beyond research and development, the distortion of financial assistance mechanisms would have profound effects across the rest of the government: housing, energy, transportation, infrastructure, social services, healthcare, and many other critical sectors in the United States. For example, Moody's has warned that federal grant recipients could face credit downgrades if the proposed rule is finalized[1] — a financial impact the proposal does not account for. A change

[1] Caitlin Devitt, "Moody's warns proposed political review of grants a credit negative," *The Bond Buyer*, Arizent, June 15, 2026, https://www.bondbuyer.com/news/moodys-warns-proposed-political-review-of-grants-a-credit-negative.

of this magnitude demands more attention to tradeoffs and costs than the current record reflects.

Specifically, we write to express six concerns with the rule in two broad categories.

<u>First, we are concerned that this proposal would distort the purpose and degrade the effectiveness of financial assistance mechanisms:</u>

1. **Requiring broad termination terms across discretionary awards would weaken the Federal Government's ability to make credible long-term commitments.** The proposed rule's *mandatory* discretionary termination provision opens the door for agencies to cancel an award when the recipient has done nothing wrong, merely because priorities have changed. This change will cause the value of an award (e.g., a grant or cooperative agreement) to decay non-linearly over time, particularly when grantees have an expectation of potential political change during the lifecycle of an award. This does not necessarily advance oversight or effectiveness, but rather it significantly weakens the reliability of federal commitments. This will change awardee behavior in ways that make it harder for the Executive Branch to carry out its statutory obligations as we detail below, preventing the government from securing partnerships for important long-term projects. OMB is undervaluing alternative, existing mechanisms for the government to provide oversight of award performance to ensure accountability by grantees that do not have these system distortion effects.

2. **Requiring senior appointees to evaluate federal award proposals directly before final selection decisions will degrade the quality of portfolios selected especially for breakthrough scientific research.** It is important that government investments align with administration and congressional priorities, but this rule proposes the wrong tool for that aim. The effect of this provision in the rule will likely be to encourage (or even mandate) arbitrary overturning of peer review by senior appointees whose responsibilities necessarily span more scientific fields than any individual could evaluate in depth. It thus weakens the requirements for agency merit review and achievement of priorities, even if that is not the stated intent. OMB did not consider alternative approaches to improved oversight and alignment of discretionary grant programs with statutory and administration priorities that do not degrade the quality and outcomes of federal research investments.

3. **Requiring senior appointees to evaluate proposals directly before final selection decisions creates mechanical bottlenecks that impose additional costs onto grantmaking.** By structurally delaying awards and the corresponding results of work done under those awards, this provision of the proposed rule degrades effective achievement of statutory purpose for many programs rather than improving it.

<u>Second, we are concerned with several deficiencies with the structure of OMB's rulemaking itself:</u>

4. **The proposal does not weigh unaccounted-for costs adequately relative to the benefits of the proposed rule, especially for a rule with such wide-ranging impact**. OMB misclassified this rule as not economically significant, did not fully account for all costs, and did not attempt to quantify impacts that are demonstrably quantifiable. In doing so, OMB ignores the analytical requirements and purposes of EO 12866 and Circular A-4 and does not provide reasoning commensurate with the proposed rule's impact.

5. **OMB does not discuss how this proposal interacts with other regulatory actions designed to improve transparency and accountability.** Some of these other regulatory actions could plausibly solve the challenges OMB cites as justification in this rulemaking. Having now achieved significant new controls over numerous government systems, including the federal workforce, the budget and apportionments process, IT, and payment systems, it is far from clear that the rationale OMB provides for *this* rulemaking continues to be operative.

6. **The choice to turn guidance into regulations, managed by OMB, is likely to reduce efficiency and create policy conflict between branches.** This approach to administering financial assistance removes vital flexibility from agencies in implementation of programs which vary in their statutory design. This choice is also likely to create policy conflict between agencies attempting to implement OMB's guidance and congressional direction specific to their programs, further confusing financial assistance recipients.

Below, we discuss each of these concerns in turn.

Requiring broad termination terms across discretionary awards would weaken the Federal Government's ability to make credible long-term commitments

Perhaps the biggest change contemplated by OMB towards the stated goal of improved oversight is the universal adoption of a *discretionary* termination provision that OMB likens to "termination for convenience" in federal contracts. OMB's preamble invokes FAR 48 CFR 49.502 and 52.249-2 as the model for this provision in §200.340. In our view, this provision imposes significant costs the proposal does not address or state, and incentivizes adverse behavior on all sides of an agreement.

OMB's stated goals with § 200.340 are to "ensure that Federal agencies retain ongoing programmatic discretion after an award is made, consistent with law, to terminate a discretionary award that is not effective at achieving program goals or Federal agency priorities, or that an agency otherwise determines is no longer in the Federal Government's interest." The Regulatory Impact Analysis (RIA) addressing these provisions acknowledges that these changes will have secondary effects on contracts, specifically that "clarifying these authorities may lead some agencies or recipients to adjust contract structures or payment schedules to better manage the risk of mid-award action, but OMB expects any resulting changes in transfer patterns to be limited." This comment describes how the structure of contracts might change in response to the rule.

To start, we disagree with OMB that the FAR is a positive and useful point of comparison: there are significant differences between the role of the government in federal procurement and the role of the government in transferring funds to facilitate authorized public purposes. Congress has *mandated* these differences be given credence in the Federal Grant and Cooperative Agreement Act[2], which establishes that procurement and assistance instruments embody legally distinct relationships and serve different principal purposes. That distinction does not necessarily prohibit OMB from borrowing a procurement concept, but it requires OMB to explain why a doctrine developed for acquisition contracts is appropriate for public-purpose assistance relationships characterized by different reliance, performance, and remedial structures. These are different mechanisms for doing the public's business, authorized for different purposes, and should remain under management regimes that suit *those* ends, not each other's.

We are concerned that transposing this "for convenience" termination to federal financial assistance significantly weakens the reliability of federal commitments, preventing the government from, among other things, securing partnerships for long term projects. That added capability does not advance accountability or improve oversight, it makes it materially harder for grantees to rely on commitments made by the federal government when making large investments or engaging in novel work at the behest of duly enacted legislation. This would have significant negative consequences for grantees — for example, by obligating them to defend cancellations in court — but it would have particularly negative impacts for any grant program seeking to mobilize significant private capital in pursuit of public goals.

As published, the proposal is relatively straightforward: it seeks to include, in every grant agreement, a clause that allows the agency to cancel any grant that "no longer effectuates program goals, *Federal* agency priorities, *or the national interest as they exist at the time of the termination*"- i.e., priorities that need not have existed when the award was competed or awarded. Specifically, this includes acknowledgement that such priorities may change "in response to new direction from politically accountable leadership." In cases where agencies exercise this power, "OMB proposes to expressly require termination notices issued under the discretionary termination provision to include a brief summary of the reason or reasons why an agency decided to terminate an award or class of awards." The preamble describes this requirement is "not an exceptionally high bar."

And the recipient's remedy is reimbursement of allowable costs incurred up to the termination date, plus, at the agency's discretion, certain termination costs. In cases where a recipient believes that their termination was not consistent with law, "agencies will remain accountable for

[2] Public Law 95-224 (Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95-224 (Feb. 3, 1978), 92 Stat. 3, https://www.govinfo.gov/content/pkg/STATUTE-92/pdf/STATUTE-92-Pg3.pdf), codified at 31 U.S.C. Ch. 63.

review in the U.S. Court of Federal Claims, as appropriate and authorized by law, for their termination decisions." The result is a power to cancel awards for reasons unrelated to any failing by the recipient, exercisable on a relatively low evidentiary showing, with no recovery for the lost expectation. That is what makes it materially harder for grantees to rely on a Federal commitment that extends beyond whatever the current administration is at the time of award. This is a much larger impact than OMB's assessment that "any resulting changes in transfer patterns to be limited".

We acknowledge that the current Uniform Guidance in § 200.340 does allow for termination "if an award no longer effectuates the program goals or agency priorities"[3] but requires that "the Federal agency or pass-through entity must clearly and unambiguously specify all termination provisions in the terms and conditions of the Federal award." What's important is that the current guidance *does not require* all awards to have termination provisions. The proposed rule would require that termination provisions be in all financial assistance agreements, except for a few listed exceptions. Further, the proposed rule specifies that for other exceptions "Federal agencies must seek approval from OMB prior to allowing any class exceptions for paragraph (a)(2)". This creates a situation where one administration's OMB may choose to exempt financial assistance from this requirement while another administration's OMB could choose to implement it with no exceptions. This builds substantial uncertainty into the Federal government's long term commitment to financial assistance awards.

This is likely to have a significant impact on the value of a federal grant to recipients that OMB has not adequately discussed or accounted for in its proposal. Unlike a contractor, a grantee can be left with stranded reliance costs and no recourse. The distinction is not that contractors receive full expectancy damages while financial assistance recipients receive nothing. Contractors generally may not recover anticipatory profits either. Rather, the FAR supplies a mature and comparatively detailed settlement regime addressing preparations, completed work, subcontractor settlements, termination expenses, and allowable profit. The proposed assistance regime provides a thinner and more discretionary treatment of reliance and termination costs, even though recipients may make substantial nonrecoverable organizational, capital, hiring, and partnership commitments in reliance on an award.

This will deter recipients from undertaking exactly the multi-year, long-horizon efforts these programs exist to fund such as research and development. While recipients can recover costs for work performed prior to the termination, they cannot recover the *expected value* of the full grant. This means that the value to the grantee of a commitment made by the government decays non-linearly over the course of the award, particularly when grantees have an expectation of potential political change during the lifecycle of an award — and it can simply go to zero with significant changes in political direction (regardless of statutory change) if recipients have reason to believe that a future administration may exercise this power.

[3] 2 CFR 200.340(a)(4). https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR86b76dde0e1e9dc/section-200.340

We expect that this will change behavior in four ways that make it harder for the Executive Branch to carry out its statutory obligations:

1. First, the general costs of doing business for grantees (and therefore the government) will increase as recipients will require a cost premium for uncertainty. This may manifest in one of two ways: either the quoted cost to the government will rise *or* in cases where total grant awards are capped, grantees will simply do less work in exchange for the same funding. OMB acknowledges this mechanism but somewhat understates the potential fiscal costs to the government — in its proposal, OMB writes that notice of this provision "will allow recipients to appropriately calibrate and manage reliance interests, it is appropriate for Federal agencies, and the Executive Branch more broadly, to retain the policy flexibility to terminate awards that are no longer in the Federal Government's interest." We agree with OMB that potential grantees would metabolize such a notice by carefully weighing risk, but it seems highly likely that this calculus will lead to cost escalation. Uncertainty has a cost and OMB does not discuss the potential cost inflation that is downstream of this mechanism in its cost-benefit analysis.

   We have reason to believe that this will be the case. For example, fixed-price contracts shift significant scope risk to federal contractors relative to time and materials or other contract forms and we know that contractors respond by pricing in a risk premium to compensate for the uncertainty.[4] "Though opinions vary, large fixed-price contracts tend to include a 10 percent to 15 percent — maybe as high as 20 percent — price premium...Even this premium does not account for all of the cost risk. Some of it is shifted to schedule or technical performance risk — e.g., the likelihood that the contractor will ultimately default increases."[5] This observation among federal contractors — who again have similar for-convenience clauses to the contemplated one and the comparison to which OMB invites directly with its framing — is consistent with uncertainty raising costs for many enterprises across the economy.

2. Second, the decay in expected value will cause some recipients to avoid federal financial assistance altogether. This is a particularly acute concern in the context of public private partnerships, where companies are expected to marshal significant private capital for projects that would not be wise investments without government support. Practically, this may mean that agencies are not able to accomplish goals set out for them by Congress *at all*, even if there is clear alignment between congressional authorization and executive political direction. This may, in effect make it materially harder for agencies to effectuate many kinds of long-horizon commitments in which the recipient bears front-loaded costs against a back-loaded return — research and

[4] Kristen E. Ittig, Amanda J. Sherwood, and Adrienne K. Jackson, "President Trump Signs Executive Order Mandating Fixed-Price Contracting in Federal Procurement," Arnold & Porter Kaye Scholer LLP, May 18 2026, https://www.arnoldporter.com/en/perspectives/advisories/2026/05/president-trump-signs-executive-order-mandating-fixed-price-contracting-in-federal-procurement.
[5] David E. Frick "Risk in Fixed-Price Contracts," *Defense AT&L*, November-December 2013, https://www.waru.edu/sites/default/files/Migrate/DATLFiles/Nov-Dec2013/Frick.pdf.

development, infrastructure, and industrial capacity — where the payoff arrives in outyears and where the recipient cannot hedge the political risk through the terms of the award itself.

We need not guess at this mechanism either: industry has communicated this to government practitioners in other contexts. In an interview with the inaugural leadership team of the CHIPS Program Office, a bipartisan initiative, the leadership team discussed this challenge even without the added uncertainty OMB proposes now:

> "[W]hen we came up with our draft award documents and sent them out to market, the initial reaction was very negative. Not on the policy stuff, but on, "What is the core legal relationship between the United States government and these companies?"...
>
> They would say, "We're nervous. This agreement is going to last for 10-plus years. Who's going to be at the CHIPS Program Office in 10 years?" They were making decisions on billions of dollars of investment, based on how much money they were getting. They wanted certainty that, "If we hold up our end of the bargain, we're going to get that money." It was a very real and fair discussion.[6]

In the context of a major investment, this makes sense: if the federal government cannot reasonably commit to *doing what it says it's going to do*, rational actors in the private or nonprofit sector may decide that it is not possible to price the risk at all and simply pull out entirely or decline to engage in the first place. "But in most cases, [provisions allowing the government to terminate for its own interests] created a considerable hurdle without commensurate benefit — the probability that its protections would ever be necessary was so remote that it felt like wrestling a bear to protect a house that was miles away. Congress should consider waiving [such provisions] for future industrial policy programs, or explicitly empowering the executive branch with the ability to do so."[7]

OMB again clearly anticipates this problem because CHIPS — and CHIPS *almost uniquely* — is excluded from this provision in OMB's proposed rule. However we have no reason to believe that these forces that shaped the CHIPS program (and indeed, have seemingly persuaded OMB to exclude it here) do not apply in many more cases and industries. OMB has provided no reason to conclude otherwise in the proposed rule.

3. Third, it is important to consider how distorting this new requirement would be on the behavior of *existing* grantees who have reason to believe that their grant may be canceled as a result of future political changes: in such cases, the rational choice by a grantee might be to spend as much of the grant as possible prior to the deadline. By

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[6] Santi Ruiz, "Did the CHIPS "Everything Bagel"...Work?" Statecraft, December 12 2025, https://www.statecraft.pub/p/did-the-chips-everything-bagelwork.
[7] Mike Schmidt, "Eight Legal Challenges CHIPS Navigated," Factory Settings, Institute for Progress, January 30 2026, https://www.factorysettings.org/p/eight-legal-challenges-chips-navigated?utm_source=publication-search.

setting up such a cliff, the rule would create incentives for accelerated, less effective spending.

Here too we have reason to believe that this behavior is likely, even in cases where everyone means well. We see it every year at the end of the fiscal year by federal agencies, who face a clear annual deadline where the value of their appropriations is reduced to zero if unspent at the end. As is well documented, the result is a spending spree at the end of the year where agencies rush to obligate as much unspent money as possible — last year, for example, the Department of Defense by some estimates set a record for end-of-year spending at $93 billion.[8] While such money is not wasted, it is unlikely to be spent in the most effective manner possible, given the time pressures that force decisions on expenditures to be completed prior to the deadline.

4. Finally, it's important to note the significant cost asymmetries and mechanisms for potential abuse in the system this proposal creates.

   While OMB's proposal allows for unlawful terminations to be challenged in court, it's not the case that contesting such claims *costs nothing*. OMB's contemplated "low bar" termination authority makes it inexpensive for an agency to invoke, for any reason or no reason at all, and expensive for a recipient to contest. This is an asymmetry where the federal government can easily act even in unlawful ways, yet grantees face practical and very large costs if they seek to challenge unlawful action. Such an asymmetry could be exploited to arbitrarily punish disfavored grantees regardless of the merits of a given case.

   Further avenues for litigation asymmetry also opened by the inclusion of a provision suggesting that agencies could or should "cooperate with individuals or organizations in their pursuit of private causes of action and civil remedies based on the failure of a recipient or subrecipient to comply with the U.S. Constitution, Federal statutes, regulations, or the terms and conditions of a Federal award." Not only does this further exacerbate the risk of litigation (whether meritorious or otherwise) against grantees by providing federal support for them, it also creates an avenue for an agency to arbitrarily favor any private actor versus another — for example, by granting them access to nonpublic information as a result of such "cooperation.".

   This provision again inflates the cost of doing business for any entity involved with the federal government. As proposed, grantees must presume the possibility that they will be forced to defend terminations in court — at great cost — regardless of the likelihood that a challenge would succeed. It's not hard to imagine how deleterious to public trust and accountability this might be: even in cases where a grantee has a strong claim to

[8] Isabelle Khurshudyan "'Use it or lose it': Pentagon spending binge set record in final days of fiscal year," *CNN,* March 12 2026, https://www.cnn.com/2026/03/12/politics/use-it-or-lose-it-pentagon-spending-binge-set-record-in-final-days-of-fiscal-year.

continue an award, the government could force them out of business if they cannot afford to defend themselves.

OMB is obligated to weigh the costs of its adjustments with the benefits of its proposed solution, including against alternative courses of action. We do not believe the current record reflects that weighing.

As we see it, there are large distortionary effects on financial assistance mechanisms as a whole if OMB's proposed, binding regulation is adopted to impose a thoroughly discretionary termination authority for discretionary awards subject to proposed § 200.340(a)(2) and (b), except where a statutory or categorical exception applies. The proposal does not consider whether the possible, situational benefits justify the destabilizing approach of permitting cancellations without an obligation to provide reason or justification - especially in light of the tools already available.

The current, operative Uniform Guidance already supplies ample, less burdensome mechanisms to achieve these goals. Current practice allows for a risk-based and program/agency customized approach as opposed to a "one-size fits all" approach. Today, agencies already have the authority to cancel awards that are appropriate to each funding program and hold recipients accountable for cause, including remedies for **noncompliance** currently codified in guidance. These provide for, among other things, temporarily withholding payments pending corrective action, suspension or termination of a given grant, debarment or suspension of an entity or pass-through entity, and others.[9] These remedies allow for grantees that are clearly out of compliance due to lack of performance on the grant's requirements to be terminated. The proposal cites several justifications for requiring termination clauses and expanding reasons for termination to include "the national interest" — including for fraud, waste, abuse, and statutory noncompliance — that would squarely serve as justification for termination under the existing Guidance.

OMB's own regulatory discussion concedes consideration of "stricter up-front screening" and "enhanced monitoring" but found that neither mechanism would "remove the need for [a] mid-award termination mechanism" — but that observation conflates two different things. The government's ability to provide oversight to ensure accountability for a recipient's conduct is fully served by the for-cause tools above and the ability to add discretionary terms and conditions when appropriate for the grant program in question. What the discretionary provision adds is a *mandatory mechanism* to cancel an award when the recipient has done nothing wrong, because priorities have changed. That added capability does not advance accountability or improve oversight, it substantially undermines an awardees ability to rely on the government's word.

By making termination provisions required for discretionary awards subject to proposed § 200.340(a)(2) and (b), except where a statutory or categorical exception applies, the potential scale of the disruptive economic impact of grant terminations as administrations change

[9] 2 CFR Part 200 Subpart D - Remedies for Noncompliance, https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR86b76dde0e1e9dc.

becomes substantial. Large-scale grant terminations for awards that do not effectuate the national interest have already occurred in the last two years[10] and have had significant economic impact. For example, in the state of Texas, $124M has been cancelled or frozen from NIH and NSF grants *alone* since cancellations began in 2025, resulting in $366M in economic loss and 2,000 jobs lost.[11] This proposed rule seeks to make grant cancellations of this scale not only legal, but the expected standard in all future administrations. Based on the aforementioned concerns, we believe the record does not support OMB's expectation that “any resulting changes in transfer patterns [will] be limited” and that OMB did not adequately consider the impacts of the distorting effects and broad economic impacts of this rule. OMB also failed to consider the rule’s impact on the statutory purpose of federal financial assistance (in contrast to procurement).

Requiring “senior appointees” to evaluate federal award proposals directly before final selection decisions will degrade the quality of portfolios selected especially for breakthrough scientific research.

OMB’s stated goals with § 200.205 are to “ensure and emphasize the *need for merit-based* selection of recipients for discretionary awards” and to “seek to align the regulatory text with requirements in Executive Order 14332 regarding *oversight* in grantmaking”. According to OMB “the proposed revisions related to improved oversight aim to ensure that every discretionary award program is designed by Federal agencies to effectively achieve its underlying statutory purpose, and to align, where applicable, with administration policies and priorities set by the President.” In the case of research grants, the administration articulates the following policy in § 200.205 (b)(4): “Research grants should be awarded to a mix of recipients likely to produce immediately demonstrable results and recipients with the potential for potentially longer-term, breakthrough results, in a manner consistent with the notice of funding opportunity.”

However, the Regulatory Impact Analysis (RIA) addressing these provisions does not quantify key impacts or define potential problems after considering market principles, and, most importantly, does not rigorously identify and contrast a range of possible solutions. Circular A-4 envisions the RIA as an aid in identifying the best regulatory alternative. Because the RIA does not identify the costs of these changes to the likelihood of breakthrough results, it cannot fulfill that role. The RIA reports “no perceived impacts” from these changes; Circular A-4, however, contemplates quantification even under uncertainty, including through ranges and probabilistic estimates. Further, the RIA does not weigh the benefits the rule promotes against the costs to the likelihood of breakthrough results, or consider less burdensome alternatives that would avoid those costs. As discussed below, a complete analysis would weigh the significant risk to breakthrough results against the intended oversight benefits; the current RIA does not do so.

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[10] Aaron Katersky and Peter Charalambous, “Judge Says DOGE Grant Terminations Are Unlawful and ‘Troubling,’” *ABC News*, May 7, 2026, https://abcnews.com/Politics/judge-doge-grant-terminations-unlawful-troubling/story?id=132762412.

[11] “Grant Terminations Map,” Science & Community Impacts Mapping Project, University of Maryland, College of Computer, Mathematical, and Natural Sciences, https://scienceimpacts.org/grants.

While OMB states that one overarching problem this rule seeks to solve is to better ensure federal grantmaking and awards are distributed based solely on merit (as part of their definition for oversight), the solution codified in the regulation does the opposite. The proposal characterizes the rule as “strengthen(ing) requirements for agency merit review”, but instead the rule weakens the role of agency merit review by explicitly stating “senior appointees (or their designee) must not ministerially ratify or routinely defer to the recommendations of others, but must instead use their independent judgment when evaluating Federal award proposals.” The proposal requires senior appointees to control the pre-issuance review of all discretionary awards, personally or through designees, while prohibiting routine deference to expert recommendations. It distances scientific decisions from those with scientific expertise and requires independent judgement from decision makers whose responsibilities necessarily span more scientific fields than any individual could evaluate in depth. The effect of this rule will likely be to encourage (or even mandate) arbitrary overturning of peer review by senior appointees. It thus weakens the requirements for agency merit review, even if that is not the stated intent. Based on evidence we cite below, this will reduce the scientific merit and the likelihood of breakthrough results from discretionary awards for research and development (R&D) to an undue degree.

Further, OMB’s proposed revision states that “research grants should be awarded to a mix of recipients likely to produce immediately demonstrable results and recipients with the potential for potentially longer-term, *breakthrough* results.” If a goal of the selection of research awards should be to select scientific and technical work that are feasible and likely to produce breakthrough results, the proposed rule fails to weigh the impact of demotion of scientific expertise against a claimed gain in oversight from grant-by-grant senior appointee review towards that goal.

Scientific and technical merit is and should be the main factor in decision making for awards in research and development (R&D). Merit is important because choosing R&D projects that drive long-term growth in the economy comes from funding science that is innovative, novel, and appropriately risky and ambitious. It is difficult to choose these projects without significant subject matter expertise. For example, by law, the National Science Foundation (NSF) evaluates all grant proposals using two foundational criteria established by the National Science Board: Intellectual Merit and Broader Impacts. Assessing intellectual merit requires expert understanding of the current state of advanced scientific fields.[12] Bringing scientific expertise to bear is one function of peer review.

The empirical evidence is clear that peer review and the exercise of scientific judgement are essential to get the best possible outcomes from the merit review process. Li and Agha (2015)[13]

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[12] U.S. National Science Foundation, “How We Make Funding Decisions,” (Virginia: National Science Foundation,)
https://www.nsf.gov/funding/merit-review#nsfs-proposal-review-process-2fb.
[13] Danielle Li, Leila Agha ,Big names or big ideas: Do peer-review panels select the best science proposals?.Science348,434-438(2015). doi.org/10.1126/science.aaa0185.

find that higher peer review scores are correlated with more impact, and Li (2017)[14] shows that even small differences in the level of scientific expertise in a given subfield can affect the quality of decisions. Park, Lee, and Kim (2015)[15] have similar findings.[16] Senior political leaders at agencies will not have the breadth of scientific and technical knowledge required for an entire agency's mission to provide the level of scientific expertise to prevent that quality decline. By demoting the results of peer review below the "independent judgment" of senior appointees, empirical evidence shows the quality of decisions and the impacts expected from federal R&D investments will decline. OMB did not weigh this decline in expected impacts of R&D investments against their stated rationale for improved oversight.

While many science agencies must conduct a peer review process, they have discretion in award selection. Peer review scores, while core to the selection process, are not currently binding to the final selection at most agencies. Deferring entirely to a peer review score based ranking is not always justified because career or rotational civil servants with subject matter expertise will often shape a portfolio of grants ("portfolio management") within a given program to achieve better coverage and mix of risk levels across scientific and engineering endeavors. This can increase the probability of breakthroughs by allowing for the exercise of scientific taste and the synthesis of non-numeric feedback from peer reviewers and other advisors in the merit review process.[17] Subject matter expertise, at the program manager level and at the peer review level, is a very important input into selection processes and should not be ignored.

Peer review is imperfect at the margin and biased against novelty.[18] But it is far better than non-expert judgment. As discussed above, evidence suggests the assessment of the merit of individual proposals and portfolio management should be conducted by subject matter experts, not non-expert political substitution. Some agencies may have over-weighted peer review in the past, but this rule overcorrects without weighing the costs. There is a distinction between correcting over-reliance on peer-review *scores* (which portfolio managers with expertise should, and in many cases, already do) versus substituting *non-expert* judgment (what the rule mandates).

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[14] Li, Danielle. 2017. "Expertise versus Bias in Evaluation: Evidence from the NIH." American Economic Journal: Applied Economics 9 (2): 60–92, https://danielle.li/assets/docs/ExpertiseVsBias.pdf.

[15] Hyunwoo Park, Jeongsik (Jay) Lee, Byung-Cheol Kim, "Project selection in NIH: A natural experiment from ARRA," Research Policy, Volume 44, Issue 6, 2015, Pages 1145-1159, ISSN 0048-7333, https://doi.org/10.1016/j.respol.2015.03.004.

[16] See this literature review for further discussion: Matt Clancy, "What does peer review know?," New Things Under the Sun, April 18 2023, https://www.newthingsunderthesun.com/pub/nc5341ua/release/4.

[17] See the following review for the literature on active portfolio management by a single subject matter expert vs. peer review. Both can be appropriate in our view and can be used in the same process. Matt Clancy, "Can taste beat peer review?," New Things Under the Sun, April 23 2023, https://www.newthingsunderthesun.com/pub/th31b6n3/release/2?readingCollection=9f57d356.

[18] Carson, Richard T., Joshua S. Graff Zivin, and Jeffrey G. Shrader. 2023. "Choose Your Moments: Peer Review and Scientific Risk Taking." NBER Working Paper no. 31409. https://doi.org/10.3386/w31409; Wang, Jian, Reinhilde Veugelers, and Paula Stephan. 2017. "Bias against Novelty in Science: A Cautionary Tale for Users of Bibliometric Indicators." Research Policy 46 (8): 1416–36. https://doi.org/10.1016/j.respol.2017.06.006

Political oversight of the direction of the science and technology enterprise is necessary to an extent and has been practiced across many previous administrations. But there is a difference between award-level political review and general political oversight. This political oversight has been implemented through shaping priorities[19] in annual budget requests to Congress, setting general priorities for topics in research solicitations where appropriate, centrally monitoring alignment through budget data request[20] calls, and holding senior executives accountable to the alignment and performance of their assigned portfolios to administration priorities.[21]

Oversight of awards should not include senior appointee review for each grant. Senior appointees should oversee the priorities of federal programs in accordance with the law, including when those are implemented through financial assistance. However, award-by-award review for a substantial number of individual funding opportunities is overly burdensome and will not achieve substantially better oversight outcomes, particularly if senior appointees are required to review every individual instance. These considerations lead to the following better alternatives: senior appointees should not be required to review each award, but should set research goals and metrics and monitor their agency's funding opportunities to shape their alignment with administration priorities. The President's Budget Request, communications with and performance management of agency staff, and executive orders with general directives such as the Gold Standard Science executive order should be the preferred level of political influence on award priorities. Agency career senior executives and portfolio managers should assess how well proposals meet the administration's research goals and metrics and implement program controls to ensure alignment.

This example alternative division of labor achieves the oversight desired by the administration while being much less burdensome in negative impacts on scientific and technical decision making. A risk-based approach to administration priorities with closer scrutiny for areas of higher administration attention makes much more sense from a burden perspective than a universal review directive while achieving similar levels of oversight and transparency to the American public.

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[19] U.S. Office of Management and Budget and Office of Science and Technology Policy, *Fiscal Year (FY) 2027 Administration Research and Development Budget Priorities and Cross-Cutting Actions,* by Russell T. Vought and Michael J. Kratsios, (Washington, DC: 2025), https://www.whitehouse.gov/wp-content/uploads/2025/09/FY27-OMB-OSTP-RD-Priorites-Memo-FINALSIGNED.pdf.

[20] For example: U.S. Office of Management and Budget, *Agency Foreign Assistance Review (FAR) Data Call*, (Washington, DC: Office of Management and Budget, 2025), https://share.google/rog0RfHUOSzglQ5ma.

[21] U.S. Office of Personnel Management, *OPM Senior Executive Service Desk Guide: Chapter 4: Performance Management* (Washington, D.C.: Office of Personnel Management), https://www.opm.gov/policy-data-oversight/senior-executive-service/ses-desk-guide/chapter-4-performance-management/.

Requiring senior appointees to evaluate federal award proposals directly before final selection decisions creates mechanical bottlenecks that impose additional costs onto grantmaking.

In addition to negative portfolio quality impacts, the review of every discretionary award by senior appointees imposes costs to awardees due to delay costs. These delay costs come from the opportunity cost of holding funds and delaying the results of work done under awards. For example, a 1.5-month average delay[22] across awards subject to review by senior appointees would incur approximately 0.37% of award value as time-delay costs when using a 3% discount rate. If these delays affected $50 billion in grant value in a given year (approximately the value of awarded grants for R&D in recent fiscal years) then the cost incurred would be about $185 million in that year alone.

OMB did not sufficiently identify the costs of the negative impact of these changes to the creation of mechanical bottlenecks, such as the above example. The RIA again indicates "no perceived impacts" as a result of these changes, but when variables are unknown agencies can utilize risk profiles and other evidence-based methodologies to estimate them.[23] Further, the proposal did not sufficiently weigh the benefits with the costs of the negative impact to the creation of mechanical bottlenecks, because it failed altogether in suggesting ranges of potential net benefits or the probability bounds of benefits after netting out the costs of new mechanical bottlenecks. The proposal did not consider less burdensome alternatives that would avoid the negative impact to the creation of mechanical bottlenecks, but as discussed below these bottlenecks are real.

We have seen ongoing delays after the implementation of EO 14332 which formalized the practice of political review of solicitations and awards at agencies by executive order. In 2026, NSF is both making significantly fewer awards much later in the fiscal year than in the past. We acknowledge this is likely due to several factors, including reduced staffing at federal agencies to conduct solicitation and award activities and the government shutdown.[24] However, reduced staffing and the shutdown alone cannot explain the delays[25] and it is reasonable to believe that

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[22] See this site for a survey of recent delays in award obligation, and this piece for a concrete example of grantmaking delays:
Paul Donohoo-Vallett and Nicole Ryan, "Pattern of Slowed and Abandoned Energy Innovation Funding at DOE," DOE Alumni Network, April 14 2026, https://doealumninetwork.substack.com/p/pattern-of-slowed-and-abandoned-energy?r=dv5z0&triedRedirect=true.

[23] OMB's own guidance discusses methods such as sensitivity analyses and Delphi (expert elicitation) methods. U.S. Office of Management and Budget, *Circular A-4*, (Washington, DC, 2003), https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf.

[24] See the following article attributing delays at NIH to review by senior appointees: Max Kozlov, "Inside the new political screening that's stalling NIH grants," *Nature,* June 26 2026, https://www.nature.com/articles/d41586-026-01924-8.

[25] "Tracking Science Spending," Jordan Dworkin, June 29 2026, https://sciencespending.org/.

the newly required political review step of solicitations and awards[26] have contributed to slowing solicitation releases and award selection.

An additional impact to the scientific enterprise not considered by OMB are the consequences for the STEM pipeline due to delays. For example, in a typical year, NSF would release solicitations in the spring so selections could be announced and awards made before the beginning of the school year. This timing is critical for universities and research institutions to involve students in research projects. If research projects begin after the school year begins, faculty will not have the time to recruit students to contribute to those research projects and students will have fewer opportunities to be trained as the next generation of scientific leaders through research experiences.

OMB should estimate the number of annual reviews, reviewer hours per award, number and grade of required reviewing officials, permissible delegation structure, expected processing time, and costs of delay. It should compare universal discretionary award-level review with risk-based review, general oversight, and retrospective audit. OMB has not weighed the impacts of these delays against their stated rationale for improved oversight. Even if the delays were addressed by presumably hiring more senior appointees, the costs to portfolio quality remain.

The proposal does not weigh unaccounted-for costs adequately relative to the benefits of the proposed rule, especially for a rule with such wide-ranging impact.

The RIA does not attempt to quantitatively assess the costs of the proposed rule for many subsections of the proposed rule, save for the transfers associated with publishing Federally funded research. However, under EO 12866, any benefit, cost, or transfer of $100 million or more in one year triggers its economic significance and in that case the RIA should reflect the robust benefit-cost analysis expected for economically significant regulations.[27] The RIA itself explicitly says that publication costs of over **$300 million per year** will be transferred from the federal government to grantees as a result of the rule. In addition, several provisions would incur other substantial gross and net costs, which we can demonstrate using even a set of basic calculations and conservative assumptions.

For example, consider section 7.5 of the RIA, which discusses costs of domestic procurement requirements. The RIA states "[b]ecause the requirement applies only where practicable and consistent with law, and because agencies must determine applicability on a program-specific

[26] Donald J. Trump, "Executive Order 14332 of August 7, 2025, Improving Oversight of Federal Grantmaking," 90 FR 38929: 38929-38933, https://www.federalregister.gov/documents/2025/08/12/2025-15344/improving-oversight-of-federal-grantmaking.

[27] U.S. Office of Management and Budget, Office of Information and Regulatory Affairs, *Regulatory Impact Analysis: Frequently Asked Questions (FAQ)* (Washington, DC: Office of Regulatory Affairs, 1, https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/OMB/circulars/a004/a-4_FAQ.pdf

basis" that significant economic impacts are not expected. But the costs of the § 200.322 domestic procurement requirements are estimable and quite significant, likely in the range of $50 million to $200 million:

- Over the last 10 years there were an average of 90,000 grants a year to entities covered under the rule according to the RIA. Assume an average covered grant length of 2 years, that only 50% of grants must do procurement, and that those grants spend an average of $100,000 per year on procurement. This yields 90,000 active grants in a given year doing procurement of $100,000 on average, so the total procurement dollars potentially affected is $9 billion.
- Not all $9 billion will be affected by the new domestic sourcing requirement given there are already similar directives for infrastructure grants and some other grants (BABA and Buy America statutory requirements, etc.). Further, the proposed rule makes clear that agencies must check they have statutory authority to impose domestic sourcing requirements. If we assume that approximately 50% of grants and other covered awards may not be newly affected by the proposed rule, we now have $4.5B per year as the marginal amount of affected procurement spending.
- Taking a 3% cost premium on average for US-sourced goods across the affected procurement base, a conservative estimate, **the cost of this part of the reg is about $135 million per year.**[28]

All of the above numerical assumptions can be changed, challenged, or tested against data freely. Our point, however, is that simple quantitative estimates are valuable for understanding the order of magnitude of real resource costs, and that uncertainty about exact parameters does not preclude quantitative analysis (as the RIA appears to suggest). Indeed, Circular A-4 encourages more rigorous analysis when possible, at levels of rigor between full enumeration of yearly costs and a full cost-benefit analysis.[29]

It is good that the RIA seeks comment application of these terms and the expected cost changes at Federal agencies, but the resulting data should be analyzed in an appropriate framework like the one above rather than left as disaggregated anecdotes. In addition, numerous new recipient obligations, mandatory E-Verify participation, Do Not Pay screening, per-payment written justifications, new Buy America provisions, and expanded certification and disclosure requirements, are also not quantified in the Regulatory Impact Analysis. Each of these seem highly likely on their own to generate new burden on recipients. Also, one major existing burden reducing reform (fixed-amount awards) was removed by OMB in this proposed rule because they "limit transparency and hinder effective oversight"; however, the

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[28] One way to obtain an estimate of the cost premium on the affected procurement base: assume 60% of procurement is goods rather than services, 30% of goods purchases will require a sourcing/content change, and a 15% premium on goods with a sourcing/content change. Add 0.3% as administrative costs of compliance for the above process. This gives 0.6x0.3x0.15+0.003 = 0.03 = 3% cost premium.

[29] U.S. Office of Management and Budget, *Circular A-4, Regulatory Analysis* (Washington, D.C.: Office of Management and Budget, September 17, 2003), https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf.

corresponding increase to burden as a result of this policy change was not quantified by OMB either.

We also note that these quantitative methods are more transparent than the brief qualitative analysis in the RIA. The RIA does not attempt to quantify impacts that are demonstrably quantifiable and therefore ignores the text of Circular A-4: “A good analysis is transparent. It should be possible for a qualified third party reading the report to see clearly how you arrived at your estimates and conclusions.” By failing to provide a transparent RIA, the proposal has made it difficult for commenters to build on their analysis or disagree substantively, which is especially consequential with such a lengthy and multi-part proposed rule. Moreover, while the proposed rule was added to OMB’s Unified Agenda on regulatory action in July 2026, it was not listed on OMB’s Unified Agenda prior to the proposed rule’s publication at the end of May, which would have identified the agency’s intent to engage in an effort to revise and codify its federal financial assistance policies in binding federal regulation. This failure to notify the public meant that the public was further hampered in its ability to conduct meaningful and detailed thinking, analysis, and review of the relevant issues in advance of the proposed rule being proposed.[30]

Additionally, the proposed rule was not identified as economically significant when it was reviewed by OMB’s Office of Information and Regulatory Affairs (OIRA).[31] Although OMB correctly identified the proposal as economically significant when published in the Federal Register,[32] it is unclear under which criterion OIRA completed its assessment. Given the scale of the transfers, compliance costs, and behavioral effects identified in OMB’s own analysis and in these comments, OMB should explain whether its proposal was evaluated under the economic-impact criterion and should withdraw the proposal and supplement the RIA accordingly. Regardless of classification, the RIA fails to quantify effects that can reasonably be bounded and fails to compare meaningful alternatives .

OMB’s classification and RIA are inconsistent with the analytical requirements and purposes of EO 12866 and Circular A-4. Finalizing the rule without a revised or supplemental RIA would leave OMB without a reasoned basis for concluding that the rule’s proposed benefits justify its costs. Further, this rule fails cost-benefit on its own terms since it doesn’t provide reasoning commensurate with its impact, and so should not be finalized.

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[30] Prior to publication May 29, 2026, the proposed rule did not appear on the Unified Agenda as a regulatory action being undertaken by OMB. The fact that no one in the regulated community was aware OMB was pursuing notice and comment rulemaking is evidenced in the fact that not one EO 12866 meeting was requested during the period this rule was under review at OMB’s Office of Information and Regulatory Affairs. Compare the current Unified Agenda for OMB published July 2026 and the prior Spring 2025 Unified Agenda for OMB.

[31] U.S. Office of Management and Budget, Office of Information and Regulatory Affairs, *OIRA Conclusion of EO 12866 Regulatory Review*, (Washington, DC: Reginfo.gov, 2026), https://www.reginfo.gov/public/do/eoDetails?rrid=1292261.

[32] U.S. Office of Management and Budget et al., *Regulation for Federal Financial Assistance,* 91 FR 32198 (May 29, 2026), 91 FR 32198 (May 29, 2026), https://www.govinfo.gov/content/pkg/FR-2026-05-29/pdf/2026-10817.pdf.

OMB does not discuss how this proposal interacts with other regulatory actions designed to improve transparency and accountability.

OMB opens its preamble by discussing transparency, accountability, oversight and burden reduction as the "overarching goal" of the proposal. "It is essential for the Federal Government to provide more oversight over the design and implementation of Federal programs to prevent wasteful spending and misuse or mismanagement of Federal funds." From there, OMB goes on to discuss a list of examples where funding was allegedly misallocated, specifically discussing how the period "between 2021 and 2024" were particularly bad.

This justification mirrors that of many of the regulations and other policy actions that have been contemplated and finalized by this administration and which purport to increase accountability and oversight.

However: having now achieved significant new controls over several systems including the federal workforce, the budget and apportionments process, IT, and payment systems though other rulemaking and executive actions, it is far from clear that the rationale OMB provides for *this* rulemaking continues to be operative. OMB's own guidance directs all agencies to account for the effect of other regulations when analyzing the effect of an additional regulation[33] and it has not done so here.

Rather, OMB, OPM, GSA, and others have issued regulations or proposals and analyzed them independently of one another despite the clear nexus between them. OMB's baseline should account for other recently adopted controls that themselves are designed to impact award design, personnel policy and dismissal procedures, payment integrity, information systems, and program monitoring. Without identifying the incremental oversight benefit of this rule after those controls, the RIA cannot establish that the additional review and termination mechanisms proposed in this rule are necessary or net beneficial.

The choice to turn guidance into regulations, managed by OMB, is likely to reduce efficiency and create policy conflict between branches.

Federal financial assistance programs come in a wide variety of shapes, sizes, missions, and provenance. Some programs have extremely detailed requirements, some are relatively

[33] U.S. Office of Management and Budget, *Circular A-4*, (Washington, DC, 2003), https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf ("your baseline should reflect the future effect of current government programs and policies. … When more than one baseline is reasonable and the choice of baseline will significantly affect estimated benefits and costs, you should consider measuring benefits and costs against alternative baselines. In doing so you can analyze the effects on benefits and costs of making different assumptions about other agencies' regulations, or the degree of compliance with your own existing rules.").

discretionary, some go only to states and localities, and some are designed for individuals. Some provide recipients with flexibility, some are relatively rigidly circumscribed, and others still occupy middle grounds based on the needs of the program and objective of the agency administering it.

The varying tools, systems, and approaches departments and agencies deploy to right-size federal grantmaking is the direct result of diversity in the statutory and then regulatory design choices underlying the programs in the first place. For agencies to accomplish these diverse goals, they require the flexibility to tailor the *procedural* part of grants to accommodate these various statutory requirements and unique stakeholder needs. Where one statute might give an agency a broad grant of discretion to provide assistance on a certain topic such that it enables continuous review, another statute might be so rigid as to necessitate a narrow window for review within the fiscal year. This is further complicated by appropriations provisions that frequently modify these requirements or specifically direct grant payments to certain locations or recipients, further expressing congressional intent and furthering the unique nature of one grant program versus another. This can be contrasted, for example, with the procurement process in which the government makes a choice to purchase a good or service (or not) to supplement their *approach* to a mission: these grants are often designed by Congress to be the instrument of the mission *themselves*.

This is one of the reasons the current state of affairs of OMB issuing guidance instead of a rule makes sense: rather than prescribing government-wide procedures strictly in regulation, the uniform *guidance* provides for the likelihood that agencies need to tailor their approach to specific circumstances in order to fully carry out the will of Congress in implementation. Congress itself would have understood this to be the state of affairs when they authorized these grants and appropriated funds in the first place for the fiscal year currently ongoing. OMB's proposal acknowledges this reality. Throughout the proposal, new provisions that OMB has proposed to codify in regulation are caveated with a variety of exceptions for places where these regulations conflict with statute. While we appreciate OMB's attention to its constitutional role in executing laws written by Congress, this move overall seems likely to bring agencies into conflict with Congress more frequently.

We are concerned that, on balance, this choice will actually be burden-*enhancing* rather than *reducing* for agencies and awardees alike. For agencies, this comes in the form of creating unnecessary internal legal and political review — unlike the current state of affairs where agencies are left to make appropriate decisions for themselves, agencies are suddenly thrust into the role of having to decide whether to abide by OMB's rules or their understanding of Congress' direction. While they may ultimately choose the latter, such a change can be material to an agency's ability to move quickly and efficiently.

We have reason to think that this is going to be the case. As we've written about extensively elsewhere, agencies and individuals have a tendency to let rigid, centrally-defined requirements paralyze them even when the appropriate flexibility exists and is written down. We refer to this behavior as the *cascade of rigidity*:

> *The cascade begins with high-level principles outlined in legislation and executive orders. As these principles descend through layers of bureaucracy, they are translated into more specific and prescriptive guidance. Each level of government, from agencies and sub agencies to individual bureaus and divisions, interprets and operationalizes the guidance in its own way. With each step down the ladder, the flexibility intended by the original framers is diminished, replaced by rigid interpretations and narrow, literal applications of rules.*[34]

Under this dynamic, agencies add their *own* bureaucracy on top of what the original guidance intended to ensure that they're not inadvertently running afoul of these rules. Checkboxes, long lead times with lawyers, and other sources of agency administrative burden abound. This can (and frequently does) occur in cases where everyone has the *best intentions* but nonetheless feels compelled by those *best intentions* to slow things down lest they make a mistake. Such changes end up inadvertently reducing the efficiency of public administration rather than improving it.

OMB failed to consider an important aspect of the problem, when it failed to account for the difficulties that will arise in agency implementation. Unnecessary additional layers of process to certify that a statute requires deviation from the regulation, delays, and the opportunity cost of the time spent on implementing are not adequately addressed by OMB.

Conclusion

Many of the proposal's stated goals in pursuing this regulation are laudable on their own: accountability, transparency, oversight, and burden reduction are all important values in a well-run government. This proposal, however, does not strike the state capacity-enhancing balance between these goals that we could support.

This rule would impose significant costs and limit long-term planning across housing, energy, transportation, infrastructure, research and development, healthcare systems, and many other critical sectors in the United States. As stated in a joint request[35] for extension of the comment period from 323 organizations submitted to OMB on June 12, 2026, "the scope and impact of OMB's proposed rule is vast. The proposed rule amends 91 parts of Title 2 of the Code of Federal Regulations across 456 different sections of the regulations, adding 52 new subsections and fully restating 375 sections. The rule will impact the entirety of government grant-making across the United States. OMB itself says the revisions suggested would relate to over $179

[34] Jennifer Pahlka and Andrew Greenway, "The How We Need Now: A Capacity Agenda for 2025 and Beyond," Niskanen Center, December 20 2024, 9, https://www.niskanencenter.org/wp-content/uploads/2024/12/Niskanen-State-Capacity-Paper_-Jen-Pahlka-and-Andrew-Greenway-2.pdf.

[35] 323 Joint Commenters, June 12 2026, comment on U.S. Office of Management and Budget, *Regulation for Federal Financial Assistance,* 91 FR 32198, https://www.regulations.gov/comment/OMB-2026-0034-22261.

billion of funds to small entities. In addition to these entities, NSF reports that $64 billion was spent in FY2024 at universities on R&D, much of it through grants and cooperative agreements. NIH allocated approximately $36.9 billion in extramural funding that same fiscal year. These are just examples of the small but important components of the approximately $1.2 trillion that the federal government spends via grants and cooperative agreements."[36]

Such a massive change to such a large mechanism for American statecraft demands a detailed and complete accounting of the costs and benefits of this course of action so that the public can judge the action on its own merits. In our view, not only has the proposal not done that here, but we see ample evidence that leads us to conclude that the costs of this proposal will by far outweigh the potential benefits.

Efficiency, accountability, oversight, and burden reform are often in tension with one another. This makes sense: good governance very often requires careful balancing of many competing priorities and tradeoffs. It is our observation, however, that this rule almost always resolves these tradeoffs in favor of increased oversight. This is illustrated in the proposal to expand oversight by removing fixed amount award and subaward flexibility without considering the burden-increasing effects of that change. Similarly, the discretionary termination poses significant operational and fiscal burdens on agencies and grantees while relying almost entirely on anecdotal arguments about accountability and oversight from prior administrations. So too does the requirement to situate senior appointees in the review chain: this enhances burden and negatively affects decision quality, all in the name of accountability and oversight.

Further, the proposal's definition of political accountability is actually in tension with itself. Throughout the proposal, the proposal equates accountability to alignment with executive branch priorities. The proposed text, for example, justifies layering new administrative procedure onto agencies and grantees by asserting that "sometimes program goals or Federal agency priorities may change in response to new direction from politically accountable leadership." But accountability and legitimacy are derived *not just* from the alignment to executive branch priorities but also from faithful execution of priorities set by Congress. It is possible for overgrown administrative procedure to interfere with this expression of democratic accountability as much as misalignment with the President's priorities.

Increasing moments where the administration can review and restrict makes it harder for Congress, or even the administration themselves, to achieve their political goals, because adding friction makes any statutory *outcome less* likely. Agencies, programs, and grantees adopt procedures in an effort to avoid running afoul of these requirements, binding themselves in red tape to *avoid doing the wrong thing*, rather than *doing the right thing*. Such mechanisms can themselves degrade responsiveness and accountability: when laws get passed and outcomes fail to materialize, "[i]t can feel to lawmakers like the steering wheel they are supposed to have their hands on isn't properly connected to the wheels."[37]

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[36] Parts of the proposed rule do not apply to the full $1.2 trillion in federal grant spending because there are exceptions for awards such as block grants, awards based on a statutory formula, and disaster-recovery grants, among other types of assistance.
[37] Pahlka and Greenway, "The How We Need Now," 9-10.

To improve the efficient and effective administration of Federal financial assistance, there are other options to better balance costs and benefits. In general, the government should aspire to a policy regime that governs financial assistance through purpose-sensitive and risk-based proportionality, not a universal, “one-size fits all” set of mandates. Light-touch administration would be the default, and oversight, reporting, review, and termination rules would be tailored to recipient risk, award structure, program purpose, and the consequences of failure. For R&D awards, this general rule needs an added protection: 2 CFR 200 should not undermine credible commitment, speed, flexible execution, mechanism diversity, or agency experimentation. Those conditions determine whether research grants enable or distort high-upside science with the potential for breakthrough results.

Improving the efficient and effective administration of Federal financial assistance is most durable if instantiated at several levels:

- At the agency level, OMB should direct programs to engage in comprehensive analyses of administrative burden that document the ways in which program design makes it harder for agencies and applicants to interact. It could empower and resource agency Inspectors General to go after fraudsters and ensure fidelity with existing cost accounting rules. It could direct agencies to *talk more openly* with Congress about places where legal interpretation or statutory ambiguity makes programs more difficult to administer. It could ensure that agencies have the in-house expertise to continuously improve.
- For the whole of government, OMB should do what its predecessors have done: continue to improve the Uniform *Guidance* to help agencies stick the landing in implementation. As a start, OMB could implement some of the proposals in this rulemaking that are more straightforwardly beneficial, on their own. These include the encouragement of multi-year awards, further streamlining Notices of Funding Opportunities (NOFOs), including a Statements of Interest (SOI) step for large volume and complex programs, continuing plain language efforts, and encouraging acceptance of some requirements by award date and not with the application. Agencies, recipients, and civil society could doubtless add to this list.
- And finally, OMB should engage with Congress as a governing partner to consider larger, structural reforms to the mechanisms by which the government does its work in the first place. This would solve, among other things, the recurring policy reversals OMB describes in its rulemaking (“Instead of aiming to broadly serve the needs of all Americans, in 2021 Federal agencies became increasingly focused on using their award programs to serve a “woke” policy agenda that deliberately favored certain identity groups over others.”) by clarifying *in statute* what is and is not acceptable and what it means to “serve the needs of all Americans.” Successive administrations would not need to waste precious time issuing *their* version of 2 CFR 200, knowing that their successors will just reverse all these changes, because the guardrails could be more durably defined via legislative compromise between the parties.

Governing an enterprise as large and diverse as the federal government is tremendously difficult. And we appreciate that getting such an enterprise to change is harder still. But many federal departments and agencies are called upon to engage in complicated, complex, financially significant line-drawing exercises as part of notice and comment rulemaking. In stating the problems it seeks to solve, OMB is obligated to offer proposed solutions that it can show will actually solve or make a concrete progress toward solving the problems identified. The choices reflected in its proposal rule show OMB underweighting the very things that make federal financial assistance work as a tool for governing — reliable commitments, expert judgment, procedures in reasonable proportion to risk — in exchange for control. While agencies have broad discretion to specify regulations they can rationally explain as best accommodating the interests and priorities they self-select, this proposal has not done so. As proposed, these proposed revisions to Part 2 of the CFR not only do not solve the problems OMB describes in its preamble explanation, they are likely to achieve opposite ends.

For all the foregoing reasons, OMB should withdraw this proposed rule, prepare a revised regulatory impact analysis, and re-propose a course of action that is designed to deliver value to the taxpayer and advance innovation, rather than generating costly burdens for recipients and reduced value to the taxpayer.

We would welcome the opportunity to engage with all interested parties on such an effort.

Sincerely,

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Institute for Progress

Gabe Menchaca
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