

OMB Calls for More Agency Discretion To Terminate Awards, New Compliance Mandates in Proposed Grant Overhaul

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As we previewed in our prior alert, on May 29, 2026, the Office of Management and Budget proposed an overhaul of 2 CFR 200 *et seq.*, the “Uniform Guidance,” which governs federal grants, cooperative agreements, and other financial assistance. Although OMB is leading the charge in changing the government-wide policy, roughly 40 federal agencies are simultaneously proposing conforming changes to their own adopting regulations to establish one government-wide set of grant and cooperative agreement regulations.

For recipients and subrecipients of federal financial assistance, including universities, state and local governments, hospitals, nonprofits, and research institutions, the consequences are significant. Among other things, the proposed rule would dramatically expand agencies’ authority to terminate awards, impose new mandatory pre-issuance review of discretionary awards by political appointees, embed a series of 2025 Executive Order policy priorities directly into the regulatory text as binding award conditions, and restrict the flexibility with which recipients may carry out their work under federal awards.

The package is framed around three stated objectives: “(1) improving transparency, accountability, and oversight for use of Federal funds; (2) clarifying the status of the 2 CFR regulatory text as an OMB regulation; and (3) reducing recipient burden.” In practice, the proposal pairs a deregulatory vocabulary with a marked tightening of agency control over the award process.

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Notably, although Executive Order 14332 directed OMB to address the indirect cost rate negotiation system as part of this rulemaking, OMB declined to do so, citing congressional intervention through FY2026 appropriations language and related committee report direction. OMB has signaled it may revisit the issue separately.

With a relatively short comment period of just 45 days, the summary below covers some of the significant changes across the proposed rule, so that interested parties can digest what may be coming down the pike.

Discretionary Termination

One of the most important revisions pertains to discretionary terminations in Section 200.340. Here, OMB proposes to clarify and broaden the government's authority to terminate awards *for discretionary reasons*, expressly including when an award "no longer advances agency priorities or the national interest." This provision is drawn directly from Executive Order 14332, "Improving Oversight of Federal Grantmaking" (covered here), and is deliberately modeled on the termination for convenience mechanism under the Federal Acquisition Regulation (FAR). OMB also proposes a new temporary suspension authority capped at 90 days. This provision is likely in response to multiple court decisions that have blocked the Administration from terminating grants without cause. Of note, the agency-level appeal rights currently available under Sections 200.341 and 200.342 would not apply to discretionary termination, leaving judicial review as the primary recourse for affected recipients. This broad discretion may leave recipients uncertain about their compliance with award requirements, leading to an overall increased risk of termination and discouragement of investing in long-term projects.

Agency Gatekeeping at the Pre-Award Stage

Senior Appointee Pre-Issuance Review. OMB's revisions to Section 200.205 would require mandatory pre-issuance review of all discretionary awards by "senior appointees" (i.e., political appointees) who must apply specific principles drawn from Executive Order 14332, including ensuring that awards advance the President's policy priorities, prohibit impermissible uses of funds, and emphasize compliance with applicable law. Executive Order 14332 directs senior appointees to ensure discretionary awards are not used to fund or promote racial preferences in selection criteria, "the notion that sex is a chosen or mutable characteristic," illegal immigration, or any other activities that "compromise public safety or promote anti-American values." This Executive Order also encourages agencies to prioritize applicants engaged in scientific research who are committed to the initiatives set forth in Executive Order 14303, "Restoring Gold Standard Science," which promotes reproducible and transparent science. OMB clarifies, however, that any peer review under this framework would be advisory only and would not displace the agency's discretion over award decisions. Recipients and subrecipients may nonetheless encounter longer waiting times for approval and should consider working with agency partners to ensure compliance with new policy initiatives. The "political" pre-issuance review framework also operates alongside an expanded set of risk-assessment factors under Section 200.206.

Related Expansion of Risk-Assessment Factors. Working in tandem with the pre-issuance review, the revised Section 200.206 would add to the factors that agencies may consider in pre-award risk reviews, including (a) any “history of questionable practices” (e.g., plagiarism), (b) “membership in or affiliation with organizations engaged in activities that violate Federal law, undermine public safety or national security, or advocate for the overthrow of the United States Government,” and (c) compliance with Higher Education Act disclosure requirements regarding foreign gifts.

Regulation, Not Guidance; Audits; and Other Changes

Regulation, Not Guidance. A recurring theme in the proposed rule is OMB’s insistence that the 2 CFR text is a binding OMB regulation. OMB would delete the “is guidance not regulation” language in the current text and clarify that agencies must not deviate where no discretion is provided. Thus, grants-related rulemaking authority would be centralized at OMB. Once finalized, future OMB amendments to 2 CFR subtitle A would take effect government-wide without requiring each affected agency to separately re-promulgate or adopt the change through its own regulations. The proposed rule, therefore, reduces both the time for agency input and the role of individual agency discretion in shaping government-wide grants policy moving forward.

Audits. The revised Section 200.503 would clarify that a federal agency, an Inspector General, or the U.S. Government Accountability Office (GAO) may impose additional audits only when authorized by statute. Separately, OMB proposes to remove “annually updated” from the compliance-supplement definition while it and the HHS Office of Inspector General reassess the single-audit process under the Financial Management Risk Reduction Act.

Notices of Funding Opportunity, Program Design, and Award Transparency. Revisions to Section 200.202 and Section 200.204 direct agencies to design programs and funding opportunities around public purposes authorized by law and add provisions on international elements and other terms, consistent with the broader emphasis of aligning awards with statutory purpose and Administration priorities. Section 200.204 also proposes to revise existing best practices to streamline notices of funding opportunities, including mandatory posting on Grants.gov, a 500-word cap on executive summaries, and use of “Statements of Interest” to reduce applicant burden.

Relatedly, the proposed rule contemplates that not all funding opportunities will go through a competitive, publicly posted process. Instead, agencies may issue awards on a “limited competition or ... non-competitive basis” and, in certain circumstances, are not required to publicize the funding opportunity at all. Combined with the new senior-appointee review process, this greatly expands agencies’ ability to direct funding without the transparency historically associated with the Notice of Funding Opportunity (NOFO) process.

The revisions also direct agencies to design programs that align with “administration policies and priorities.” That standard introduces tension with the directive that programs further public purposes authorized by law. In practice, an agency could read the rule to permit slow-walking or declining to issue NOFOs for statutorily authorized (or even mandated) programs that do not align with current Executive branch priorities. The proposed rule does not resolve how agencies are to reconcile that tension, which may raise concerns

associated with the Impoundment Control Act and the Take Care Clause, as well as APA arbitrary and capricious concerns, and is likely a focus of comments and downstream litigation.

Codifying Executive Order Policy Priorities

The proposed rule also embeds several priorities from prior Executive Orders as binding award conditions reaching recipients and subrecipients alike. For instance, revised Section 200.300(b) would require agencies and pass-through entities (including state and local governments) “to the maximum extent permitted by law” to ensure that awards are not used to fund, promote, or facilitate three categories of activity: (1) DEI policies as defined in Executive Order 14151 and Executive Order 14173 (covered here), (2) “gender ideology” as defined in Executive Order 14168, and (3) the transition of children under 19, as defined by Executive Order 14187. The “maximum extent permitted by law” qualifier signals that agencies must reconcile the policy against each program’s authorizing statute, which leaves room for program-specific disputes about how far the condition reaches.

Similarly, revised Section 200.300 would remove the prior mandate referencing *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020), under which agencies had been directed to treat sexual orientation and gender identity discrimination as encompassed by statutory prohibitions. The proposed rule then adds a new provision barring agencies, recipients, subrecipients and pass-through entities from discriminating against or in favor of applicants based on religious character, affiliation, or exercise.

Tracking Executive Order 14281, the new Section 200.218 would direct agencies and pass-through entities, to the maximum extent permitted by law, not to issue terms, conditions, or guidance that advance theories of disparate-impact liability based on protected characteristics and would direct recipients and subrecipients to avoid using funds for that purpose unless expressly required by law. A carve-out preserves internal analysis of such topics, but it may not be funded by, nor used in connection with, the award. As a result, recipients should anticipate taking additional steps to segregate federal funding from internal funding when conducting this type of analysis.

The new Section 200.219 would bar public-entity recipients and subrecipients from discriminating on the basis of viewpoint, content, or subject matter (including political, ideological, or religious perspective) when providing services for events, meetings, or other expressive activities. The provision targets so-called “heckler’s fees,” such as prohibiting added security charges imposed on disfavored speakers and applies whether or not the event is directly federally funded if it occurs on facilities the public entity controls. Recipients should expect to see increased costs when planning such events if this revision takes effect. It reaches non-public entities to the extent the relevant activities fall within the scope of a federal program under which the entity has accepted the federal award. The proposed revision stresses that the section does not disturb viewpoint-neutral time, place, and manner restrictions, and must be applied consistently with the First Amendment, including the constitutional rights of non-public recipients.

Finally, the new Section 200.477 would add elective-abortion costs to the selected items of costs as expressly unallowable except where authorized by federal law, codifying Hyde Amendment restrictions and Executive Order 14182 as a uniform allowability rule across assistance programs. Recipients will thus need to revisit existing policies, cost-allocation practices, and program designs to ensure alignment with these new conditions.

National Security and Supply Chain Conditions

Prohibition on Collaboration with Covered Foreign Entities/Countries. The new Section 200.220 would establish a government-wide baseline prohibition on using federal funds to support bilateral or multilateral collaborations, agreements, programs, or activities with “covered foreign countries” (including China, Russia, Iran, and Cuba) or “covered foreign entities,” unless expressly authorized by statute or approved by the agency. OMB generalizes the logic of the “Wolf Amendment” – the long-running appropriations rider restricting NASA and White House Office of Science and Technology Policy (OSTP) collaboration with China – and extends a uniform standard to all assistance programs. The prohibition applies regardless of whether the funds support direct programmatic activity, research, technical assistance, travel, or allocable indirect costs, in an effort to prevent circumvention through cost-allocation structures. A limited exception is available where a statute authorizes the activity or the agency head determines it poses no national security risk and is in the national interest. Collaboration using non-federal funds is not prohibited. As a result, recipients in research, higher education, and international programs would need to map existing and planned foreign relationships against this standard.

Prohibited Drones. The revised Section 200.216 broadens the section beyond telecommunications and video-surveillance equipment to implement Section 1825 of the American Security Drone Act of 2023. Paragraph (b) prohibits assistance that results in procurement of uncrewed aircraft systems prohibited by the Federal Acquisition Security Council (FASC) and requires recipients and subrecipients to adopt specific safeguards. Recipients should note that the statutory requirement took effect December 22, 2025, so compliance is already due.

New Compliance Mandates

Several additions would impose new obligations on the entire recipient and subrecipient population through internal-control and payment provisions:

- **E-Verify for All Recipients**
 - Every recipient and subrecipient would be required to participate in the U.S. Department of Homeland Security’s E-Verify program to confirm the employment eligibility of employees *and contractors* hired in or performing work in the United States under a federal award.
- **State Pre-Payment Verification**
 - States that are recipients must review available data sources (such as Treasury’s Do Not Pay system) to verify payee eligibility before disbursing federal funds, consistent with the Payment

Integrity Information Act.

- **Federal Payment Screening and Payment Justification**
 - Agencies must verify recipient eligibility through the Do Not Pay system before any disbursement. Drawing on Executive Order 14222, recipients and subrecipients other than states must include justification describing the purpose of each payment request and the specific award work it supports, once agency systems are in place.
- **Internal-Control Discretion**
 - OMB would delete the directive to align internal controls with the Comptroller General's "Green Book" or the "Internal Control-Integrated Framework" issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO), reasoning that it should not effectively delegate standard-setting to a Legislative branch agency or a private organization. Recipients may still use those frameworks as reference points but would not be bound by them. The proposed rule does not suggest OMB intends to replace those frameworks with any alternative.
- **Confidential Business Information (CBI)**
 - CBI is added to the categories of information recipients must safeguard with reasonable cybersecurity measures and is protected from agency restrictions on limiting public access.
- **Conflict of Interest Disclosure**
 - Recipients and subrecipients must disclose whether anyone working on the proposal or award was employed by the awarding agency within the preceding two years. While the disclosure is informational and is not itself a conflict or a bar to participation, it has the potential to be used in future False Claims Act (FCA) investigations.
- **Accelerated Fraud Referrals**
 - An Inspector General must transmit mandatory disclosures it receives under Section 200.113 of credible evidence of fraud, conflict of interest, bribery, gratuity, or FCA violation to the U.S. Attorney's Office for the District of Columbia within 10 days of receipt.
- **Specific Conditions on Existing Awards**
 - The proposed rule also authorizes agencies to add or remove specific conditions throughout the period of performance based on enumerated risk factors, with recipients given as little as 15 days to comply. Effectively, this provision gives agencies an ongoing tool to reshape award terms mid-performance and could materially disrupt recipients' ability to manage award compliance.
- **Domestic Records Storage**
 - Revised Section 200.336 strongly encourages recipients and subrecipients to use domestic storage for electronic records, signaling potential pressure on cloud and data-hosting arrangements that rely on offshore infrastructure.
- **Tightened Cost Principles**

- Revisions to Subpart E would constrain allowable costs across several categories, including making advertising, commencement and convocation, publication, and voter registration/issue advocacy costs expressly unallowable, and requiring agency approval for conference attendance, fundraising, investment management, membership, and subscription costs.

Structural/Procurement Changes

- **Elimination of Fixed-Amount Awards and Subawards.** OMB proposes the elimination of fixed-amount awards under Section 200.201(b) and fixed-amount subawards under Section 200.333, concluding that the guardrails it attempted to add in 2024 remain inadequate and that the mechanism limits transparency and oversight. The change is not intended to disturb fixed-amount awards or subawards issued before the effective date.
- **Pass-Through Entity Duties.** OMB tightens the rules for classifying downstream funding. The new Section 200.331(c) provides that pass-through entities cannot treat transfers of federal funds to related entities as internal allocations exempt from the “subrecipient or contractor” determination. Each transfer must therefore be classified as a subaward or contract. As a practical matter, this revision will increase compliance burdens on pass-through entities with affiliated structures, which must now perform formal subrecipient/contractor determinations and apply flow-down obligations to transfers that have been treated historically as routine intra-organizational bookkeeping. The revised Section 200.332 reiterates that first-tier subawards valued at \$30,000 or more must be reported in SAM.gov, confirms that affiliations among affiliates, subsidiaries, and related organizations do not excuse classification, and requires pass-through entities to ensure subrecipients do not take actions that could significantly damage the reputation of the pass-through entity, the agency, or the federal government.
- **Procurement Standards.** Under the revised Section 200.318, material costs on time-and-materials contracts must be documented and priced consistently with market rates. Under Section 200.320, cost-reimbursement contracts are strongly discouraged, and when used, the recipient must notify the agency and keep a written justification (and agencies may require prior approval). Section 200.322 replaces the prior aspirational domestic preference language with a directive that agencies, where practicable and legally authorized, build domestic content terms into awards. Finally, Section 200.321 streamlines the small-business consideration requirement, eliminating the prior examples of what “consideration” means. Taken together, these structural and procurement revisions push more transactions into formal subaward or contract instruments, reduce flexibility for recipients and steer procurement decisions toward domestic content arrangements.

Conclusion

Recipients should carefully review the terms, conditions, and objectives of their current or potential federal financial awards to ensure compliance with the current Administration’s federal initiatives and recent Executive Orders. Recipients implementing the 2024 OMB Guidance for Federal Financial Assistance should be aware that this new proposed rule may revise many of the 2024 provisions. While the proposed rule purports to apply to awards made after the eventual effective date, agencies may nevertheless seek to amend existing

grant agreements to incorporate the new rules.

This proposed rule vests federal agencies with broad discretion to award, review, and terminate funding based on recipients' and subrecipients' alignment with the Government's public policy initiatives. Examples of these initiatives, as discussed above, include domestic preferences, religious liberty, agency flexibility, and streamlined awards. Along with substantive revisions, many procedural changes are expected to be implemented that will affect the posting, categorization, financial management, and reporting of awards. Recipients and subrecipients should remain mindful that noncompliance with these new procedures could also prevent future awards even if not currently incorporated into existing awards.

Given the breadth of the changes and short 45-day comment window, stakeholders should consider whether to submit comments before the period closes on July 13, 2026, both to help shape the final rule and to preserve administrative record arguments for any downstream challenges.

OMB has stated that it intends to issue a final rule with an effective date of October 1, 2026, to ensure that a single set of government-wide requirements applies to federal awards made in FY2027. All interested parties should carefully review the proposed rule before the comment period closes.

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