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# Proposed Changes to Federal Grantee Requirements Would Undermine Program Goals

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Dear Mr. Vought:

Thank you for the opportunity to comment on Information Collection "3090-0290, System for Award Management Registration Requirements for Financial Assistance Recipients." I appreciate the opportunity to comment on a technical change that would have profound consequences for the nonprofit sector and communities it serves.

I write in my capacity as a historian of the United States with expertise in the nonprofit sector and its relationship to government. My doctoral dissertation at Harvard University and subsequent book, *Nonprofit Neighborhoods: An Urban History of Inequality and the American State*, considered how the rise of government grantmaking to nonprofit organizations in the decades after World War II shaped the sector as a whole and the communities nonprofits serve. I joined the faculty of the University of Maryland's School of Public Policy in 2018, where I teach courses on public policy and the nonprofit sector and continue to research public and private grantmaking.

My comments first consider how and why the nonprofit sector and government became so intertwined. From this history, I then raise three justifications against the proposed changes: they undermine the purpose of relying on nonprofit organizations for service provision, distract from service delivery, and are unnecessary given existing regulations.

## Historical Context

Grants-in-aid from the federal government to nonprofit organizations expanded significantly in size and amount in the decades after World War II. Grantmaking – via categorical grants and, later, block grants—became a preferred means to expand service delivery and meet the needs of Americans without expanding the size of government. This approach had the advantages of drawing in private philanthropy to help foot the bill of various programs, decentralizing decision-making, increasing participation in governance, and responding to local contexts while also ensuring federal standards were met regarding costs, accounting, approach, and priority. My research reveals some of the unevenness of this approach, as reality was always more complicated and contested than policymakers intended or anticipated. Nevertheless, public-private partnerships between the federal government and nonprofit organizations have remained a durable, consistent, and quintessentially American approach to governing. Democrats and Republicans have both embraced nonprofit partnership (albeit for slightly different reasons) and the consensus among policymakers has been that outsourcing certain elements of implementation to local partners makes for effective governance.

The consequence of what some call "third party government" over the second half of the twentieth century is that today nearly one-third of nonprofit organizations receive government grants and nearly two-thirds receive funding of either grants or contracts. Analysis by the Urban Institute underscores the continued tight financial ties between the government and nonprofit sector, and the programmatic and implementation consequences of those financial arrangements. This means that any significant change to federal grantmaking procedures – such as by this proposed rule change – is slated to have wide reach into the nonprofit sector.

## Lessons from History

Because the federal government has been funding nonprofits for so long, ample evidence exists to help anticipate the impact of the proposed rule changes.

First, the proposed rule change – specifically the prohibition of activities related to "diversity, equity, inclusion, and accessibility,"— undermines a key justification by which the government has historically partnered with nonprofit organizations by turning an asset into a liability. As non-governmental but public-serving organizations, nonprofits have close ties to their communities and constituencies, sometimes defined along geographic lines (say, a particular neighborhood), or as connected to groups with shared religious, ethnic, linguistic, racial, sexual orientation, or gender identities. Recognizing that nonprofits maintain these connections and expertise through legally permissible discretion in their hiring, program design, messaging, and service delivery has long been recognized as an asset for governments and a reason to partner with nonprofit organizations. My research further demonstrates how the public funding of these private entities increase participation and improve governance.

Second, the historical record points to instances where ambiguous federal directives create uncertainty in nonprofit organizations and distract from the delivery of programs. Perhaps the most familiar instance of an undefined mandate was the expectation in the 1964 Economic Opportunity Act that programs be delivered with the "maximum feasible participation" of those whom the programs aimed to serve. Without guidance as to what this participatory value meant in practice, individual communities, nonprofits, and government sponsors were left to interpret Congressional intent. Those debates, my findings show, took time away from program implementation, led to interruptions in service, and created uncertainty in leadership. Today, the proposed changes similarly do not define "diversity, equity, inclusion, and accessibility" or outline what constitutes a threat to "public safety or national security." Such ambiguity will both dissuade nonprofits from seeking government funding—which will trigger staff layoffs and reductions in service—and redirect resources away from service delivery to legal fees.

Third, an administrative and legal apparatus already exists to ensure there is no discrimination in nonprofit organizations or in their delivery of publicly-funded programs. My archival research reveals instances where the IRS paused and threatened to revoke a nonprofit's tax exempt status on the grounds of potential discrimination. Similarly, legal scholars have traced the court's establishment of the "public policy doctrine" that permits the denial of tax-exempt status to entities with discriminatory regulations that violate public policy and the spirit of a public interest. The current proposed rule change is, therefore, redundant as a check on discrimination. Instead, it will cause unnecessary, burdensome paperwork for both nonprofits seeking government funding and the government agencies making grants that will undermine program goals and government expectations of efficiency.

## Conclusion

Rebuilding and reorganizing federal grantmaking following the administration's pauses and cancellation of grants in early 2025 is an important task. The proposed changes, however, will cause undue confusion and harm to the nonprofit organizations that both the federal government and communities rely on. As a result, I advise against the proposed changes.