July 13, 2026

Honorable Russell T. Vought, Director
Andrew Reisig and Joel Savary
Office of Federal Financial Management
Office of Management and Budget
725 17th St NW
Washington, D.C. 20503

Submitted via regulations.gov

Re: OMB-2026-0034, Office of Management and Budget (OMB) Regulation for Federal Financial Assistance.

Dear Director Vought, Mr. Reisig and Mr. Savary;

I, Denise L. Baer, Ph.D., write in my personal capacity to oppose the "Regulations for Federal Financial Assistance" proposed by the White House Office of Management and Budget (OMB) and other federal agencies and ask that it be removed in its entirety.

I hold an earned doctorate in political science, policy analysis and research methods and have worked as a vetted expert program evaluator for in the U.S. and globally for government agencies and global donors in all regions of the world. I am the author or co-author of three books and numerous scholarly articles. In addition, I am a gender expert who has published on both socialized and biological differences between men and women across the developmental process. In January 2025, I was the lead evaluator on a project funded and canceled in mid-process by the Department of State in which we will never know the results and outcomes of the five year project which had been completed. I am familiar with waste and abuse where political appointees lacking expertise make arbitrary decisions.

The proposed rule should be withdrawn in its entirety because OMB and its sister agencies lack a reasoned basis for the regulation and OMB lacks the power to make this rule. Barely two years after its last revision of its Uniform Guidance,[1] OMB is proposing a revolutionary, arbitrary and capricious change in how the federal government provides federal grant assistance but either relies on inaccurate or insufficient evidence, offers no explanation and includes numerous undefined terms. The proposed rule violates the Administrative Procedures Act (APA) which posits that rules must be the product of "reasoned decisionmaking." Thus, this proposed rule harms recipients' substantial

[1] Guidance for Federal Financial Assistance, 89 Fed. Reg. 30046 (April 22, 2024),

reliance interest in a fair, orderly, and consistent process for applying for and receiving federal financial assistance.

In fact, the proposed rule exceeds OMB's authority. Federal law provides OMB with limited power to provide guidance on the use of grant and cooperative agreements and requirements on financial management. Even if OMB does have the power to issue the rule, it is contrary to the purposes of its authorizing statutes and thus arbitrary and capricious. This rule must not go into effect and must instead be withdrawn entirely. OMB may only issue guidance on financial management and oversight, not binding restrictions on the substance of awards and limits on the rigor of research and evaluation by unqualified political appointees. Federal agencies do not have inherent authority to issue binding regulations. As the Supreme Court has stated , "Administrative agencies are creatures of statute. They accordingly possess only the authority that Congress has provided."

In short, the proposed rule arrogates new, centralizes powers within OMB – a Presidential Agency while simultaneously excluding Congressional intent, enacted statutes and vetted national priorities as standards. Instead, it codifies non-vetted and contradictory Executive Orders and partisan political priorities as "law" and changes guidance into a regulation. Docket OMB-2026-0034 is a proposed legally binding revision that once approved will carry the force of law (changing what used to be mere agency guidance) to 2 CFR, the government-wide regulation governing all federal grants. As such, it will fundamentally change how the federal government supports (or not) scientific research and all grants to communities, universities, hospitals and research organizations.

There are critical discrepancies between the OMB stated goals and likely real outcomes of the proposed rule if adopted. I understand that OMB's stated goals are to 1) Improve transparency, accountability and oversight for the use of federal taxpayer money; 2) Clarify the status of OMB's policies and requirements as OMB regulation; and 3) Reduce recipient burden.

The effect of the OMB proposed rule will be the opposite for transparency, accountability and oversight. Rather than improving transparency, accountability and oversight, it prioritizes partisan political appointees and non-vetted Executive Orders over enacted statutes, expert advisories, scientific evidence and independent program evaluation. At least six Executive Orders[2] (EOs) and one Department of Justice Memo[3] are incorporated by reference while numerous references to specific statutes are deleted.

What does it do in brief that is harmful for both research and community grants?

Overall, the proposed rule requires alignment with administration's policies and priorities – not scientific need, statutory mandate, or scientific community and advisory group advice about quality and "what works." It relies on an Executive Order as the source for to defining the so-called Gold Standard Science as applied by partisan political employees. Non-scientists are not capable of making determinations of scientific merit and methodological soundness. This requires trained scientists, social scientists, and evaluators. Making advisory panels only advisory is problematic – creating error and risking human and scientific harm and disasters. Is the United States Going Down the Dangerous Lysenko Route of a Declining Nation?

Trofim Lysenko is known to most scientists and philosophers of science as a cautionary tale. He was the person who led to the decline of Soviet science where certain areas of research were banned and scientists were persecuted because they did not align with political ideology and priorities whose tenure from 1940 to 1965 aligned with growing weakness in the former Soviet empire. Lysenkoism – as his theories became known - denied Mendelian genetics and the scientific method and led to scientific stagnation across all fields in the former Soviet union for decades, agricultural disasters and famines – and a declining nation.

"Gold Standard Science" highlights scientific fraud and intellectual property protections as concerning while touting several characteristics of science. That the proposed rule codifies the "Gold Standard Science" Executive Order creates the false idea that flaws in scientific research can – apparently – only be ameliorated by government partisan political appointees. The "Gold Standard Science" EO) is missing "independence" as a key principle as well as other key features of scientific justification such as reliability and validity checks, and it justifies using political appointees as a "check" on so-called dishonest science – a bastardization of genuine science which reflects little understanding the "joint problem-solving enterprise" that comprises the scientific method and peer review as defined by the National Academies of Sciences, Engineering and Medicine.

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[2] The cited Executive Orders include Improving Oversight of Federal Grantmaking, Restoring Gold Standard Science, Ending Radical and Wasteful Government DEI Programs and Preferencing, Ending Illegal Discrimination and Restoring Merit-Based Opportunity, Preventing Woke AI in the Federal Government, and Improving Oversight of Federal Grantmaking.

[3] Department of Justice's July 29, 2025 Memorandum, "Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination" (July 29, 2025 DOJ Memo). https://www.justice.gov/ag/media/1409486/dl

The articulation of a “Sex Binary” as a stated two-gender policy is the most egregious example of partisan politicization of scientific and social scientific research (Lysenkoism) based in part on use of a parlor trick of asking individuals to “define woman.” It is unscientific to state that there are only two “sexes” (even at birth) and that what is defined at birth is definitive. Excluding by fiat the mutability of gender based upon physical identification of “sex” at birth ignores psychosocial development, the variability of how girls, boys, men and women have lived their lives throughout history and across cultures and how hormones affect expression of gender across the life span. In truth, all differences apart from genitalia can be expressed in two highly overlapping bell curves. This is a more complicated topic than can be discussed here, but it must be noted that for most areas of comparison, the “Sex Binary” is an arbitrary and politicized policy statement with little relevance to real people’s lives and with considerable risk to human welfare, research and evaluation. Ignoring “half the sky” for half of humanity is extremely harmful to the wellbeing of both men and women. It can treat women as lesser citizens and lead to defunding of domestic violence, maternal and child health, childcare initiatives, and workforce initiatives and equity programs that build capacity. Demanding that recipients of federal grants be blind to the types and magnitude of differences is burdensome and can lead to unintended consequences and impoverished science.

Throughout the entire proposed rule, there are numerous undefined terms which can lead to arbitrary and capricious behavior by political appointees. This risks creating so-called “standards” that cannot be defined. If they cannot be defined, neither the recipient nor the partisan political appointee can apply them consistently or engage in meaningful discussions on reasons for actions. As such, they are likely to create a chilling atmosphere where recipients and evaluators avoid topics and entire areas of research and impact. Examples include “promot[ing]” or “support[ing]” illegal immigration, compromise public safety or promote anti-American values,” “diversity, equity, and inclusion,” gender ideology and others.

<u>**Other issues include:**</u>

Political Override of Expert Authority (§ 200.205, Federal Agency Review of Merit of Proposals) Requires grant sign-off by political appointees (not career scientists or program officers) within federal agencies to ensure that funding “demonstrably advance(s) the President’s policy priorities.”

- **§ 200.340): Arbitrary Termination Creates Waste.** Permits grant termination at any time for any reason (currently only done in cases of evidence of noncompliance or fraud) which risks degrading scientific infrastructure and talent pipelines. This also creates tremendous waste as sunk costs are lost without outcomes or evaluations.

- **§ 200.205 (b) 2; § 200.300(b) (1) DEI(A) and § 200.205(b)(2) Gender Ideology/Gender Binary.** Limits areas of research in blocking federal funds from being used to "fund, promote, encourage, subsidize, or facilitate DEI or DEIA policies or practices…" which disallows meaningful research or comprehensive community outreach as well articulating an unscientific and restricting definition of gender.
- **Prohibition on Use of Federal Funds to Support Foreign Collaborations (§ 200.202(e), Program Planning and Design; § 200.220, Prohibition on Funding Foreign Activities**) Significantly limits international research collaborations overall, and includes political reasons which limits the scientific community to nationalistic interests and control and limits collaboration which have comprised a strength of American science and innovation.
- Authorized OMB to limit grant eligibility for nonprofit organizations and others based on an applicant's membership in politically targeted professional or advocacy groups which dangerously inserts politics with longterm government good governance objectives for all citizens.
- **Restrictions on Dissemination (§ 200.461, Publication and Subscription Costs; § 200.454, Membership, Subscriptions, and Professional Activity Costs)** Research costs would be less reimbursable (e.g., publishing the results, subscriptions, memberships, conference travel) and more onerous as fixed-amount awards are largely eliminated in favor of time-consuming and onerous cost-reimbursement arrangements. This is also anti-science as it presumes findings and publications are known in advance of the research and evaluation. Open communication and sharing of results is key to scientific innovations.
- **Lobbying, § 200.450: Erects New Limits on Key Democracy Activities That Changes the Existing Compact Between Federal Pilot Projects and State and Local Government Adoption of Innovations.** New anti- democracy provisions expand existing OMB's Uniform Guidance restrictions on recipients from using funding for lobbying and while explicitly permitting, among other things, "[n]onpartisan analysis, study, or research reports" and "[e]xaminations and discussions of broad social, economic, and similar problems." New nonpartisan advocacy and voter engagement and restrictions are being added. The proposed rule adds new prohibitions which bars federal funds from being used for "[e]stablishing, administering, contributing to, or paying the expenses of a voter registration campaign, voter registration drive, or any similar activity, or paying the expenses of another entity engaged in such activities," "[e]ngaging in issue advocacy or public messaging that promotes or opposes a particular social, political, or public policy position unrelated to the statutory objectives or performance

requirements of the Federal award," or "[a]ttempting to influence the executive branch of any State government on matters unrelated to the objectives or performance requirements of the Federal award."

- **Internal Contradictions Provide Contradictory Guidance. § 200.219** requires that public entities provide viewpoint-neutral services for all events BUT the rule also conditions research funding on whether proposals advance the President's policy priorities **(§ 200.205),** explicitly prohibits awards touching on diversity, equity, and inclusion **(§ 200.300),** and restricts what researchers can say publicly about their own findings **(§ 200.450).** You cannot both demand viewpoint neutrality at the same time that you demand adherence to specific viewpoints.
- **Some Groups are Favored Over Others and the Proposed Rule is Sectarian in Effect.** Disproportionate administrative burdens on rural and smaller grantees (ending of fixed price grants; requirement to E-Verify, etc.). Other sectarian changes include:
    - **2 CFR § 200.219** Explicitly prohibits discrimination based on the organization's religious character, affiliation, or exercise, or the lack thereof; recipients of federal financial assistance who host public forums must not discriminate based on viewpoint, content, or subject matter of speech when providing services for events, meetings, or other expressive activities.
    - **2 CFR § 200.300** Deletes reference to "public welfare and the environment" and bans "Gender ideology as defined in Executive Order 14168. Gender ideology includes theories or ideologies that deny the biological reality of sex or the sex binary in humans, or endorse or advocate for the notion that sex is a chosen or mutable characteristic;"
    - **2 CFR § 200.321** Deletes inclusion of "minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms (See U.S. Department of Labor's list"
    - **2 CFR 200.324** Deletes "workforce impacts"
    - **2 CFR § 200.338** Adds confidential business information as protected from public release
    - **2 CFR § 200.339** Opens door of federal prosecutions supporting vigilantism for disfavored groups with add provision "a Federal agency may, at its discretion, cooperate with individuals or organizations in pursuing their own private cause of action or remedies."
    - **2 CFR § 200.444** Ban on Tribes and Councils of Governments using 50% for salaries executives

Finally, I would like to point to changes in how the federal government will oversee evaluation. While many of the basic capacities from the 2024 Guidance revision remain, there are number of changes that are deleterious. Nearly all of the work that internal government and external independent program evaluators do will be affected by multiple proposed changes to the structure of Federal programs under the proposed new OMB rule. While the Biden administration 2024 additions to 2CFR evaluation budgets as detailed by ***Results for America*** remain, other provisions constitute serious changes that will undermine rigorous monitoring and evaluation that includes human subjects research protections, evaluation best practices, community capacity building and independent program audits. In short, the proposed rule hollows out the evidence-based and evaluation policy infrastructures that undergird good governance.

- **2 CFR § 200.202 Rigorous Evaluation Requirements are Dropped Including Enacted Legislation References** The requirement that Federal programs should "measure performance based on the goals and objectives developed during the program planning and design" and the acknowledgment that "Performance measures may differ based on the type of program" are dropped as are requirements to align with the Program Management Improvement Accountability Act (Pub. L. 114-264) and the Foundations for Evidence-Based Policymaking Act (Pub. L. 115-435).
- **Programs Require Partisan Political Alignment That Limits What Evaluations Can Examine.** Federal programs are to "align with administration policies and priorities" which adds a political component outside of vetted public policy and congressional oversight. This political alignment occurs at all stages of the program and evaluation planning from pre-issuance **(2 CFR § 200.205)** to vetting of potential applicants and program implementation creating the risk that the President's policy priorities will replace and supersede congressional intent.
- **2 CFR § 200.218 Disparate Impact is Banned Which Undermines Rigorous Program Evaluation.** The proposed rule bans Disparate Impact Liability and states no federal dollars are to be used for evaluation of such. This displays ignorance of role of statistics in demonstrating causality and disallows evaluations examining group differences. Grant recipients may conduct statistical or demographic analysis for internal program evaluation and research, but no federal funds are allowed. To wit: "Exception for analysis for internal use. Nothing in this section prohibits a recipient or subrecipient from conducting statistical or demographic analysis for internal program evaluation, research, or other purposes, provided that Federal award funds are not used for conducting such analysis, and the results of such analysis are not used in connection with or applied to activities under the

Federal award, such as: (1) Treating individuals unequally based on federally protected characteristics, such as race or sex, regardless of individual strengths, effort, or achievement; " This is a partisan barrier to learning and evidence-based research.

- **§§ 200.303(a), 200.503, 200.514 Audit and Oversight is Weakened.** Weakened audit and oversight protections provided by objective reviewers including the highly effective Congressional agency, the Government Accountability Office. For example, the proposed rule deletes references to GAO's globally renowned (the "Green Book") and the COSO Internal Control—Integrated Framework (a globally recognized model developed by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in the discussion of audit rules. Agency, Inspector General, and GAO audits are limited to those expressly authorized by statute
- **Chilling Effect on Working With Communities – an Essential Part of Evaluation Best Practices. 2 CFR § 200.202** While program design continues to be encouraged "in consultation with communities benefiting from or impacted by the program," this will be done in a chilling environment where grantees are not only banned from lobbying or advocacy even to other donors such as state governments, but they are also required to "avoid even the appearance of supporting such prohibited activities to ensure that all activities performed under Federal awards are authorized by law."
- **Data Policy Weakened.** Federal data policy and statistical units will likely be deleteriously impacted by two changes. First, throughout the proposed rule, the work "protected" is repeatedly deleted whenever the phrase "protected personally identifiable information (PII)" appears. This will weaken existing statutory protections. And second, the addition of "confidential business information" as protected may enhance corporate projections over public access.

Concluding Recommendation, The rule is complex and makes so many changes to the current guidance, norms and approaches to federal grant management with only 45 days to read, review and respond is too little time to effectively respond. As it stands, I ask OMB and the sister agencies to withdraw this rule in its entirety.

Thank you for your consideration.

Sincerely,

Denise Baer

Denise L. Baer, Ph.D.   Comment Tracking Number mrk-2tla-yhgb