CLASP
The Center for Law and Social Policy

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The Office of Management and Budget
725 17th Street NW,
Washington, D.C. 20503

To the U.S. Office of Management and Budget:

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

The Center for Law and Social Policy (CLASP) is grateful for the opportunity to comment on the proposal to revise several parts of the OMB Guidance for Federal Financial Assistance in title 2 of the Code of Federal Regulations (CFR), subtitle A (OMB-2026-0034, Office of Management and Budget (OMB) Regulation for Federal Assistance). Established in 1969, CLASP is a national, non-partisan, non-profit, anti-poverty organization that advances policy solutions for low-income people. Our comments draw upon the work of CLASP experts in the areas of labor and anti-poverty policies. As a national anti-poverty organization, we understand the critical importance of federal programs that support the health and economic well-being of low-income families.

CLASP strongly opposes the Office of Management and Budget's (OMB) proposed revisions to overhaul the set of rules, known as Uniform Guidance, governing federal grants, cooperative agreements, and other monetary awards to nonprofits, state and local governments, and other grantees to revise the OMB Guidance for Federal Financial Assistance. If implemented, the OMB proposed revisions would create significant financial risk and instability for federal grantees, making it more difficult to provide vital services to communities.

As we explain in more detail in the comments, if implemented, the OMB proposed regulations would cause federal grantees to be faced with unpredictable financial, legal, and reputational risks that increase costs of accepting federal awards while decreasing benefits. Many effective and qualified grantees may be unable to accept those risks. This could lead to disruptions to essential services, such as housing, community development, health, education, child care, food, shelter, community services, disaster recovery, and more in communities and states nationwide.

For these reasons, OMB should immediately withdraw its current proposal and leave the current regulations as codified in the 2024 rule in effect.

The proposed rule would grant the executive branch seemingly unlimited discretion over federal grants, contrary to federal law.

Federal law makes clear that the executive branch does not have the authority to add across-the-board terms and conditions to federal grants beyond those that Congress has authorized. With this proposed rule, the administration is attempting to use the OMB uniform rule to impose terms and conditions that have been blocked by federal judges for violating federal law and the United States Constitution.

The proposed rule would force grantees to operate in a shifting environment, making it more difficult to provide vital services to their communities.

Under section §200.205, Grantee/Proposal Selection, the proposal would create a process for pre-issuance review to ensure federal awards proposals selected for funding are "consistent with applicable law, federal agency priorities, and the national interest." However, the proposal states "discretionary awards must, where applicable, demonstrably advance the President's policy priorities." This proposal would allow an administration to determine discretionary federal awards based on partisan ideology, not community needs or congressional intent. Federal awards should instead be governed by objective criteria, such as competition, peer review, programmatic fit, and financial capacity.

The proposed rule allows federal agencies to determine discretionary federal awards based on partisan ideology, not community needs or congressional intent.

Under the same section §200.205, the proposal states "(2) Discretionary awards must not be used to fund, promote, encourage, subsidize or facilitate: (i) Racial preferences or other forms of racial discrimination by the recipient, including activities where race will be used as a selection criterion for employment or program participation: (ii) Denial by the recipient of the sex binary in humans or the notion that sex is a chosen or mutable characteristic." If implemented, this section threatens vital, congressionally created federal programs that seek to address longstanding racial disparities and the needs of underserved communities. This provision would grant seemingly unlimited discretion to any administration to eliminate any federal funding for programs or organizations it disfavors and only allow grants to those who promote specific ideologies.

The proposal threatens important congressionally funded federal programs that help address longstanding racial, social, or other disparities or serve underserved communities.

The proposed rule purports to bar any federal funding from being used to promote "unlawful" diversity, equity, and inclusion (DEI) efforts or illegal immigration. However, many DEI-related practices and policies that the administration claims are unlawful are built into existing legislation and have been upheld by federal courts and are permissible—indeed required—under the law. For example, the Head Start Act's stated purpose is to "promote the school readiness of low-income children by enhancing their cognitive, social, and emotional development," (§42 U.S.C. 9831 Sec. 636). At its core, the Act is designed to promote equity, putting the proposed rule in direct opposition to the Congressionally mandated purpose of the program. In regards to "illegal immigration," federal grantees lawfully provide immigration legal services, humanitarian assistance to asylum seekers, and emergency shelter to migrants. Those most impacted are people of color and their communities, which have experienced historic and ongoing federal disinvestment. The proposed rule forces federal grantees to choose between applying for critical federal resources and continuing to support the communities they seek to serve. Many federal grantees hold core values and missions on advancing DEI, supporting immigrants, LGBTQ+ people or opposing the administration's priorities or ideology.

Under section §200.300, Limits on DEI, Gender Ideology, and Discrimination, the proposed rule requires federal agencies and pass-through entities "to ensure awards and subawards are not used to fund, promote, encourage, subsidize or facilitate (2) gender ideology; or (3) the gender transition of a person under age 19." The proposal also removes provisions barring federal agencies and pass-through entities from discriminating on the basis of sexual orientation or gender identity. While discrimination on the basis of sexual orientation and gender identity remains unlawful and illegal, the changes made in this proposed rule encourages such discrimination. In fact, rather than being able to serve all who may need services, many programs who seek federal funding would have to actively discriminate against these populations by actively denying them services in order to continue to qualify for federal funding under this provision.This proposal is an attempt to prevent federal agencies from recognizing the rights of gender expansive people.

Under section § 200.218, Disparate Impact, the proposed rule would require federal agencies, to the maximum extent permitted by law, to eliminate the use of disparate impact liability in all contexts related to federal awards. Federal agencies and pass-through entities would be required to ensure that federal awards are administered in a way that does not promote or support the use of disparate impact liability. That includes ensuring federal awards are not used in support of disparate impact studies, litigation, or other related activities based on the assumed risk of disparate impact liability are not allowed. Federal agencies are prohibited from adopting, issuing, or enforcing terms and conditions, guidance or other policies and procedures related to federal financial assistance that promote, support, or otherwise include the use of disparate-impact liability.

Additionally, grant recipients are prohibited, to the maximum extent permitted by law, from adopting, issuing or enforcing disparate impact liability standards in administering programs or activities supported by a federal award. While the proposed rule explicitly states that recipients may conduct statistical or demographic analysis for internal program evaluation, research or other purposes, federal funds may not be used for this purpose and the results of such analysis cannot be used in connection with or applied to activities under the federal award.

With this change in the disparate impact provision, the proposed rule threatens federal programs from addressing racial, social and gender disparities. This provision will mostly impact communities of color and women, which have already experienced historic and ongoing federal disinvestment.

The proposed rule would harm employees of federal grant recipients and communities they serve.

In section § 200.324, Cost and Price, the proposed rule removed language requiring recipients or subrecipients to consider potential workforce impacts in their analysis if the procurement transaction displaces public sector employees.

Under section § 200.318, Hiring Preferences and Goals, the proposal removes references to hiring preferences or goals for people living in high-poverty communities, economically disadvantaged communities, or high unemployment census tracts. This proposal also removes the ability to require contractors to hire using preferences or goals for individuals with barriers to employment, as defined in Section III of the Workforce Innovation and Opportunity Act (WIOA) including women and people from underserved communities. This proposed rule removes the ability to use agreements intended to ensure uninterrupted services for community benefits. Therefore, by eliminating workforce equity provisions, this proposal would eliminate pathways to education and training, further harming marginalized communities, workers of color and communities that already face barriers to economic security.

The proposed rule would create additional administrative burden for federal grantees, and could jeopardize work authorization for recipients.

CLASP opposes the proposed E-Verify requirement in sections § 200.303, § 200.318, Immigration, because it would impose significant new administrative burdens on recipients and subrecipients of federal financial assistance and may create barriers to employment for workers who are legally authorized to work in the United States. Under the proposal, recipients and subrecipients would be required to participate in E-Verify for all employees and contractors hired in or performing work in the United States under a federal award, comply with all E-Verify requirements, monitor verification outcomes, and report Final Nonconfirmations (FNCs) and associated case verification numbers to federal agencies or pass-through entities. Failure to provide notice or take appropriate action could result in termination of a federal award.

Participating organizations would need to establish compliance procedures, train staff, monitor E-Verify cases, maintain documentation, and develop processes for reporting FNCs and demonstrating compliance with E-Verify requirements. The proposal would therefore create new administrative responsibilities for organizations whose primary focus is delivering services and supports to children, families, workers, and communities. Experience implementing verification requirements in other public programs demonstrates that even when the underlying policy objective is straightforward, agencies and participating organizations often face significant new administrative responsibilities, staff training needs, and compliance costs.[1] The proposal may

[1] Tricia Brooks, "Why is NH Proposing to Replace Proven Electronic Citizenship Verification with Burdensome Medicaid Paperwork Requirements?," Georgetown University Health Policy Institute Center for Children and Families (June 2018),

also create delays in hiring and onboarding for federally funded positions. Verification discrepancies, data mismatches, or other issues that require resolution can delay hiring and create additional burdens for both workers and employers. These delays may affect program operations and reduce the capacity of federally funded programs to provide services.

Workers with temporary or renewable employment authorization, such as Temporary Protected Status (TPS) holders or Deferred Action for Childhood Arrivals (DACA) recipients, may be particularly affected by verification-related delays and administrative burdens. TPS beneficiaries, for example, have experienced employment verification challenges when government systems, employers, or verification processes have not timely reflected extensions or changes to employment authorization.[2] As a result, legally authorized workers may face delays in hiring, onboarding, or continued employment while discrepancies are resolved.

In conclusion, for the reasons outlined above, this proposal deters participation in federal programs, harming the communities federal programs were intended to serve. This proposal should be withdrawn and OMB's uniform rule should remain as is.

If you have questions, contact CLASP's Lorena Roque, Associate Director for Labor Policy, at lroque@clasp.org and Elyse Shaw, Director of Education, Labor & Worker Justice, at eshaw@clasp.org

https://ccf.georgetown.edu/2018/06/28/why-is-nh-proposing-to-replace-proven-electronic-citizenship-verification-with-burdensome-medicaid-paperwork-requirements/.

[2] Alex Nowrasteh, "E-VErify Errors Plague Workers with Temporary Protected Status" CATO Institute, April 2020, https://www.cato.org/blog/e-verify-errors-plague-workers-temporary-protected-status.