Environmental Council of the States
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Date: July 13, 2026
To: The Honorable Russell T. Vought
Director
Office of Management and Budget
725 17th Street NW
Washington, DC 20503

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

Dear Director Vought:

We are writing on behalf of the Environmental Council of the States (ECOS),[1] the Association of State and Territorial Solid Waste Management Officials (ASTSWMO),[2] and the Ground Water Protection Council (GWPC)[3] regarding the U.S. Office of Management and Budget (OMB) proposed rule, "Regulation for Federal Financial Assistance," in title 2 of the Code of Federal Regulations that revises existing "Guidance for Federal Financial Assistance." States appreciate the opportunity to provide comments and do have a significant number of questions and concerns. We also encourage OMB to fully consider input from individual states and other state media associations that offer additional input and suggestions.

Congress has consistently legislated a preference for states to be delegated primacy for implementing and enforcing federal programs in the nation's major environmental statutes, including the Clean Water Act (CWA), Clean Air Act (CAA), Resource Conservation and Recovery Act (RCRA), and Safe Drinking Water Act (SDWA). Congress also established a required state match for federal grant funding, and in many cases, states have overmatched federal grants for years. This expectation of federal and state funding in a cooperative federalism framework is one way that Congress has expressed its intent for a shared co-regulator and co-partner system.

States have demonstrated their commitment to environmental protection by taking responsibility for more than 90% of the primary environmental programs which can be delegated, authorized, or given primacy. The cooperative federalism framework that underlies our nation's environmental protection system depends on a strong and functional partnership between states and the U.S. EPA. Consistent application of the principles of cooperative federalism will aid co-regulators in improving effectiveness and efficiency of environmental programs while advancing our shared mission of protecting human health and the environment.

States are often the recipients of formula and pass-through federal funding for local governments or other entities which is a tangible demonstration of the cooperative federalism partnership. States may provide matching funds for federal dollars. States also work hard with communities to prepare for federal funding, such as through the State Revolving Funds, to utilize program funds in an effective and efficient manner.

[1]ECOS is the national nonprofit, nonpartisan association of state, territorial, and District of Columbia (hereinafter referred to collectively as "state") environmental agency leaders. The mission of ECOS is to improve the capability of state environmental agencies and their leaders to protect and improve human health and the environment of the United States.
[2] ASTSWMO is an association representing the waste management and remediation programs of the 50 States, five Territories and the District of Columbia (States).
[3] GWPC is a nonprofit 501(c)6 organization whose members consist of state ground water regulatory agencies which come together within the GWPC organization to mutually work toward the protection of the nation's ground water supplies. The purpose of the GWPC is to promote and ensure the use of best management practices and fair but effective laws regarding comprehensive ground water protection.

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States also receive competitive and discretionary funding to further human health and environmental protection goals.

States support strong fiscal management and oversight. Introducing greater uncertainty about discretionary federal funding through cancellations without appeal could increase the cost of doing business. Proposed changes that create potential delays and add uncertainty can lead to less favorable outcomes on the ground as well as delays in funding awards.

OMB originally adopted 2 C.F.R. Part 200 in 2013 to "(1) streamline [its] guidance for Federal awards to ease administrative burden and (2) strengthen oversight over Federal funds to reduce risks of waste, fraud, and abuse." 78 Fed. Reg. 78,590, 78,591 (Dec. 26, 2013). This new guidance "strengthen[ed] requirements for internal controls while providing administrative flexibility for non-Federal entities." Id. OMB summed up its purpose in adopting 2 C.F.R. Part 200 as follows:

> *In order to ensure that the public receives the most value, it is essential that [federal financial assistance] programs function as effectively and efficiently as possible, and that there is a high level of accountability to prevent waste, fraud, and abuse. Id.*

OMB's proposal to amend 2 C.F.R. Part 200 drastically diverges from its original goal of "effectively and efficiently" managing public funds, 78 Fed. Reg. 78,591, and instead embraces a concept of federal funding as a means of imposing political and policy preferences.

States have raised significant questions and a variety of concerns. Immediately below, we summarize areas for clarification or suggested revision to the proposed rule. Whereas states recognize and support OMB's stated goal of reducing recipient burden, a number of the proposed rule's changes could reduce certainty, increase the administrative burden on state environmental agencies, or introduce unclear provisions. Several comments addressing concerns about burden, certainty, and clarity are highlighted in this letter and relate to senior appointee review, addition of conditions during the period of performance, and grant termination. The appendix to this letter offers the full set of comments. Highlighted comments:

> **200.205 Federal agency merit review of proposals.**
> *(b) Pre-issuance review*.
> OMB proposes to amend 2 C.F.R. 200.205 to provide that federal agencies "must designate one or more senior appointees to conduct a pre-issuance review of all discretionary awards." 91 Fed. Reg. 32,249. This review is "to ensure that Federal award proposals selected for funding are consistent with applicable law, Federal agency priorities, and the national interest." In making this review, "senior appointees" are to apply principles such as determining that awards "demonstrably advance the President's policy priorities" and do not "promote anti-American values."
>
> In summary, the amendment would allow political appointees broad discretion to reject proposals based on their assessments that such proposals do not accord with vague concepts such as "agency priorities," "the national interest," "the President's policy priorities," and "anti-American values." Such concepts are inherently politicized and can and would be applied disparately depending on the "senior appointees" who are applying them.
>
> This change injects uncertainty and potentially significant volatility into grant programs that are intended to provide awards for consistent goals and objectives.
>
> **200.208 Specific conditions.**
> (b)(ii) *Add or remove specific conditions throughout the period of performance.*

Currently, 2 C.F.R. 200.208 authorizes federal agencies to include special conditions in federal awards as to specific recipients, at the outset of an award. OMB proposes to significantly expand this authority, including by authorizing federal agencies to add and remove specific conditions "throughout the period of performance," not only at the time of award.

Allowing one party to add new conditions to a contract during its pendency is, again, contrary to establishing an effective and efficient contractual relationship. Moreover, authorizing agencies to impose specific conditions on a program-wide basis would allow federal agencies to impose onerous restrictions on programs they disfavor from a policy standpoint, under the guise of providing "effective monitoring."

This injects further uncertainty and variability into grants, which need to have stable terms and conditions in order to be successful.

200.340 Termination and suspension.
When OMB originally adopted 2 CFR Part 200, it noted that it had included language "to allow for Federal agency termination for cause, because situations often arise beyond the Federal agency's or non-Federal entity's control which may require awards to be terminated." 78 Fed. Reg. 78,599. The current proposed amendments diverge from such reasonable and predictable financial management measures. Allowing one contractual party broad discretion to cancel its obligations at any time does not yield effective or efficient contractual relationships and increases uncertainty.

This proposed change compounds the potential for uncertainty should the administration change occur during the period of award. States recommend that the rule make clear that discretionary termination must not be for arbitrary and capricious reasons.

Proposed changes to 200.340 are of top concern among states in this proposal. They could give federal agencies the ability to terminate any federal agreement for essentially any reason, jeopardizing the legal or financial certainty of federal contracts.

States note that implementing the proposed UGR by October 1 seems unrealistic and would add to uncertainty regarding federal funding for states and their pass-through entities.

Thank you for your consideration.

Sincerely,

Ben Grumbles
Executive Director
Environmental Council of the States

Dania Rodriguez
Executive Director
Association of State and Territorial Solid Waste Management Officials

Dan Yates
Executive Director
Ground Water Protection Council

cc. Paige Hanson, U.S. Environmental Protection Agency Office of Finance and Administration

Appendix:

200.112 Conflict of interest.
Provides that recipients and subrecipients are to disclose whether any employees who worked on an application for, or proposal in support of, a resulting Federal award, *or are anticipated to work on activities under the Federal award*, were employed by the awarding Federal agency during the preceding two years prior to application submission (emphasis added). States are concerned that implementation of this revision will be difficult as its subrecipients are generally not known at the time of its application for a Federal award, nor would states know which employees will be working on any Federally funded project. States recommend that this section be clarified to either require only what is known to the applicant at the time of its application, or alternatively, that this information may be updated by the recipient to the Federal awarding agency as it becomes known during the grant period.

OMB should specify when this disclosure should be made and at what frequency.

200.202 Program planning and design.
The revised language rephrases existing requirements relating to meaningful results and statutory consistency and adds a requirement that the Federal program aligns with administration policies and priorities.

States suggest clarifying that the requirement in 200.202(a)(1)(iii) for alignment with administration policies and priorities applies to the extent that it is consistent with applicable Federal statutes.

200.203 Requirement to provide public notice of Federal financial assistance programs.
Changes to 200.303 insert significant hurdles to recipients and subrecipients. By importing commercial procurement rules directly into the grant framework, the proposed rule "shatters" significantly changes decades of regulatory history (73 FR 67651) and would force subrecipients -- such as local watershed non-profits and conservation districts operating on minimal stipends -- into complex, ongoing DHS Final Nonconfirmation (FNC) surveillance that they lack the administrative infrastructure to manage.

200.205 Federal agency merit review of proposals.
(b) Pre-issuance review.
OMB proposes to amend 2 C.F.R. 200.205 to require that federal agencies "designate one or more senior appointees to conduct a pre-issuance review of all discretionary awards." 91 Fed. Reg. 32,249. This review is "to ensure that Federal award proposals selected for funding are consistent with applicable law, Federal agency priorities, and the national interest." In making this review, "senior appointees" are to apply principles such as determining that awards "demonstrably advance the President's policy priorities" and do not "promote anti-American values."

In summary, the amendments would allow political appointees broad discretion to reject proposals based on their assessments that such proposals do not accord with vague concepts such as "agency priorities," "the national interest," "the President's policy priorities," and "anti-American values." Such concepts are inherently politicized and can and would be applied disparately depending on the "senior appointees" who are applying them.

These changes inject uncertainty and potentially significant volatility into grant programs that are intended to provide awards for consistent goals and objectives.

(b)(3)
OMB proposes that, *all else being equal, preference for discretionary awards should be given to institutions with lower indirect cost rates…*

This new sub-section includes a consideration regarding indirect cost rates and requires that all else being equal, a preference for discretionary awards be given to institutions with lower indirect cost rates. States ask that OMB consider that the indirect cost rate, which is represented as a percentage, not reflect the indirect costs. This is because the indirect cost rate percentage is applied to a distribution base, which may be salary plus fringe, total modified direct costs, or other sets of direct cost categories, and may vary from institution to institution. Therefore, the indirect cost rate alone does not indicate which institution will expend more Federal grant funds on indirect costs. States suggest applying this preference to institutions with lower projected total indirect costs for the award, rather than looking only at the indirect cost rates.

The base used to calculate indirect varies per Negotiated Indirect Cost Rate Agreement (NICRA). Using a base of direct costs vs. salary and fringe may yield the same or similar indirect cost recovery but the rates will be different. Suggest deleting rate and consider indirect costs.

200.208 Specific conditions.
(b)(ii) Add or remove specific conditions throughout the period of performance.

Currently, 2 C.F.R. 200.208 authorizes federal agencies to include special conditions in federal awards as to specific recipients, at the outset of an award. OMB proposes to significantly expand this authority, including by authorizing federal agencies to add and remove specific conditions "throughout the period of performance," not only at the time of award.

Allowing one party to unilaterally add new conditions to a contract during its pendency is, again, contrary to establishing an effective and efficient contractual relationship. Moreover, authorizing agencies to impose specific conditions on a program-wide basis would allow federal agencies to impose onerous restrictions on programs they disfavor from a policy standpoint, under the guise of providing "effective monitoring."

This injects uncertainty and variability into grants, which need to have stable terms and conditions in order to be successful.

(c)(3) Requiring additional or more detailed financial reports, which may include requiring information on payments to subrecipients, contractors and vendors;

The additional language items are usually required of a compliance monitoring review during or after a project. This could result in an increase in administrative burden without just cause, and promotes extended delay of repayment which is not in line with the proposed addition of §200.207(c).

(d)(4) Requiring additional project monitoring, which may include financial integrity-related site visits with the goal of improving the financial integrity of the program or recipient organization;

This should be developed during the pre-award phase and implemented post-award. As currently written, this is not well defined and allows federal agencies to make burdensome changes throughout Period of Performance, which is not in line with the proposed addition of §200.207(c)

(f) Program-level specific conditions. Notwithstanding any other provision of this section, the Federal agency may include program-level specific Federal award conditions, including any of the specific conditions described in paragraph (d) of this section, in any Federal award made under a Federal program that the Federal agency determines presents elevated programmatic risk related to program administration, program oversight, or effective monitoring of the use or expenditure of Federal funds by recipients or subrecipients. Federal agencies are responsible for ensuring that program-level specific Federal award conditions and performance expectations are consistent with the program design (see § 200.202 and § 200.301) and applicable law. The Federal agency may remove program-level specific conditions if it determines that the Federal program no longer presents elevated programmatic risk

OMB should define what it considers a "program-level specific condition." Would this be at the Catalogue of Federal Domestic Assistance level or would conditions be created Agency wide, and would applicants be made aware of these conditions prior to award? OMB should also define "elevated program risk" and explain the relationship to other program specific sections in the Code of Federal Regulations.

200.216 Prohibition of certain equipment, services, and systems.
Changes to (3)(b) further restrict access of recipients to use essentially any unmanned aerial systems other than the ones on the Department of Defense Blue List – primarily expensive military grade drones, the least expensive of which is $12,500 for a basic model. This precludes use of a major low-risk environmental monitoring tool. OMB should establish a low-risk drone use waiver system.

200.300 Statutory and national policy requirements.
The revised language in (a) describes general requirements and that the Federal agency or pass-through agency must ensure the award is performed in full accordance with the U.S. Constitution and Federal statutes and regulations. This language is substantially identical to the current language in 200.300(a). However, the revised sentence goes on to include a parenthetical, "including provisions protecting free speech and religious liberty, and those prohibiting discrimination," which removes "public welfare, and the environment" from the same parenthetical clause in the current regulation. The OMB's preamble does not address the removal of "public welfare, and the environment." State environmental agencies, whose missions are to protect the protect human health and the environment, recommend that phrase be retained in this rule.

200.320 Procurement methods.
Cost-reimbursement contract is not defined in section 1. OMB should include a definition of cost-reimbursement and/or a reference to another code section's definition.

200.321 Contracting with small businesses.
It is unclear what the subcategories of small businesses are. OMB should include a reference to the Federal statute or regulations that enumerates the subcategories of small businesses.

200.332 Requirements for pass-through entities.
Recommend defining reputational harm.

200.340 Termination and suspension.
When OMB originally adopted 2 CFR Part 200, it noted that it had included language "to allow for Federal agency termination for cause, because situations often arise beyond the Federal agency's or non-Federal entity's control which may require awards to be terminated." 78 Fed. Reg. 78,599. The current proposed amendments diverge from reasonable and predictable financial management measures. Allowing one party to a contractual relationship broad discretion to cancel its obligations at any time does not yield effective or efficient contractual relationships and increases uncertainty.

Changes to 200.340 introduce probably the most concerning changes into this 2 CFR 200. This basically gives federal agencies the ability to terminate any federal agreement for essentially any reason – meaning that federal contracts carry no legal or financial certainty.

This section creates even more uncertainty should administration change occur during the period of award. States would recommend that the rule minimally states that discretionary termination must not be for arbitrary and capricious reasons.

200.432 Conferences.
(b) The costs for attending conferences are allowable only if participation in the conference is expressly approved by the Federal agency and included in the terms and conditions of the Federal award.

States request that this be revised to allow Federal agencies to provide prior written approval for conference expenses after an award is made or allow for some similar flexibility during the period of the award. States and their subrecipients use Federal grant funds to attend conferences, but it is regularly the case that the terms and conditions of the award are not detailed enough to capture conference attendance, or that the award is made well in advance of the agency's identification of the need to attend a conference related to the project. Additionally, as the requirements for items of costs are flowed down to subrecipients, attendance for subrecipient staff will not have been accounted for at the time states made their grant applications. Allowing for written approval from the Federal agency after an award is made accomplishes oversight of this expense, while allowing for necessary flexibility.

200.454 Memberships, subscriptions, and professional activity costs.
Proposed revisions would require prior written approval from the Federal agency for the costs of memberships in professional, civic, business, and technical organizations necessary to fulfill the award requirements. Currently, these costs do not require pre-approval. States request that such memberships should not require prior approval where the membership can be shown to be related to performing the grant activities. Additionally, the revised regulation would disallow all costs for subscriptions to business, professional, academic, and technical periodicals, which are currently allowable. States have a number of memberships and subscriptions that are currently paid for with Federal funds. States request that subscription costs be allowed where the subscription can be shown to be related to performing the grant activities, for example those for specialized and technical subscriptions.

For both proposed revised rules 200.432 and 200.454, conferences, memberships, subscriptions, and professional activities are necessary resources that agency commissioners, executives, and staff utilize to ensure the agency stays abreast of the latest developments or changes in environmental research, environmental law, environmental technology, and environmental practices. As such, these expenses can be shown as related to and useful for performing grant activities under the agency's Federal awards. Removing these as allowable costs, requiring prior approval at the time of award, or approving individual memberships can be financially burdensome and adds unnecessary administrative work.

Changes to 200.432 and 200.454 are inefficient and set up a difficult permissions structure, where permissions for every conference attendance would require amendments to grant agreements and subawards, each likely costing more than the expense of attending the events. The effect could limit state capacity building and technical information exchange, which is critical for advancing the knowledge base for efficient program implementation, new technologies and policies, evidence-based decision making and performance based innovation.

200.461 Publication and printing costs.
States reimburse publication costs incurred by its subrecipients, where those publication costs are necessary to effectuating the project, such as establishing the credibility and thoroughness of analyses on which states rely to perform standard-setting and regulatory activities. It would be efficient and convenient to allow this practice to continue without requiring prior Federal agency approval on a case-by-case basis, which presents uncertainty for states and their subrecipients. Therefore, states request that the proposed revision be reconsidered.