# Comment on Proposal to Revise the Guidance for Federal Financial Assistance, Office of Management and Budget

## Docket ID: OMB-2026-0034
## RIN: 0348-AB88 (OMB)

**Submitted by:**

Chris Frey
Raleigh, North Carolina

**Date Submitted:** July 13, 2026

**Capacity of Submission:** Individual

### Disclaimer

These comments are submitted solely in my individual capacity and represent my personal views regarding the proposed rule. These comments were developed independently and on my own time. They do not represent the views of any organization with which I am currently or have previously been affiliated, including North Carolina State University. References to professional appointments and responsibilities are provided solely to explain the basis of the observations and experience informing these comments.

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## Executive Summary

### ES.1 Overview

These comments are submitted in my individual capacity and are informed by more than four decades of experience across multiple components of the federal research enterprise, including service as a federally funded researcher, university faculty member, research administrator, mentor to graduate students and postdoctoral researchers, and senior leader within a federal scientific organization responsible for both intramural and extramural research programs.

The proposed rule is presented as an update to government-wide requirements governing federal financial assistance. Viewed provision-by-provision, many changes appear administrative in nature. Viewed as an integrated whole, however, the proposal does something substantially more consequential.

**The proposal represents a structural transformation of federal financial assistance governance.**

Rather than merely revising administrative requirements, the rule reallocates authority, changes incentive structures, alters relationships among federal agencies and recipients, expands political oversight, increases termination authority, and changes long-standing assumptions regarding the stability of federal awards.

The proposal should therefore be evaluated not only as a grants-management rule, but also as a **significant restructuring of the institutions through which the federal government supports research, education, workforce development, public health, environmental protection, infrastructure, and other public purposes**.

The comments that follow identify legal, operational, scientific, workforce, and governance concerns arising from that transformation.

### ES.2 Structural Transformation of Federal Financial Assistance

One of the most significant features of the proposal is that it changes the governance architecture of federal assistance.

Historically, federal assistance has operated through a distributed model in which:

- Congress establishes statutory purposes;
- agencies administer programs under agency-specific authorities;
- peer review and technical review provide expert evaluation;
- career officials exercise professional judgment;
- recipients conduct activities according to agreed-upon award terms.

The proposed rule moves toward a more centralized model characterized by:

- greater OMB influence;
- increased Executive Branch oversight;
- expanded political review;
- expanded termination authority;
- greater reliance on government-wide directives;
- reduced deference to traditional expert-driven processes.

Although presented as administrative reform, the practical effect is a significant reallocation of authority throughout the federal assistance system.

OMB has not adequately acknowledged or analyzed the magnitude of this institutional change.

### ES.3 Shift from Prospective Governance to Retrospective Control

A recurring theme throughout these comments is that the proposed rule departs from a long-standing principle of federal assistance administration.

Historically, new administrations have implemented policy priorities prospectively through:

- future budgets;
- future funding opportunities;
- future competitions;
- future strategic initiatives.

Existing awards generally continued under the framework in place when they were awarded, absent concerns regarding performance, compliance, fraud, or statutory authority.

The proposal moves toward a different model.

By expanding opportunities for reassessment, modification, suspension, and termination of active awards based on evolving priorities, policy interpretations, and national-interest determinations, the rule creates a framework of continuing oversight and continuing discretion throughout the award lifecycle.

This shift from **prospective governance to retrospective control** is one of the most consequential aspects of the proposal.

Its significance extends beyond individual funding decisions because it changes incentives throughout the federal assistance ecosystem.

### ES.4 Politicization of Merit Review

The proposal repeatedly expands opportunities for political review and increases the role of Executive Branch priorities in funding decisions.

The concern is not that peer review disappears.

The concern is that peer review becomes increasingly advisory while political review becomes increasingly determinative.

Historically, scientific merit review and technical review have served as primary mechanisms for identifying high-quality proposals, with programmatic considerations applied within publicly established frameworks.

The proposed rule shifts authority toward politically directed review mechanisms and increases the ability of political officials to override, revisit, or terminate activities previously approved through expert evaluation.

This change risks:

- diminished confidence in merit review;
- reduced scientific independence;
- increased self-censorship;
- narrower research portfolios;
- reduced intellectual diversity;
- weakened public confidence in federally funded science.

OMB has not adequately analyzed these consequences.

### ES.5 Disruption of the Scientific Production Process

The proposal is frequently discussed as though it affects only grants administration. However, many provisions affect the broader process through which scientific knowledge is produced.

The modern scientific enterprise depends upon:

- proposal development;
- peer review;
- collaboration;
- graduate education;
- postdoctoral training;
- scientific publication;
- conference participation;
- data sharing;
- technology transfer;
- international engagement.

These activities are not ancillary to research. They are integral components of how scientific knowledge is created, evaluated, refined, disseminated, and applied.

The proposed restrictions and expanded oversight requirements create potential disruptions throughout this process.

The cumulative effect may be reduced scientific productivity, reduced collaboration, reduced dissemination, increased administrative burden, and diminished effectiveness of federal research investments.

### ES.6 Collapse of Planning Horizons

Many of the proposal's most important effects arise not from direct enforcement actions but from increased uncertainty.

Universities, nonprofit organizations, researchers, students, postdoctoral researchers, and collaborating institutions make long-term decisions based upon expectations regarding stability and continuity.

When awards become subject to expanded reassessment and termination authority, planning horizons shorten.

The first consequence of instability is often not cancellation. It is avoidance.

- Institutions invest less.
- Researchers become more cautious.
- Students reconsider career paths.
- Collaborations become harder to establish.
- Infrastructure investments become more difficult to justify.

The resulting collapse of planning horizons may be among the proposal's most consequential long-term effects.

OMB has not adequately evaluated these foreseeable behavioral responses.

### ES.7 Departure from the Federal Research Compact

For approximately eighty years, the United States has benefited from a broadly understood research compact, as set forth by Vannevar Bush in Science: The Endless Frontier (1945).

Under this framework:

- the federal government provides support for research and education;
- institutions invest in people and infrastructure;
- scientific merit review helps allocate resources;
- researchers conduct independent inquiry;
- discoveries are disseminated broadly;

- the nation benefits through innovation, workforce development, public health, environmental protection, economic growth, and national security.

These principles are not merely historical norms derived from *Science, The Endless Frontier*. Congress repeatedly incorporated them into federal law through enactment of the National Science Foundation Act of 1950 and subsequent legislation supporting scientific research, workforce development, technology transfer, dissemination of knowledge, and long-term national scientific capacity. The proposed rule therefore departs not only from longstanding administrative practice, but also from principles that Congress has repeatedly endorsed and reinforced over approximately eighty years.

The proposal alters nearly every component of this framework simultaneously.

It introduces greater uncertainty, expands political oversight, weakens dissemination mechanisms, constrains collaboration, increases administrative burden, and reduces the practical authority of traditional merit-review systems.

The proposed rule should therefore be understood not merely as a revision to grants administration, but as a significant departure from the institutional model that has supported American scientific leadership for generations.

### ES.8 Workforce Development, Brain Drain, and National Competitiveness

The proposal largely treats federal assistance as a mechanism for funding projects.

It gives comparatively little attention to the fact that federal research funding is also a workforce-development system.

Federal research support trains:

- graduate students;
- postdoctoral researchers;
- engineers;
- scientists;
- public-health professionals;
- technical specialists;
- future innovators.

The rule's effects on stability, collaboration, dissemination, and research independence therefore have direct implications for workforce formation.

The proposal also fails to evaluate the growing international competition for scientific talent.

Researchers, students, and institutions increasingly operate in a global marketplace.

Policies that diminish confidence in the stability, independence, or attractiveness of the American research enterprise risk encouraging talent migration to competing nations.

These concerns are not merely hypothetical. Recent disruptions affecting portions of the federal research enterprise have already demonstrated how uncertainty regarding funding continuity, research independence, and long-term career prospects can influence faculty recruitment, graduate education, postdoctoral career decisions, early retirement, and interest in opportunities outside the United States. The proposal risks institutionalizing several of the same mechanisms that have already contributed to these concerns.

Such effects have implications extending beyond academia to economic competitiveness, technological leadership, and national security.

### ES.9 Legal, Administrative, and Procedural Vulnerabilities

These comments identify substantial concerns regarding:

- statutory authority;
- congressional program design;
- separation of powers;
- constitutional limitations;
- the Major Questions Doctrine;
- reliance interests;
- procedural protections;
- vagueness and arbitrary enforcement;
- Administrative Procedure Act requirements;
- Paperwork Reduction Act requirements;
- viewpoint discrimination concerns;
- academic freedom implications.

However, many of the rule's most significant vulnerabilities arise not only from its substantive provisions, but also from the process through which it was developed.

A recurring theme throughout these comments is that OMB has not demonstrated the level of analytical rigor ordinarily associated with a rulemaking of this magnitude.

Many of the concerns identified throughout these comments are reinforced not only by policy considerations but also by longstanding administrative-law principles reflected in cases such as *State Farm*, *Regents*, *Encino Motorcars*, and related precedents governing reasoned decision-making, reliance interests, alternatives analysis, and consideration of important aspects of the problem.

Among other issues, the record provides limited discussion of:

- baseline conditions;
- implementation feasibility;
- staffing requirements;
- indirect and cumulative effects;
- uncertainty analysis;
- workforce impacts;
- scientific impacts;
- reliance interests;
- alternatives analysis;
- long-term consequences for research, innovation, and national capacity.

Likewise, the administrative record appears unusually limited relative to the scope of the proposal. Major government-wide regulatory initiatives are often accompanied by extensive technical support documentation, implementation analyses, alternatives analyses, operational assessments, and other supporting materials. Comparable documentation is largely absent here.

The proposal also appears to have been developed with limited pre-proposal engagement with stakeholders, subject-matter experts, scientific organizations, grants-management professionals, state and local governments, tribes, and other affected communities. Many implementation concerns identified throughout these comments are precisely the types of issues that structured stakeholder engagement would ordinarily be expected to identify before publication of a proposed rule.

The proposal's assertion that the Paperwork Reduction Act (PRA) does not apply because the rule "streamlines requirements" appear to be unsupported by the various provisions of the proposed rule as well as the statute itself. The rule explicitly mandates extensive, government-wide information collections, including requiring individualized written justifications for payment requests (§ 200.305), affirmative compliance reporting for SAM.gov data verification inside performance reports (§ 200.329), and down-stream entity tracking for related-party allocations (§ 200.331). Perhaps in the contest of declaring the PRA inapplicable, OMB has not calculated the cumulative administrative burden hours or baseline compliance costs imposed on recipients. This represents a procedural defect under 44 U.S.C. § 3506 that may render the proposal arbitrary, capricious, and otherwise not in accordance with law.

The central procedural concern is therefore not merely whether OMB complied with minimum notice-and-comment requirements. The broader concern is whether OMB developed an administrative record commensurate with the scale, complexity, and significance of the proposed changes.

### ES.10 Foundational Legal and Administrative Law Vulnerabilities

Beyond its operational consequences, the proposed Uniform Grants Regulation (UGR) raises substantial questions regarding statutory authority, constitutional limitations, administrative-law principles, and consistency with longstanding congressional design. As discussed in greater detail in **Appendix B**, several major provisions appear vulnerable to challenge because they rely upon broad assertions of authority, introduce significant new restrictions and oversight mechanisms, alter longstanding assistance relationships, and are supported by a limited analytical record relative to the scope of the proposed changes:

- **Unlawful Aggrandizement of Substantive Authority (*Ultra Vires*):** Following *Loper Bright Enterprises v. Raimondo*, OMB cannot manufacture sweeping ideological, immigration, or geopolitical mandates from narrow financial housekeeping statutes. Provisions establishing government-wide foreign-collaboration bans (§ 200.220), mandatory E-Verify tracking (§ 200.303(f)), and criminal-referral mandates for standard disclosures (§ 200.113) completely exceed the statutory boundaries delegated to OMB by Congress.
- **Unconstitutional Conditions and Extraterritorial Viewpoint Regulation:** Revisions attempting to ban empirical methodologies like "disparate-impact liability theories" (§ 200.218), censor institutional speech regarding diversity, equity, and inclusion (§ 200.300), and dictate campus-wide speaker and event policies (§ 200.219) violate the Spending Clause limitations set forth in *Agency for International Development v. AOSI*. These provisions represent an unconstitutional attempt to leverage a public subsidy to regulate a recipient's speech outside the scope of the funded program.
- **Subversion of the Grant Framework into Procurement Contracts:** Forcing discretionary awards to undergo pre-issuance political appointee vetoes (§ 200.205) and inventing an ad-hoc, mid-performance "termination for convenience" authority based on shifting political priorities (§ 200.340) violates the Federal Grant and Cooperative Agreement Act (FGCAA). These sections strip grants of their bilateral, contract-like protections (*Pennhurst*) and replace them with unstable, procurement-style command structures.
- **Arbitrary, Capricious, and Unreasoned Rulemaking (*State Farm*):** The blanket elimination of fixed-amount subawards (§ 200.201), the restriction of standard communication and dissemination costs (§§ 200.432, 200.454, 200.461), and the mandatory rollout of Treasury "Do Not Pay" checks lack any empirical data, cost-benefit analysis, or rational connection to a verified baseline problem, violating the core requirements of *Motor Vehicle Manufacturers Ass'n v. State Farm*.

### ES.11 Conclusion

The central concern raised by these comments is straightforward: The proposed rule is not merely an administrative revision. It is a structural transformation of federal financial assistance governance.

The proposal:

- centralizes authority;
- increases political oversight;
- weakens traditional merit-review structures;
- shifts federal assistance from prospective governance to retrospective control;
- disrupts the scientific production process;
- shortens planning horizons;
- weakens workforce-development systems;
- increases risks of brain drain and reduced international competitiveness;
- departs from long-standing principles that have guided the federal research enterprise for generations.

The proposal also raises questions not only about the mechanisms selected to achieve its stated objectives, but also about whether several underlying objectives are consistent with congressional design, statutory authority, constitutional constraints, and longstanding principles governing federal financial assistance.

Equally important, OMB has not demonstrated that the proposal rests upon the level of analytical, technical, and procedural support traditionally associated with major federal rulemaking. The current record contains limited evidence of comprehensive alternatives analysis, implementation assessment, workforce-impact analysis, technical support documentation, or meaningful pre-proposal stakeholder engagement.

Accordingly, these comments challenge both the ends and the means embodied in the proposal.

The concerns identified herein involve:

- the legality of certain objectives;
- the adequacy of the mechanisms selected to pursue those objectives;
- the foreseeable consequences of the proposed changes;
- the sufficiency of the administrative record supporting those changes; and
- the adequacy of the process used to develop them.

For these reasons, OMB should not finalize the rule in its current form. At a minimum, OMB should substantially revise the proposal, develop a more robust administrative record, conduct a comprehensive alternatives analysis, engage more extensively with affected stakeholders and subject-matter experts, and provide significantly more rigorous evaluation of the proposal's legal, operational, scientific, workforce, and governance implications.

# 1.0 Qualifications and Basis for Comment

## 1.1 Individual Capacity

These comments are submitted solely in my individual capacity and represent my personal views regarding the proposed rule. They do not represent the views of my employer, any federal agency, or any other organization with which I am currently or have previously been affiliated.

References to professional appointments and responsibilities are provided solely to explain the basis of my observations and the experience informing these comments.

## 1.2 Basis for Comment

My observations are informed by more than four decades of experience across multiple components of the American research enterprise, including experiences as:

- a graduate student supported by federally funded research;
- a postdoctoral researcher;
- a university faculty member;
- a federally funded principal investigator;
- a university research administrator;
- a mentor to graduate students and postdoctoral researchers;
- a senior leader within a federal scientific organization; and
- an individual responsible for the oversight of both intramural and extramural research programs.

As a result, I have had direct experience with many aspects of the federal research system affected by the proposed rule, including:

- proposal preparation and submission;
- peer review and merit review;
- award management and oversight;
- workforce development;
- scientific dissemination;
- domestic and international collaboration;
- research compliance;
- risk assessment and scientific evaluation;
- federal grants administration.

The observations that follow are offered to assist OMB in understanding how the proposed changes may affect the operation of the federal research enterprise in practice.

### 1.3 Experience Managing Federal Research Programs

My experience includes responsibility for both conducting and overseeing federally funded research.

In academic leadership roles, I have participated in the administration of large and complex research portfolios involving:

- federal grants;
- cooperative agreements;
- research centers;
- graduate education programs;
- interdisciplinary collaborations;
- research infrastructure investments;
- workforce-development activities.

I have worked extensively with issues involving:

- proposal development;
- faculty recruitment and retention;
- research compliance;
- graduate student support;
- postdoctoral training;
- research administration;
- research competitiveness;
- strategic planning.

These experiences provide direct insight into how federal policies affect universities, investigators, students, and research organizations.

### 1.4 Experience as a Federal Scientific Leader

My experience also includes service in senior leadership within EPA's Office of Research and Development.

In that capacity, I participated in oversight of both:

- intramural research programs conducted by federal scientists; and
- extramural research programs supported through grants and cooperative agreements.

Those responsibilities included issues involving:

- scientific integrity;
- peer review;
- merit review;
- programmatic relevance review;
- risk assessment;
- research prioritization;
- research dissemination;
- public accountability;
- stewardship of taxpayer resources.

As a result, I have experience not only receiving federal assistance, but also evaluating, managing, and overseeing federally supported scientific programs.

### 1.5 Experience in Workforce Development

A substantial portion of my career has involved workforce development through federally supported research.

My own graduate education was supported by federally funded research assistantships.

Subsequently, I have mentored and supported more than fifty master's and doctoral students, most through federally funded research programs.

These experiences provide direct insight into the role of federal assistance in:

- graduate education;
- postdoctoral training;
- early-career investigator development;
- workforce formation;
- national scientific capacity;
- long-term economic competitiveness.

Because many provisions of the proposed rule affect funding continuity, dissemination, collaboration, and research independence, workforce-development considerations are central to my comments.

### 1.6 Experience with the Scientific Production Process

My observations are further informed by direct experience with the complete scientific production process.

That experience includes:

- proposal preparation;
- peer review;
- merit review;
- award management;
- project execution;
- conference participation;
- scientific publication;
- international collaboration;
- technology transfer;
- data dissemination;
- compliance with federal requirements;
- assessment of scientific quality and impact.

Accordingly, my comments address not only grants administration, but also the broader ecosystem through which federally funded research produces scientific knowledge, trained personnel, innovations, public benefits, and evidence for future governmental decision-making.

### 1.7 Importance of This Perspective

Few individuals have had the opportunity to participate in the federal research enterprise from as many institutional perspectives as those reflected in these comments.

The observations that follow are therefore informed by direct experience with:

- the recipient perspective;
- the investigator perspective;
- the student and trainee perspective;
- the university-administration perspective;
- the grantmaker perspective; and
- the federal scientific leadership perspective.

Because the proposed rule affects all of these constituencies simultaneously, I believe these experiences provide a useful basis for evaluating both the intended and unintended consequences of the proposal.

# 2.0 What the Rule Fundamentally Changes

## 2.1 Introduction

The proposed rule is presented primarily as an update to government-wide requirements governing federal financial assistance. Much of the preamble describes the proposal in administrative terms, emphasizing accountability, consistency, efficiency, stewardship of taxpayer resources, and alignment of federal funding with Executive Branch priorities.

Viewed provision by provision, many changes may appear technical or procedural in nature. Viewed as an integrated whole, however, the proposal does something much more significant.

***It restructures the governance model through which federal financial assistance has traditionally been administered.***

The proposal changes who exercises authority, how decisions are made, how long those decisions remain stable, and how recipients interact with federal agencies throughout the life of an award. The cumulative effect is not simply revision of administrative requirements. ***It is a transformation of the relationship among Congress, OMB, federal agencies, peer-review systems, recipients, and political leadership***.

For this reason, the proposal should be evaluated not only as a grants-management rule but also as a ***change in the institutional structure of federal assistance governance***.

Several features of the proposal are particularly significant.

## 2.2 The Proposal Converts Uniform Guidance from a Coordinating Framework into a More Prescriptive Regulatory System

Historically, the Uniform Guidance has functioned as a government-wide framework designed to promote consistency while preserving substantial discretion for agencies to administer programs according to their statutory missions and technical requirements.

This approach reflects the reality that federal assistance programs are highly diverse.

Programs administered by NIH, NSF, DOE, USDA, NOAA, EPA, CDC, and numerous other agencies support markedly different activities under different statutory authorities and with different operational requirements.

The existing framework generally establishes common administrative principles while permitting agencies to adapt implementation to their specialized missions.

The proposed rule moves toward a more prescriptive model.

Rather than serving primarily as guidance governing administrative practices, the Uniform Guidance increasingly becomes a centralized regulatory structure through which government-wide requirements are imposed across a broad range of programs and activities.

This shift may appear subtle, but it has important implications.

The proposal is not merely changing individual requirements. It is changing how authority is exercised throughout the federal assistance system.

### 2.3 The Proposal Centralizes Authority Within OMB and the Executive Branch

A second defining feature of the proposal is increased centralization.

Historically, authority within the federal assistance system has been distributed among multiple institutions.

- Congress establishes statutory authorities and appropriates funds.
- Federal agencies administer programs within those statutory frameworks.
- Peer-review and merit-review processes provide expert evaluation.
- Career program officials apply technical and programmatic expertise.
- Recipients conduct activities in accordance with award terms and conditions.

The proposed rule shifts portions of this authority toward a more centralized structure characterized by greater Executive Branch oversight and increased reliance on government-wide requirements.

In multiple areas, the proposal reduces the degree to which decision-making is guided by agency-specific expertise and increases the role of centralized review, approval, oversight, and policy alignment.

The practical result is a greater concentration of authority within institutions that are farther removed from the operational realities of individual programs.

Whether this outcome is desirable or not, it represents a significant institutional change that should be acknowledged and evaluated as such.

### 2.4 The Proposal Elevates Executive Branch Priorities Relative to Traditional Grant-Making Structures

The proposal also changes the relationship between political priorities and traditional grant-making mechanisms.

For decades, federal assistance programs have generally operated through a framework in which:

- Congress establishes program purposes;
- agencies develop funding opportunities;
- scientific, technical, or professional experts evaluate merit;
- agency personnel make award decisions within published criteria;
- recipients perform work according to approved terms and conditions.

Political leadership has always played an important role in establishing broad priorities, proposing budgets, and shaping future initiatives.

The proposed rule expands that role.

Across multiple provisions, the proposal increases the influence of current Executive Branch priorities in award selection, award oversight, continuation decisions, and termination decisions.

As a consequence, the balance between expert-driven evaluation and politically directed oversight shifts materially toward the latter.

This observation is not a criticism of any particular administration or policy objective.

Rather, it is a description of the structural effect of the proposal itself.

The proposal creates a system in which ongoing alignment with Executive Branch priorities becomes substantially more important throughout the life of a federal award.

### 2.5 The Proposal Replaces Prospective Governance with Retrospective Control

Perhaps the most consequential feature of the proposal is its departure from a long-standing principle that changes in policy are generally implemented prospectively.

Under the traditional model, new administrations influence federal assistance primarily through future actions:

- future budgets;
- future funding opportunities;
- future competitions;
- future strategic plans;
- future program initiatives.

Existing awards ordinarily continue under the framework in effect when they were awarded, subject to performance requirements, compliance obligations, and applicable statutory constraints.

The proposed rule moves toward a different model.

Under the proposal, active awards remain vulnerable to continuing reassessment based on changing priorities, changing interpretations of the national interest, reputational concerns, and other evolving considerations.

In practical terms, the proposal shifts federal assistance from a system that emphasizes predictability after award to one that emphasizes continuing oversight and continuing discretion after award.

This distinction is profound.

The most important effect may not be the number of awards that are ultimately terminated or modified, although this could be significant.

Rather, the potentially larger effect may be the introduction of uncertainty throughout the system.

Recipients, institutions, investigators, students, collaborators, and federal agencies all make long-term decisions based on expectations regarding the stability of awarded projects.

When funding decisions become subject to ongoing reassessment, planning horizons shorten, long-term investments become riskier, and incentives change throughout the research and assistance ecosystem.

This shift from prospective governance to retrospective control is one of the defining features of the proposal and a recurring theme throughout these comments.

### 2.6 The Combined Effect Is a Transformation of Federal Assistance Governance

Each of the changes described above is significant individually.

Taken together, they are transformative.

The proposal:

- converts a flexible coordinating framework into a more prescriptive regulatory structure;
- centralizes decision-making authority;
- expands the influence of Executive Branch priorities;
- reduces reliance on traditional expert-driven mechanisms;
- increases opportunities for political review;
- expands discretionary oversight throughout the award lifecycle;
- shifts federal assistance from prospective governance toward retrospective control.

These changes affect not only how grants and cooperative agreements are administered, but also how scientific research, workforce development, public health programs, educational initiatives, infrastructure investments, and other federally supported activities are conceived, planned, and executed.

The proposal should therefore be evaluated according to its actual functional effect.

Although presented as an administrative reform, it operates as a restructuring of the governance architecture of federal financial assistance.

The remainder of these comments examines the legal, operational, scientific, workforce, and institutional consequences of that transformation.

## 3.0 Cross-Reference to Relevant Sections of the Proposed Rule

### 3.1 Purpose of This Cross-Reference

These comments are organized primarily around major themes and anticipated consequences of the proposed rule rather than a strict section-by-section analysis. Because many concerns arise from the interaction of multiple provisions and cannot be fully understood when viewing individual sections in isolation, the organization of these comments differs from the structure of the proposed regulatory text.

To assist OMB's review and to facilitate identification of the regulatory provisions addressed herein, this section identifies major provisions of the proposed rule that are discussed throughout these comments.

Many observations apply simultaneously to multiple regulatory provisions because the proposal operates as an integrated regulatory framework rather than a collection of independent amendments.

Accordingly, references below should be understood as illustrative rather than exhaustive.

### 3.2 Major Regulatory Provisions Addressed in These Comments

#### 2 CFR Part 1 — Conversion of Guidance to Regulation

These comments address OMB's proposal to clarify that the Uniform Guidance constitutes a binding OMB regulation and to establish a Uniform Grants Regulation framework applicable government-wide.

Relevant discussion includes:

- Part II, What the Rule Fundamentally Changes;
- centralization of authority;
- implications for agency discretion;
- governance restructuring;
- future amendment procedures;
- administrative law implications.

#### 2 CFR 200.101, 200.102, 200.106, and 200.110

These comments address proposed changes concerning applicability, exceptions, agency responsibilities, implementation, and effective dates.

Relevant discussion includes:

- institutional governance;
- agency flexibility;
- implementation feasibility;

- administrative capacity;
- centralization of authority;
- reliance interests.

**2 CFR 200.202 — Program Planning and Design**

These comments address provisions requiring alignment with Executive Branch policies, public purposes authorized by law, national-interest considerations, and restrictions affecting research and development activities.

Relevant discussion includes:

- statutory authority;
- scientific independence;
- research governance;
- international collaboration;
- academic freedom;
- future evidence generation;
- environmental and health research.

**2 CFR 200.204 — Notices of Funding Opportunity**

These comments address effects on competition, merit review, access to funding opportunities, and administrative burden.

Relevant discussion includes:

- implementation feasibility;
- administrative workload;
- effects on applicants;
- workforce development.

**2 CFR 200.205 — Federal Agency Review of Merit of Proposals**

These comments address requirements that proposals selected for funding be reviewed for consistency with agency priorities, Executive Branch priorities, national interest considerations, and related policy factors.

Relevant discussion includes:

- politicization of award decisions;
- scientific integrity;
- peer review;

- merit review;
- academic freedom;
- viewpoint discrimination;
- research quality;
- future governmental decision-making.

**2 CFR 200.206 — Federal Agency Review of Risk Posed by Applicants**

These comments address expanded risk-assessment criteria including institutional affiliations, organizational characteristics, and other discretionary factors.

Relevant discussion includes:

- vagueness;
- arbitrary enforcement;
- reputational risk;
- due process concerns;
- administrative consistency.

**2 CFR 200.208 — Specific Conditions**

These comments address expanded authority to impose or modify award conditions during award performance.

Relevant discussion includes:

- retrospective control;
- reliance interests;
- planning uncertainty;
- administrative burden;
- effects on long-term research projects.

**2 CFR 200.211 — Information Contained in Federal Awards**

These comments address termination provisions and recipient notice.

Relevant discussion includes:

- termination authority;
- recipient expectations;
- reliance interests;
- administrative law concerns.

**2 CFR 200.218, 200.219, and 200.220**

These comments address provisions concerning national policy requirements, expressive activities, foreign collaborations, and related restrictions.

Relevant discussion includes:

- constitutional concerns;
- academic freedom;
- scientific collaboration;
- international competitiveness;
- brain drain;
- workforce development;
- research productivity.

**2 CFR 200.300 — Statutory and National Policy Requirements**

These comments address proposed requirements concerning Executive Branch policies, national policy objectives, and federally funded activities.

Relevant discussion includes:

- politicization of federal assistance;
- viewpoint discrimination;
- academic freedom;
- scientific integrity;
- vagueness;
- inconsistent implementation;
- constitutional concerns;
- future evidence generation.

**2 CFR 200.305**

These comments address payment and documentation requirements.

Relevant discussion includes:

- administrative burden;
- implementation feasibility;
- agency workload;
- recipient burden.

**2 CFR 200.329–200.333**

These comments address subrecipient reporting, monitoring, oversight, and reputational-risk provisions.

Relevant discussion includes:

- reputational risk;
- arbitrary enforcement;
- agency discretion;
- implementation feasibility;
- administrative burden;
- impacts on collaborative research networks.

**2 CFR 200.340**

These comments address expanded authority related to suspension and termination of awards.

Relevant discussion includes:

- retrospective control;
- reliance interests;
- workforce development;
- scientific productivity;
- reputational harm;
- due process concerns;
- academic freedom;
- research continuity.

### 3.3 Integrated Nature of the Proposal

Many concerns discussed in this comment arise not from any single regulatory provision but from the combined operation of multiple provisions.

Particularly important examples include:

- expanded political review under §200.205;
- expanded risk evaluation under §200.206;
- expanded authority to impose conditions under §200.208;
- reputational-risk oversight under §200.332;
- expanded termination authority under §200.340;

- policy-alignment requirements under §§200.202 and 200.300.

The most significant effects discussed in these comments—including chilling effects, scientific self-censorship, reliance-interest concerns, workforce impacts, implementation burdens, brain drain, reputational harms, and degradation of the federal evidence base—arise from the interaction of these provisions rather than from any individual section viewed in isolation.

## 4.0 Centralization of Authority and Expansion of Executive Control

A recurring theme throughout the proposed rule is the transfer and concentration of decision-making authority toward the Executive Branch and, in particular, toward politically directed processes. While individual provisions are presented as administrative reforms, their cumulative effect is a substantial restructuring of the governance framework for federal financial assistance. Viewed as a whole, the rule moves beyond financial management and into the allocation of authority among Congress, federal agencies, peer-review systems, recipients, and political leadership.

Historically, federal assistance programs have operated through a balance of authorities. Congress establishes program purposes and appropriates funds. Federal agencies implement those statutes through programmatic and scientific expertise. Independent peer review and merit review mechanisms inform award decisions. Recipients then perform work according to terms and conditions established at the time of award. Within this framework, changes in presidential priorities have generally been implemented prospectively through future budgets, future funding opportunities, and future competitions rather than through retrospective intervention in already-awarded projects.

The proposed rule alters this balance in several significant respects.

First, the rule converts what has historically been government-wide guidance into binding regulation with government-wide effect. At the same time, it establishes that OMB regulations may supersede agency-specific approaches to the maximum extent permitted by law. The practical result is a greater concentration of authority within OMB and a reduction in agency-specific discretion.

Second, the rule introduces political review into funding decisions through the requirement for pre-issuance review by senior political appointees. Although peer review is retained, the proposed rule expressly characterizes peer review as advisory and requires independent assessment of alignment with Executive Branch priorities, agency priorities, and the national interest. This shifts scientific and technical review away from a model in which expert evaluation serves as the principal determinant of funding decisions and toward one in which political review becomes an independent and potentially overriding factor.

Third, the rule expands the ability of agencies to revisit existing awards through discretionary termination authority based on evolving agency priorities or determinations regarding the national interest. This departs from the longstanding distinction between prospective policy formation and retrospective intervention in active awards. If finalized, the rule would create a system under which recipients remain subject to continuing reassessment based on criteria that may evolve during the life of an award.

Taken together, these provisions establish a governance framework characterized by increased centralized control, increased political discretion, and reduced reliance on previously established decision-making mechanisms. Although some observers have associated such changes with broader theories favoring expanded presidential control over executive functions, the legal significance of these provisions does not depend on acceptance or rejection of any particular theory of executive power. Rather, the relevant question is whether OMB possesses statutory authority for changes of this magnitude and whether it has adequately justified them under governing administrative-law principles.

### 4.1 Major Questions and Statutory Authority Concerns

OMB cites authorities relating primarily to financial management, grants administration, and the promotion of consistency in federal assistance programs. However, the proposed rule does substantially more than standardize administrative procedures. It alters the structure of decision-making, modifies the relationship between peer review and political review, changes termination authorities, imposes substantive restrictions on funded activities, and establishes government-wide standards affecting hundreds of billions of dollars in federal assistance.

To the extent that these provisions represent a fundamental restructuring of federal assistance governance, OMB should identify clear congressional authorization for such changes. The Supreme Court has repeatedly emphasized that agencies require clear statutory authority before asserting powers of major economic or political significance. The proposed rule raises significant questions regarding whether the cited statutory authorities extend to the reallocation of decision-making authority embodied in the proposal.

### 4.2 Separation of Powers and Congressional Program Design

Federal assistance programs are created to implement congressional objectives. Appropriations statutes, authorizing statutes, and agency program authorities collectively establish the purposes for which funds may be used.

The proposed rule repeatedly elevates compliance with contemporary Executive Branch priorities as an independent criterion for award selection, award continuation, and award termination. To the extent that these criteria could operate independently of, or potentially override, congressional program purposes, the rule raises separation-of-powers concerns that warrant careful examination.

This concern is particularly acute when applied to ongoing awards. Congress generally establishes programmatic priorities through legislation, while agencies implement those priorities through competitions conducted under published criteria. Introducing broad authority to revisit completed funding decisions based on evolving Executive Branch priorities risks displacing the framework established by Congress with a more fluid and less predictable decision structure.

### 4.3 Failure to Consider Consequences of Centralized Control

The preamble asserts claimed benefits of greater oversight and accountability but does not adequately assess whether or why existing oversight and accountability mechanisms are inadequate nor does it analyze the consequences of concentrating decision-making authority.

Those consequences are foreseeable and include:

- reduced predictability of funding decisions;
- diminished reliance on peer-review systems;
- increased uncertainty for long-term projects;
- increased incentives for self-censorship and risk avoidance;
- reduced willingness to invest in long-term research infrastructure;
- greater sensitivity of funding decisions to changes in administration.

These effects are not speculative. They follow directly from the transfer of authority from stable and transparent processes toward discretionary mechanisms tied to evolving priorities.

The Administrative Procedure Act requires agencies to consider important aspects of a problem and to provide a reasoned explanation for significant policy changes. The rule's failure to meaningfully evaluate these foreseeable consequences strengthens concerns regarding arbitrariness and inadequate analysis.

### 4.4 A Fundamental Shift from Prospective Governance to Retrospective Governance

Perhaps the most significant structural change embodied in the proposal is the shift from prospective governance to retrospective governance.

Under the traditional model, new administrations influence future funding decisions through future appropriations requests, future programs, and future competitions. Existing awards generally proceed according to the terms under which they were made, subject to compliance and performance requirements.

The proposed rule moves toward a model in which previously awarded projects remain subject to continuing evaluation against changing Executive Branch priorities throughout their period of performance. Such a framework fundamentally alters the expectations upon which recipients, institutions, investigators, and research participants rely.

OMB does not adequately acknowledge this shift, much less analyze its implications for stability, reliance interests, scientific productivity, workforce development, or the long-term effectiveness of federal investments.

Accordingly, the proposed rule's centralization of authority and expansion of executive control constitute not merely an administrative adjustment, but a structural transformation of federal financial assistance governance. The absence of a clear statutory basis, the failure to evaluate the consequences of that transformation, and the resulting tensions with established administrative-law principles create substantial legal vulnerability should the rule be finalized in substantially its current form.

## 5.0 Administrative Procedure Act Vulnerabilities

The proposed rule raises substantial concerns under the Administrative Procedure Act ("APA"), 5 U.S.C. § 706(2)(A), which requires agency actions to be the product of reasoned decision-making and prohibits rules that are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

Many of the concerns discussed elsewhere in this comment—including the expansion of executive discretion, restructuring of merit review, enlargement of termination authority, restrictions on scientific dissemination, and alteration of long-standing grant administration practices—ultimately converge on a common question:

***Has OMB provided a reasoned, evidence-based, and legally sufficient justification for changes of this magnitude?***

In numerous respects, the answer appears to be no.

The legal vulnerabilities discussed below are not isolated defects affecting individual provisions. Rather, they reflect recurring patterns that appear throughout the rulemaking and that collectively raise substantial concerns regarding compliance with governing administrative-law principles.

### 5.1 Reliance on Unsupported or Insufficiently Supported Factual Assertions

A foundational requirement of reasoned decision-making is that an agency's policy choices be supported by evidence and analysis sufficient to justify the actions taken.

Throughout the preamble, OMB advances broad factual claims regarding alleged deficiencies in existing grant administration practices, purported misuse of federal funds, ideological capture of federal programs, deficiencies in prior award structures, and the need for increased executive oversight. In numerous instances, however, these assertions are presented as conclusions rather than as findings supported by a robust evidentiary record.

Particularly notable are repeated assertions regarding:

- purported widespread misuse of federal financial assistance;
- alleged systemic problems associated with diversity, equity, and inclusion activities;
- alleged deficiencies in merit review processes;
- alleged need for political oversight of award decisions;
- assertions that existing grant frameworks have failed to adequately protect taxpayer interests.

A rule of this breadth would ordinarily be expected to rest upon substantial evidence demonstrating:

- the nature and magnitude of the identified problems;

- the frequency with which they occur;
- the insufficiency of existing authorities to address them; and
- the expected effectiveness of the proposed solutions.

Yet the rule frequently relies instead on Executive Orders, policy statements, selected examples, and generalized assertions rather than empirical analysis demonstrating systemic need for the proposed reforms.

This creates vulnerability under *Motor Vehicle Manufacturers Association v. State Farm*, which requires agencies to articulate a rational connection between the facts found and the choices made.

### 5.2 Failure to Consider Important Aspects of the Problem

The APA requires agencies not only to consider evidence supporting their preferred approach, but also to consider significant consequences and competing considerations that bear directly on the issue under review.

One of the most striking features of the proposed rule is the degree to which it emphasizes perceived benefits while providing limited analysis of foreseeable adverse consequences.

For example, the rule repeatedly emphasizes accountability, oversight, and efficiency. However, it provides little meaningful analysis of impacts on:

- scientific productivity;
- workforce development;
- graduate education;
- postdoctoral training;
- research dissemination;
- public-private partnerships;
- international collaboration;
- institutional planning;
- infrastructure investment;
- research competitiveness;
- administrative implementation.

These effects are not peripheral concerns. They are central components of the federal research ecosystem and are precisely the types of consequences that a reasoned administrative analysis should evaluate.

Similarly, the rule gives little attention to the cumulative impacts arising from interaction among multiple provisions. Individual requirements relating to conferences, publications, subscriptions, approvals, risk assessments, termination authority, and political review have individual impact when viewed separately. However, recipients experience these provisions collectively, not individually.

The failure to analyze these cumulative effects creates an additional vulnerability under *State Farm*, which requires agencies to consider important aspects of a problem rather than limiting analysis to selected components.

### 5.3 Failure to Meaningfully Consider Reliance Interests

A recurring theme throughout this proposal is the treatment of federal assistance as though recipients possess few legitimate expectations regarding how programs will operate over time.

That assumption is inconsistent with the practical realities of federally funded activities.

Universities, research institutions, nonprofit organizations, state governments, local governments, and other recipients routinely make substantial investments in reliance upon stable federal assistance frameworks.

Examples include:

- laboratory construction;
- equipment acquisition;
- faculty recruitment;
- graduate student support;
- workforce development programs;
- long-term collaborative agreements;
- data collection efforts spanning many years;
- community partnerships and stakeholder engagement activities.

In my own experience, both as a recipient of federal funding and as a former leader of a federal scientific organization responsible for awarding and managing grants, the expectation that awards will be administered consistently according to established rules is fundamental to effective program operation.

The proposed rule repeatedly alters longstanding practices while providing little discussion of investments made in reliance on those practices.

This omission raises concerns under *FCC v. Fox Television Stations*, *Encino Motorcars v. Navarro*, and *Department of Homeland Security v. Regents*, all of which emphasize the importance of evaluating serious reliance interests when agencies depart from established policies.

### 5.4 Internal Inconsistency and Contradictory Rationales

The proposed rule contains a number of apparent internal inconsistencies that further undermine confidence in the reasoning underlying the proposal.

Examples include:

**Burden Reduction vs. New Administrative Requirements**

The rule repeatedly asserts that it reduces recipient burden.

At the same time, it introduces:

- new approval requirements;
- new review processes;
- additional reporting obligations;
- expanded risk assessments;
- new payment justification requirements;
- additional compliance documentation requirements.

The rule provides little explanation reconciling these competing propositions, nor does it adequately assess the impact of the proposed additional burdens.

**Viewpoint Neutrality vs. Viewpoint-Based Restrictions**

Certain sections emphasize principles of viewpoint neutrality, while other sections restrict funding for activities associated with specified ‘ideological’ categories.

Regardless of the merits of those restrictions, the rule does not adequately address the apparent tension between these provisions.

**Dissemination Requirements vs. Dissemination Cost Restrictions**

Federal research programs routinely depend upon publication, scholarly communication, conferences, and professional engagement to achieve programmatic objectives. The federal government has imposed transparency requirements for federal assistance recipients that include the need to share data and public results, as set form in the OSTP “Nelson memo”.  Under this memo, if an investigator chooses to publish in a gold open-access journal, federal agencies allow researchers to write these "reasonable publication and data-management costs" directly into their grant proposals.

The rule simultaneously preserves expectations regarding dissemination while restricting allowability of expenditures necessary to achieve it. Numerous commenters have described this as a structural contradiction.

These inconsistencies are significant because unexplained internal contradictions are a recognized hallmark of arbitrary and capricious decision-making.

### 5.5 Inadequate Consideration of Alternatives

Reasoned decision-making ordinarily requires consideration of alternative approaches capable of achieving policy objectives with fewer adverse consequences.

Throughout the preamble, OMB frequently assumes that broad regulatory restructuring is necessary without adequately analyzing whether less disruptive alternatives exist.

Examples include:

- targeted enforcement of existing laws;
- agency-specific implementation approaches;
- prospective application of new priorities;
- enhanced auditing and oversight;
- clarification of existing requirements;
- narrower and more precisely tailored restrictions.

In many cases, the rule appears to move directly from identification of a perceived problem to adoption of a government-wide regulatory solution without explaining why existing or more limited alternatives were deemed insufficient.

This omission is particularly significant because many of the issues identified in the preamble were already subject to existing statutory, regulatory, contractual, or enforcement mechanisms.

### 5.6 Inadequate Economic and Regulatory Impact Analysis

The proposed rule would affect a substantial portion of federal financial assistance throughout the federal government and would alter long-standing practices relied upon by recipients across multiple sectors.

Despite this breadth, the analysis of economic and operational impacts appears limited in several important respects.

Among other issues, the rule provides insufficient evaluation of:

- transition costs;
- compliance costs;
- administrative staffing needs;
- impacts on research productivity;
- effects on workforce development;
- effects on innovation;
- effects on dissemination of federally funded research;
- effects on long-term institutional investment.

Several commenters have also identified potential deficiencies concerning information collection burdens and compliance with the Paperwork Reduction Act, particularly where the rule introduces or expands documentation, reporting, and payment-justification requirements.

The resulting record appears incomplete relative to the scope and consequences of the proposed changes.

### 5.7 Cumulative APA Vulnerability

Viewed provision by provision, the APA concerns described above are significant.

Viewed collectively, they are more significant still.

The proposed rule appears to:

- rely on broad assertions unsupported by a comprehensive evidentiary record;
- fail to assess important consequences;
- inadequately evaluate reliance interests;
- contain unresolved internal inconsistencies;
- inadequately consider alternatives;
- and provide limited analysis of cumulative impacts.

These deficiencies recur across multiple sections of the rule and are directly connected to its most consequential provisions.

Accordingly, the APA concerns associated with this proposal are not isolated procedural issues. They are structural characteristics of the rulemaking itself and substantially increase the risk that all or significant portions of the rule would be vulnerable to judicial challenge if finalized substantially as proposed.

## 6.0 Reliance Interests and the Stability of the Federal Research Enterprise

A recurring deficiency throughout the proposed rule is the failure to acknowledge and evaluate the substantial reliance interests that have developed under the longstanding federal framework for financial assistance.

The Supreme Court has repeatedly held that agencies changing established policies must consider serious reliance interests created by prior policies. This principle appears in multiple decisions, including *FCC v. Fox Television Stations*, *Encino Motorcars v. Navarro*, and *Department of Homeland Security v. Regents*. While agencies may revise policies, they must provide a reasoned explanation that accounts for the expectations and investments that prior policies have induced.

The proposed rule repeatedly alters longstanding principles governing federal financial assistance but contains little meaningful discussion of the extensive reliance interests that have developed over many decades among recipients, agencies, research sponsors, students, research participants, and other stakeholders.

### 6.1 The Federal Research Enterprise Is Built on Predictability

The modern federal research enterprise depends on the existence of reasonably predictable rules governing financial assistance.

Universities, nonprofit organizations, state governments, local governments, hospitals, and private-sector research organizations routinely make decisions extending years into the future based upon established federal funding practices.

Examples include:

- faculty recruitment and retention;
- graduate student admissions;
- postdoctoral appointments;
- laboratory construction and renovation;
- acquisition of scientific equipment;
- development of multi-institutional collaborations;
- establishment of data collection programs;
- creation of research centers and institutes;
- development of workforce training programs.

These decisions are often made years before final scientific outcomes are produced and frequently involve commitments that cannot be easily reversed once undertaken.

The proposed rule acknowledges many of the mechanisms through which federal assistance is delivered but gives comparatively little attention to the dependence of these activities on predictability, continuity, and stable expectations.

### 6.2 Reliance Interests Extend Beyond Individual Awards

A common misconception is that reliance interests are limited to the existence of a particular grant award.

In reality, the reliance interests implicated by this rule are substantially broader.

Over many decades, institutions have adapted their operations to a stable federal model characterized by:

- merit-based review;
- prospective implementation of policy changes;
- negotiated facilities and administrative cost structures;
- broad support for dissemination and collaboration;
- predictable cost allowability principles;
- continuity of funding absent noncompliance or performance failure.

These characteristics have become foundational assumptions underlying research planning throughout the United States.

The relevant reliance interest is therefore not merely the continuation of any particular award.

Rather, it is reliance on a governance framework that has remained substantially stable across administrations and has enabled long-term scientific investment.

### 6.3 The Rule Represents a Departure from Longstanding Federal Practice

Many provisions of the proposed rule depart from practices that have existed for decades.

Examples of such departures include:

- insertion of political review into funding decisions;
- expanded discretionary termination authority;
- restrictions on publication and dissemination costs;
- restrictions on conference participation;
- limitations on international collaboration;
- preference structures affecting indirect cost recovery;
- expanded consideration of evolving executive priorities throughout the award lifecycle.

While agencies are not prohibited from changing policy, the APA generally requires a reasoned explanation when departing from established practice. The need for explanation is particularly strong where prior policies have induced substantial reliance.

The proposed rule does not adequately evaluate the degree to which recipients have structured their activities around the existing system.

### 6.4 The Rule's Shift from Prospective Governance to Retrospective Governance Intensifies Reliance Concerns

Perhaps the most significant reliance-interest issue arises from the proposed shift from prospective governance to retrospective governance.

Historically, changes in administration priorities have largely been implemented prospectively.

New administrations may:

- propose different budgets;
- establish different priorities for future competitions;
- modify future funding opportunities;
- develop new initiatives.

Existing awards generally continue according to the criteria under which they were awarded unless problems arise concerning compliance, performance, or statutory authority.

The proposed rule introduces a materially different model.

By authorizing decisions based on evolving agency priorities and determinations regarding the "national interest," it creates a framework in which active awards may remain vulnerable to reassessment throughout their period of performance.

This change alters one of the most fundamental assumptions underlying federal assistance:

that recipients can reasonably rely on the stability of an award once it has been properly competed, awarded, and accepted.

The preamble does not meaningfully assess the consequences of this shift.

### 6.5 Lived Examples of Reliance Interests in Federal Research

Based on my experience as a federally funded investigator, university research administrator, and former leader of a federal scientific and research organization, reliance interests are deeply embedded throughout the research ecosystem.

For example:

- Graduate students frequently commit four to six years of their careers based on anticipated continuity of research funding.
- Postdoctoral researchers make relocation and career decisions based on the expected duration of funded projects.
- Institutions make faculty hiring decisions based on expectations regarding future research activity.
- Research facilities and instrumentation are often purchased with the expectation that federally funded projects will continue throughout their planned periods of performance.
- Multi-institutional collaborations frequently require years to establish and depend on stable commitments among participating organizations.
- Research participants, community partners, and stakeholders frequently engage with projects under the assumption that approved studies will proceed according to established plans.

The proposed rule does not appear to evaluate these forms of reliance despite their direct relevance to the operation of federal assistance programs.

### 6.6 Reliance Interests Are Particularly Important Because the Rule Is Government-Wide

Unlike many agency-specific rulemakings, this proposal affects a government-wide framework governing federal financial assistance.

As a result, disruption of reliance interests would not be confined to a single program or agency.

The effects would be experienced simultaneously across:

- scientific research;
- public health;
- education;
- infrastructure;
- workforce development;
- state and local government programs;
- nonprofit activities.

The breadth of the proposal amplifies the importance of evaluating reliance interests and increases the significance of any failure to do so.

### 6.7 Legal Significance

The Supreme Court has repeatedly recognized that agencies must consider reliance interests when changing established policies. While the precise contours of this requirement vary among cases, the core principle is consistent:

*agencies must account for the real-world expectations and investments that their prior policies have created*.

The proposed rule repeatedly modifies longstanding practices but contains limited analysis of the substantial reliance interests developed under those practices.

This omission is especially significant given the proposal's scope, its government-wide applicability, and its movement toward a system characterized by increased discretion and reduced predictability.

Accordingly, OMB should either provide a substantially more robust evaluation of reliance interests or reconsider provisions that significantly disrupt longstanding expectations without adequate justification. The failure to do so creates an additional and substantial vulnerability under the Administrative Procedure Act.

## 7.0 Personal Experience Regarding the Operation of the Federal Research Enterprise

I have participated in federally funded scientific research for more than four decades and have done so in multiple capacities, including as a master's student, doctoral student, postdoctoral research associate, university faculty member, associate dean for research, and senior federal scientific leader. During this time, I have participated in all stages of the federal research lifecycle, including proposal development, peer review, project execution, dissemination, workforce development, technology transfer, and scientific program management.

The observations below are based on direct professional experience and are offered to assist OMB in understanding the practical implications of the proposed rule for the operation of the U.S. research enterprise.

### 7.1 Conferences Are Integral to Scientific Knowledge Production

I have attended and participated in scientific and engineering conferences for more than forty years.

During this period, conferences have served functions that extend far beyond dissemination of completed work.

**Workforce Development**

I have mentored more than fifty master's and doctoral students.

A critical component of professional development is introducing students to their scientific communities, including:

- oral presentations;
- poster presentations;
- networking;
- conference organization;
- professional leadership roles.

Conferences provide experiences that cannot be replicated through written communication alone and are an essential component of preparing future scientific and engineering leaders.

**Scientific Quality and Peer Feedback**

Many of the most valuable conference interactions occur before a project is complete.

Presenting work in progress allows researchers to receive:

- technical criticism;
- methodological feedback;

- suggestions regarding interpretation;
- recommendations for additional analyses;
- identification of emerging issues and opportunities.

In my experience, conference feedback has repeatedly improved the quality, rigor, and relevance of federally funded research projects.

**Collaboration and Innovation**

Numerous research collaborations, technology-transfer activities, and workforce-development initiatives that I have led originated through conference interactions.

These relationships frequently resulted in:

- new research projects;
- new proposals;
- new partnerships;
- new opportunities for students and postdoctoral researchers.

**Dissemination**

Many federal awards explicitly require dissemination of results.

Conferences are among the primary mechanisms through which federally funded knowledge is distributed to researchers, practitioners, industry, government agencies, and the public.

Restricting conference participation therefore constrains not merely travel, but a critical component of the scientific process itself.

### 7.2 International Collaboration Has Improved the Quality and Impact of My Research

Throughout my career I have maintained scientific collaborations involving partners in Europe and Asia.

These collaborations have allowed me both to contribute to and benefit from international scientific expertise.

Examples include:

- uncertainty and sensitivity analysis methodologies;
- environmental modeling;
- exposure and risk assessment;
- vehicle activity and emissions measurement;
- portable emissions measurement systems;
- human exposure modeling;

- energy systems analysis;
- advanced coal gasification modeling.

These collaborations produced outcomes that would have been substantially more difficult, and in some cases impossible, to achieve within a purely domestic framework.

International research partnerships provide access to:

- alternative methodological approaches;
- independent validation;
- unique facilities;
- complementary expertise;
- broader datasets;
- opportunities for harmonization of methods and standards.

The proposed restrictions on international collaboration do not adequately account for these benefits.

### 7.3 Long-Term Research Requires Stable Funding and Predictable Planning Horizons

Scientific research typically unfolds over periods measured in years rather than months.

Graduate education provides an illustration.

Master's students generally require approximately two years to complete thesis research.

Doctoral students commonly require three to five years to complete research programs.

Federal grants often provide the funding necessary to support the students who perform this work.

The success of these educational and research programs depends on reasonable confidence that funding will remain available throughout the planned period of work.

Creating a system in which awards can be reconsidered, suspended, or terminated because of evolving priorities introduces uncertainty that directly undermines long-term planning.

The first consequence of instability is not cancellation.

It is avoidance.

Researchers become less willing to pursue ambitious projects, institutions become less willing to make investments, and students become less willing to enter research careers.

### 7.4 Federal Funding Made My Own Education Possible

My own graduate education was made possible through federally funded research assistantships supported by the U.S. Department of Energy.

Without such support, I would not have been able to earn either a master's degree or a Ph.D.

That experience is important because it demonstrates a reality sometimes lost in discussions of grants policy:

Federal research funding is not merely support for projects. It is support for people.

Over the subsequent thirty-plus years, I have provided research assistantships to more than fifty graduate students, the vast majority supported through federal grants and cooperative agreements.

Students considering graduate education make major commitments of time, income, and career opportunity.

A funding system that becomes unpredictable or subject to sudden political intervention becomes less attractive to talented students.

This has implications not only for universities but also for U.S. economic competitiveness, technological leadership, and national security.

### 7.5 Publication Is an Essential Component of Research, Not an Optional Add-On

Throughout my career, publication has been a fundamental component of the research process.

Federal policy increasingly requires that federally funded research be made broadly accessible to the public.

At the same time, the proposed rule would make many publication costs unallowable or impose undue administrative barriers that have the impact of reducing access to resources to cover the costs of publication and dissemination.

This creates an obvious operational contradiction.

Publishing in peer-reviewed archival journals requires infrastructure that has real costs.

Those costs include:

- editorial review;
- peer review administration;
- data curation;
- production;
- archiving;
- dissemination.

During my service as a senior leader in a federal scientific organization, we routinely budgeted for publication costs because publication was necessary to ensure both accessibility and scientific credibility.

Likewise, in my academic research program I have regularly included publication-related expenses in project budgets because publication is part of project completion.

A research project that generates results but cannot effectively communicate them has not fully achieved its purpose.

Publication is also critical for graduate student career development.

Students seeking postdoctoral positions, faculty appointments, or research positions are typically evaluated in part based upon their publication records.

OMB has not provided a meaningful analysis of how researchers are expected to disseminate work through peer-reviewed archival literature if the costs of doing so become broadly unallowable or if barriers to access to resources to cover such costs make dissemination less feasible.

### 7.6 Research Infrastructure Investments Depend Upon Continuity

Many federally funded projects require substantial investments in research infrastructure.

Examples include:

- monitoring equipment;
- computational systems;
- analytical instrumentation;
- specialized laboratories;
- field sampling systems;
- prototype technologies.

These investments frequently occur years before the ultimate scientific outcomes are realized.

A research environment characterized by uncertainty and potential midstream termination increases the risk of stranded investments and unfinished capabilities. In the long run, this will lead to under-resourced laboratories and facilities. In a globally competitive scientific landscape, this outcome would erode U.S. competitiveness in scientific and engineering fields.

The proposed rule does not appear to evaluate these consequences.

### 7.7 My Experience as a Federal Scientific Leader Confirms the Importance of Peer Review

My experience includes leadership of a federal scientific organization that both conducted and supported research.

Across a wide range of programs—including EPA STAR Grants, NSF research programs, and DOE ARPA-E initiatives—I observed a consistent principle:

- Scientific merit is first established through independent expert review.
- Different agencies implement this principle differently.

However, programs generally share several characteristics:

- review by independent subject matter experts;
- management of conflicts of interest;
- evaluation of scientific rigor;
- evaluation of technical feasibility;
- assessment of broader impacts;
- subsequent programmatic decision-making by career officials.

For example, the EPA STAR Grants program historically incorporated both:

1. scientific merit review; and
2. programmatic relevance review.

Importantly, the relevance determination occurred after independent scientific review had established the quality and credibility of the work.

Likewise, ARPA-E and NSF programs utilize highly knowledgeable career staff and rotating scientific experts who possess the technical expertise necessary to evaluate highly specialized research.

In my experience, these systems already provide substantial oversight and accountability.

The proposed rule does not demonstrate that these systems have failed in a manner requiring the introduction of political review mechanisms that can override scientific judgment.

# 8.0 Politicization of Merit Review and the Transformation of Federal Research Governance

## 8.1 The Traditional Federal Research Model

For more than half a century, federal research funding has operated through a governance model that separates scientific evaluation from political preference.

The traditional process is straightforward:

Proposal → Independent Peer Review → Agency Decision → Award

The roles within this framework are distinct.

Congress establishes program authorities and appropriates funds. Agencies issue funding opportunities consistent with those authorities. Independent experts evaluate scientific and technical merit through peer review. Career program officials then make award decisions informed by those reviews and by programmatic considerations established at the outset of the competition.

Political leadership influences the system through legitimate means, including:

- legislative proposals;
- budget requests;
- establishment of broad strategic priorities;
- design of future programs and competitions.

Importantly, however, scientific merit has historically remained the principal criterion for identifying which proposals are worthy of funding.

The American research enterprise has achieved extraordinary success under this model. It has produced advances in medicine, agriculture, engineering, environmental protection, energy systems, computing, national defense, public health, and countless other fields. The model is not perfect, but it has consistently relied upon a fundamental principle:

*Scientific questions should be evaluated primarily through scientific expertise.*

Throughout my career, I have observed this principle operating in a wide range of programs, including NSF research grants, the EPA Science to Achieve Results (STAR) program, DOE cooperative agreements, and other federally sponsored research initiatives.

While different agencies use somewhat different procedures, these programs share a common feature: scientific merit is established by independent review before other programmatic considerations are applied.

## 8.2 The Proposed Rule Substantially Changes This Model

The proposed rule retains peer review, but significantly changes its role.

Under the proposed framework, the process increasingly becomes:

Proposal → Peer Review → **Political Review → Potential Override** → Award

Under the proposal, peer review becomes explicitly advisory. At multiple points throughout the award lifecycle, political officials are empowered to determine whether projects sufficiently advance presidential priorities, agency priorities, or the "national interest."

This distinction is critical. A peer review system can continue to exist formally while being substantially weakened functionally.

The key question is not whether peer review occurs. The key question is:

*What happens when scientific judgment and political preference point in different directions?*

Historically, federal research programs have generally operated under the assumption that scientific merit should receive substantial deference. The proposed rule shifts authority toward political leadership and expands its ability to override or revisit decisions that previously would have rested primarily upon technical and scientific evaluation.

### 8.3 My Experience in Federal Research Administration

My concern regarding this shift is informed by experience in multiple roles within the federal research ecosystem.

- As a researcher, I have submitted proposals, participated in peer review, managed federally funded projects, and mentored students supported by federal grants.
- As a university research administrator, I have overseen complex research portfolios dependent on stable and predictable federal funding mechanisms.
- As a senior leader within a federal scientific organization, I participated directly in the processes through which federal agencies evaluate, prioritize, and support scientific research.

In those roles, I observed that effective federal programs already possess mechanisms for aligning scientific investments with national priorities.

For example, the EPA STAR grants program historically employed two distinct forms of review.

The first was scientific review, conducted by independent experts to evaluate scientific rigor, feasibility, innovation, and significance.

The second was programmatic relevance review, through which career program managers considered how scientifically meritorious proposals aligned with agency needs and objectives.

This structure created a balance between scientific excellence and programmatic relevance.

Importantly, it did not require political appointees to substitute their judgment for that of scientific reviewers.

Similarly, programs such as NSF and ARPA-E already maintain extensive oversight mechanisms through highly qualified career officials and rotating scientific experts possessing deep technical knowledge in their fields.

The proposed rule does not demonstrate that these systems have failed or that additional layers of political review are necessary to achieve agency objectives.

### 8.4 Political Review and Scientific Review Serve Different Functions

A recurring theme throughout the proposed rule is the assumption that political review can be added to scientific review without fundamentally changing the nature of the decision-making process.

In practice, however, these two forms of review answer different questions.

Scientific review asks:

- Is the proposed work technically sound?
- Is the methodology appropriate?
- Are the investigators qualified?
- Is the work likely to advance knowledge or technology?

Political review asks:

- Does the work align with current administration priorities?
- Does it support preferred policy objectives?
- Is it consistent with current political direction?

Both questions may be legitimate in some circumstances.

The problem arises when political review gains authority to override scientific conclusions.

Researchers may produce excellent proposals, receive outstanding peer-review evaluations, and still face rejection or termination because of factors unrelated to scientific rigor.

That outcome fundamentally alters the incentives that drive scientific inquiry.

### 8.5 Consequences for Scientific Independence

The most significant effects of politicized review are often indirect.

Researchers adapt to incentives.

If success depends increasingly on political acceptability, investigators will naturally begin modifying their behavior in anticipation of political review.

Such adaptations may include:

- avoiding controversial research topics;

- avoiding projects perceived as politically sensitive;
- modifying the framing of proposals;
- narrowing research questions;
- reducing international collaborations;
- avoiding publication of findings that could attract scrutiny.
- reducing the number of students (mentees) hired and advised
- choosing to move to other countries with more favorable research enterprises
- choosing to leave career paths related to research
- choosing to retire early

This phenomenon is well understood in organizational and behavioral research.

It does not require explicit censorship.

It requires only uncertainty regarding how political discretion will be exercised.

The result is a chilling effect that narrows the range of scientific inquiry long before formal funding decisions are made.

### 8.6 Implications for Scientific Quality and Innovation

Many transformative discoveries emerge precisely because investigators pursue questions that are unexpected, unconventional, politically inconvenient, or contrary to prevailing assumptions.

Scientific progress frequently depends upon challenging accepted views rather than reinforcing them.

A system that implicitly rewards conformity to current political priorities risks reducing the diversity of scientific inquiry.

Over time, such a system may produce:

- fewer high-risk, high-reward projects;
- reduced scientific creativity;
- slower technological innovation;
- diminished intellectual diversity;
- weaker evidence bases for future policy decisions;
- fewer scientists and engineers.

These effects are particularly concerning because they may not become apparent immediately. Their consequences often emerge years later when opportunities for discovery have already been lost.

### 8.7 Broader Governance Concerns

Viewed collectively, the proposal establishes a governance framework in which political considerations play a substantially larger role at every stage of the funding lifecycle:

- proposal evaluation;
- funding decisions;
- project oversight;
- continuation decisions;
- termination decisions.

This shift is consequential because it changes the answer to a fundamental question:

*Who ultimately determines which scientific ideas deserve support—the scientific community through merit review, or political officials through discretionary review?*

The proposed rule moves authority noticeably toward the latter.

That shift represents one of the most significant changes contained in the proposal.

### 8.8 Legal and Administrative Implications

OMB provides limited to no analysis of the consequences of reducing the practical influence of peer review and expanding opportunities for political override.

In particular, the rule does not adequately evaluate:

- effects on scientific quality;
- effects on innovation;
- effects on researcher behavior;
- effects on public trust in federally funded science;
- effects on the independence of scientific institutions;
- effects on long-standing reliance interests associated with merit-based review.
- effects on the national scientific and engineering workforce.

These omissions are significant because they concern central features of the federal research enterprise rather than peripheral administrative details.

Accordingly, the proposed politicization of merit review contributes substantially to the rule's vulnerability under the Administrative Procedure Act. The proposal represents a major departure from longstanding federal practice while providing insufficient analysis of the consequences of that departure and insufficient justification for replacing existing expert-driven processes with expanded discretionary political review.

## 9.0 Threats to Scientific Independence and Scientific Governance

### 9.1 Scientific Independence Is a Strategic National Asset

The United States has become a global leader in science, engineering, medicine, agriculture, and technology largely because it developed institutions designed to protect scientific inquiry from short-term political pressures.

Federal research programs have historically rested upon several mutually reinforcing principles:

- independent peer review;
- merit-based competition;
- protection of scientific inquiry;
- transparency and dissemination of results;
- continuity and predictability of funding;
- professional administration by career experts.

These principles do not eliminate political oversight. Rather, they establish a balance between democratic accountability and scientific independence.

Congress determines appropriations and program authorities. Executive agencies administer programs created by law. Scientists and technical experts evaluate scientific merit. Career officials implement programs according to established procedures.

This system has helped produce many of the scientific and technological advances that have contributed to economic growth, public health improvements, national security, environmental protection, and American global leadership.

The proposed rule alters this balance in ways that warrant careful scrutiny.

### 9.2 Scientific Merit Is Increasingly Subordinated to Political Considerations

A central concern raised by the proposed rule is the shift in emphasis from expert evaluation toward political review.

The proposal repeatedly characterizes peer review as advisory while introducing requirements that awards align with evolving Executive Branch priorities and undergo review by senior political officials.

Political leadership has a legitimate role in establishing broad policy priorities.

However, scientific merit and political preference serve different purposes.

Peer review evaluates:

- technical rigor;
- feasibility;

- innovation;
- validity of methods;
- qualifications of investigators.

Political review evaluates:

- policy priorities;
- administrative objectives;
- political considerations.

The two processes are not interchangeable.

When political review gains the ability to override technical judgments, there is a risk that funding decisions become increasingly influenced by factors unrelated to scientific merit.

The greatest danger is not necessarily that poor projects will be funded.

Rather, it is that highly meritorious projects may not be funded—or may be terminated—because they are perceived as politically inconvenient or insufficiently aligned with evolving priorities. In the long-run, there will be increasing incentives for scientists and engineers to move away from research, perhaps to other countries, to other career paths, or to early retirement.  There will be increasing incentives for students to migrate away from politicized research structures.  Both of these factors would lead to reductions in the nation's scientific and technical capacities, with adverse implications for economic development and national security.

Such a system risks weakening the quality, diversity, and long-term value of federally supported research and of the national research enterprise and its workforce, capabilities, and capacities.

### 9.3 The Rule Creates Incentives for Self-Censorship

Perhaps the most important practical consequence of the proposed rule is not what it expressly prohibits, but how it is likely to influence behavior.

Researchers or potential researchers routinely make decisions regarding:

- research questions;
- data collection;
- collaborations;
- publications;
- conference participation;
- proposal development.
- whether to enter a scientific or engineering field

- whether to stay in a scientific or engineering field

Most of these decisions occur long before any funding determination is made.

If researchers believe that funding decisions may be revisited based upon evolving political priorities, many will rationally adjust their behavior to avoid perceived risk.

This phenomenon is often described as a "chilling effect."

Researchers may choose not to:

- pursue controversial topics;
- investigate politically sensitive questions;
- collaborate with certain partners;
- collect potentially sensitive data;
- publish findings that may be politically unpopular.

Furthermore, people who might otherwise have become researchers will be dissuaded from preparing for or entering the research workforce.

Importantly, such outcomes can occur even in the absence of explicit directives.

A system does not need to prohibit a line of inquiry to discourage it.

Uncertainty alone can have powerful effects on behavior.

Because the proposed rule creates new layers of political review and expands discretionary authority to revisit existing awards, the potential for self-censorship is both foreseeable and significant.

### 9.4 Scientific Innovation Requires Intellectual Risk-Taking

Many transformative scientific discoveries initially appeared uncertain, controversial, or outside prevailing intellectual frameworks.

Scientific progress depends upon a willingness to:

- challenge assumptions;
- investigate unexpected results;
- pursue unconventional ideas;
- explore emerging fields.

Systems that reward conformity over inquiry tend to be less innovative than systems that encourage rigorous independent investigation.

The proposed rule creates incentives that may favor perceived political safety over scientific creativity.

Researchers attempting to anticipate future political review may become less willing to pursue projects that involve uncertainty, complexity, or controversial findings.

Over time, this dynamic can narrow the range of ideas explored by the research community.

Such effects may not be immediately visible, but they can substantially reduce scientific innovation over the long term.

### 9.5 The Rule Weakens Traditional Safeguards of Scientific Integrity

The modern federal research enterprise includes numerous safeguards designed to ensure that scientific decisions are based on evidence rather than ideology.

These safeguards include:

- independent peer review;
- conflict-of-interest management;
- publication requirements;
- scientific integrity policies;
- open dissemination of results;
- professional program management.

The proposed rule reduces their practical influence by expanding the role of discretionary political review throughout the award lifecycle.

This distinction is important.

Scientific integrity systems remain meaningful only to the extent that scientific judgments are influential in decision making.

When technical recommendations can be routinely superseded by political considerations, the protective value of those systems diminishes.

### 9.6 Risks to Career Expertise and Institutional Capacity

The federal research enterprise depends heavily upon professional expertise possessed by career personnel.

Program managers, grants specialists, scientific review officers, and technical experts collectively provide institutional knowledge that cannot be easily replaced.

Many of these individuals devote decades to understanding:

- research fields;
- grant administration;
- scientific quality assurance;

- conflict-of-interest management;
- program implementation.

A governance model that concentrates authority in political offices may unintentionally reduce the influence of this expertise.

Such systems create incentives for career personnel to place greater emphasis on anticipating political preferences and less emphasis on exercising independent technical judgment.

Over time, this can erode institutional capacity and weaken the effectiveness of federal programs.

### 9.7 Historical Lessons Regarding Politicized Science

History provides numerous examples in which political authorities attempted to direct scientific inquiry toward preferred conclusions or prohibit lines of investigation viewed as politically undesirable.

While the specific circumstances varied dramatically, these examples share common characteristics:

- political priorities superseded technical expertise;
- dissenting viewpoints became disadvantaged;
- scientific quality deteriorated;
- innovation slowed;
- public trust declined.

The lesson is not that political leaders should have no role in science policy.

Rather, the lesson is that durable scientific institutions require clear boundaries between legitimate policy oversight and direct political control of scientific inquiry.

The proposed rule raises concerns because it shifts those boundaries in a manner that concentrates authority while weakening traditional safeguards.

### 9.8 National Competitiveness Implications

The United States competes globally not only through financial investment, but through the openness, independence, and credibility of its scientific institutions.

The nation's research enterprise has long attracted talent from around the world because investigators generally expect that:

- proposals will be evaluated on merit;
- research may challenge prevailing assumptions;
- findings may be published regardless of political convenience;

- scientific conclusions will be evaluated through evidence and peer review.

These institutional characteristics are strategic assets.

Policies that undermine perceptions of scientific independence may create long-term disadvantages for recruitment, retention, collaboration, innovation, and economic competitiveness.

The risk is not merely academic.

The ability of the United States to remain a global leader in science and technology depends upon preserving a system in which empirical evidence retains primacy over political preference.

### 9.9 Certain Features of the Proposed Rule More Closely Resemble Politically Directed Scientific Systems Such as Those Used by the Chinese Communist Party Than the Traditional American Research Model

One of the most significant concerns raised by the proposed rule is that several of its core operational mechanisms resemble governance features commonly associated with state-directed scientific systems, including those employed by the Chinese Communist Party ("CCP"), rather than the traditional American model of merit-based, investigator-driven research.

The proposed rule adopts several mechanisms that have historically distinguished politically controlled scientific systems from independent scientific systems.

Under the traditional American model, Congress appropriates funds, agencies establish programs, independent experts evaluate scientific merit, career officials administer programs, and researchers are generally free to pursue evidence wherever it leads. Political leaders establish broad priorities, but scientific merit remains the principal determinant of funding decisions.

The proposed rule weakens that model in several respects.

First, the rule expressly subjects awards to review by senior political appointees and requires alignment with presidential priorities. Peer review is reduced to an advisory role. This changes the role of peer review from a primary decision-making mechanism to a consultative input that may be overridden by political considerations.

Second, the rule expands the ability of political leadership to terminate, suspend, or otherwise interfere with active awards based upon evolving agency priorities or determinations of the "national interest." This transforms grants from relatively stable assistance instruments into funding arrangements that remain continuously vulnerable to political reassessment.

Third, the rule creates incentives for researchers and institutions to anticipate political preferences when selecting research topics, framing proposals, selecting collaborators, and disseminating results. Such incentives promote self-censorship even in the absence of explicit prohibitions.

These mechanisms closely resemble operational characteristics found in politically directed scientific systems. The defining characteristic is that political priorities ultimately supersede scientific judgment whenever the two conflict.

The United States historically has rejected that model. Since World War II, federal research policy has generally been based on the premise that government should fund science while allowing scientific merit and empirical evidence to guide scientific outcomes. This principle is reflected throughout the postwar federal science framework, including the concepts articulated in *Science, the Endless Frontier*, the creation of the National Science Foundation, the widespread use of independent peer review, and the development of robust scientific-integrity policies.

Viewed collectively, the proposed rule moves the federal assistance system away from that longstanding model and toward one in which political officials exercise substantially greater control over both funding decisions and ongoing scientific activity.

For future litigants, policymakers, and the public, the critical issue is whether the federal government should embrace governance mechanisms that resemble those used by political systems where scientific inquiry is expected to conform to state priorities. The proposed rule moves materially in that direction, and OMB has not meaningfully analyzed the consequences of doing so.

### 9.10 Conclusion

Viewed collectively, the proposed rule represents more than a set of administrative revisions.

It shifts authority away from longstanding mechanisms of expert evaluation and toward mechanisms characterized by greater political discretion. It creates conditions that could encourage self-censorship, discourage intellectual risk-taking, weaken the practical influence of peer review, and reduce confidence in the independence of federally funded research.

OMB has not adequately analyzed these consequences.

Because scientific independence and scientific integrity are foundational to the effectiveness of the federal research enterprise, the failure to evaluate these impacts constitutes a significant omission in the rulemaking record and further contributes to the rule's vulnerability under the Administrative Procedure Act.

# 10.0 Transformation of Federal Assistance into Procurement-Like Instruments

## 10.1 The Proposed Rule Blurs the Historic Distinction Between Assistance and Procurement

One of the most consequential but least discussed aspects of the proposed rule is its movement away from the traditional legal and operational framework governing federal assistance and toward a framework that increasingly resembles federal procurement.

Historically, Congress and federal agencies have distinguished between:

- **Procurement contracts**, through which the federal government acquires goods or services for the direct benefit or use of the government; and
- **Grants and cooperative agreements**, through which the federal government supports or stimulates activities undertaken by recipients in furtherance of public purposes established by statute.

This distinction has long been reflected in federal law, regulation, administrative practice, and judicial treatment of federal awards.

Under the traditional assistance model, recipients are not vendors performing work for the government's immediate benefit. Rather, they are partners advancing broader public purposes enacted by Congress. Research grants exemplify this distinction. The federal government funds research because Congress has determined that advancing scientific knowledge serves the national interest, not because agencies are purchasing specific scientific conclusions or predetermined outcomes.

The proposed rule erodes this distinction.

## 10.2 The Traditional Assistance Relationship Preserves Investigator Independence

My own experience leading and overseeing federally supported research programs reinforces the longstanding distinction between assistance and procurement.

During my service with EPA's Office of Research and Development, the Science to Achieve Results (STAR) program operated on a foundational principle that the funded research would be conducted independently by the investigator. Although EPA identified research topics relevant to agency missions and programmatic needs, the agency did not direct the conduct of the scientific work, dictate scientific conclusions, or otherwise manage funded projects as though they were contractors performing work for hire.

Independent peer review was used to identify scientifically meritorious proposals. Once awards were made, principal investigators retained responsibility for designing and conducting the research, interpreting results, and communicating findings.

This distinction was viewed as fundamental to the integrity of the program. The purpose of the grant was not to purchase predetermined outcomes or conclusions. Rather, it was to support scientific inquiry that would generate new knowledge relevant to public purposes established by Congress.

Even where assistance instruments were structured as cooperative agreements, the same underlying principle generally applied. Cooperative agreements allowed for greater federal involvement, but that involvement was not equivalent to procurement oversight. The federal agency could contribute expertise, data, coordination, technical resources, or other forms of participation, yet the project remained led by the principal investigator and conducted as an independent research endeavor.

The proposed rule moves away from this longstanding conception of federal assistance. By expanding political review, permitting continuing reassessment of awards against evolving Executive Branch priorities, and increasing discretionary termination authority, the proposal risks transforming independent research awards into instruments that function more like procurement contracts. The distinction is important because procurement mechanisms are designed to obtain specified outcomes for the government's direct benefit, whereas assistance mechanisms are designed to support independent activities conducted in furtherance of broader public purposes.

Historically, programs such as STAR were successful precisely because they preserved this distinction. Investigators were expected to pursue evidence wherever it led, even when findings challenged assumptions or differed from agency expectations. That independence was not a defect in the assistance model; it was one of its principal strengths.

The proposed rule does not merely change grant administration. It changes the theory of what a federal grant is.

### 10.3 Expanded Termination Authorities Resemble Procurement Concepts

A defining feature of federal procurement law is the concept of **termination for convenience**, under which the government may discontinue contractual relationships when it determines that continued performance no longer serves governmental objectives.

The proposed rule introduces governance mechanisms that increasingly resemble this procurement model.

Under the proposal, agencies may suspend or terminate awards based upon evolving assessments of:

- agency priorities;
- administration priorities;
- national interest considerations;
- changing policy objectives.

The practical effect is that recipients may remain subject to ongoing reassessment throughout the life of the award.

This differs substantially from traditional assistance practices, under which:

- awards are competed according to published criteria;
- recipients invest resources in reliance upon awarded terms;
- projects proceed unless performance, compliance, or statutory concerns arise.

The proposal introduces a substantially more discretionary framework in which continuing political support becomes increasingly important to award survival.

Functionally, this resembles a procurement relationship more than a traditional assistance relationship.

### 10.4 Ongoing Political Reassessment Is Inconsistent with the Traditional Assistance Model

The traditional federal assistance framework is largely prospective.

- Congress establishes program authorities.
- Agencies announce funding opportunities.
- Applicants compete according to known criteria.
- Awards are made.
- Projects are then executed according to agreed terms and conditions.

When administrations change, they typically influence future awards through:

- future budgets;
- future notices of funding opportunity;
- future competitions;
- future strategic plans.

The proposed rule moves toward a different model in which existing awards remain vulnerable to continuing reassessment against evolving Executive Branch priorities.

This distinction is critical.

In a procurement relationship, continuous reassessment may be appropriate because contractors are performing work directly for the government's immediate benefit.

In an assistance relationship, however, stability is essential because recipients are pursuing longer-term public purposes that often require years of investment, workforce development, infrastructure acquisition, and scientific inquiry.

The rule therefore represents a fundamental shift from:

*prospective governance of future activities*

to

*retrospective governance of ongoing activities.*

OMB does not adequately acknowledge this shift or assess its implications or consider alternatives.

### 10.5 Assistance Awards Are Not Purchases of Ideological Compliance

Another characteristic of procurement relationships is that the government may define the work to be performed and establish detailed performance expectations.

Research assistance agreements operate differently. Scientific research frequently produces unexpected findings. Indeed, discovering outcomes that differ from expectations is often a hallmark of successful scientific investigation. The federal government does not traditionally fund research to obtain a preferred conclusion. Rather, it funds research to discover what the evidence reveals.

Several provisions of the proposed rule risk replacing this principle with one that more closely resembles a procurement relationship in which continued funding depends upon alignment with evolving political preferences.

The concern is not merely that some projects may be cancelled.

The concern is that investigators may increasingly perceive that support depends upon producing work that remains politically acceptable throughout the life of the award.

Such a perception fundamentally changes the relationship between government and recipient.

Research grants become less a means of supporting independent inquiry and more a mechanism for securing compliance with evolving policy preferences.

### 10.6 Practical Consequences for the Research Enterprise

The transformation of assistance into a procurement-like model has significant operational consequences.

Recipients facing increased uncertainty are likely to:

- shorten project horizons;
- reduce investment in infrastructure;
- avoid high-risk scientific questions;
- reduce hiring commitments;
- limit long-term collaborations;
- avoid projects vulnerable to political reevaluation.
- consider moving to other countries for doing their work, leave the field, or retire early.

These responses are rational.

Institutions adapt to incentives.

A system characterized by continuing uncertainty naturally produces more cautious behavior than one characterized by stability and predictability.

The result is likely to be a reduction in the type of ambitious, long-term, and transformative research that federal assistance programs were designed to encourage.

### 10.7 Implications for Reliance Interests

The procurement-like features of the proposed rule are especially significant because they conflict with reliance interests that have developed over many decades.

Universities, nonprofit organizations, state governments, local governments, and research institutions have built systems around the assumption that federal assistance operates differently from procurement.

Those systems include:

- graduate education programs;
- postdoctoral training programs;
- research centers;
- laboratory infrastructure;
- multi-year collaborations;
- public-private partnerships.

These investments depend upon the expectation that a properly awarded grant possesses a meaningful degree of stability.

The proposed rule does not adequately evaluate how its movement toward a more discretionary and procurement-like model affects these longstanding reliance interests.

### 10.8 Potential Legal Implications

The transformation of assistance relationships into procurement-like relationships raises several legal questions that deserve careful examination.

First, the proposal may exceed the traditional scope of OMB's authority to establish uniform administrative requirements for federal financial assistance by effectively altering the nature of the assistance relationship itself.

Second, the proposal raises reliance-interest concerns under *Fox*, *Encino Motorcars*, and *Regents* because it departs from longstanding assumptions regarding award stability without adequately evaluating the consequences of that departure.

Third, the proposal raises questions regarding whether OMB has adequately justified a fundamental restructuring of the federal assistance framework and whether Congress has clearly authorized such changes.

Finally, to the extent that the rule effectively subjects recipients to continuing policy-based reassessment throughout the life of an award, it may alter the expectations regarding judicial review, administrative remedies, and the legal character of federal assistance relationships in ways that have not been adequately analyzed.

### 10.9 Conclusion

The proposed rule is presented as an update to administrative requirements governing federal financial assistance. Operationally, however, many of its provisions move the assistance system toward a model that increasingly resembles federal procurement.

Expanded termination authorities, continuing political review, evolving priority-based decision making, and increased discretionary intervention all point in the same direction: transforming federal assistance from a relatively stable partnership supporting public purposes into a relationship characterized by continuing political supervision and conditional continuation.

OMB has not adequately acknowledged, analyzed, or justified this transformation.

Because it alters fundamental assumptions underlying the federal assistance system, this shift constitutes one of the most significant—and legally vulnerable—aspects of the proposed rule.

At no point in my experience managing federal research programs did we regard independent research grants as procurements through which recipients were expected to continually demonstrate alignment with changing political priorities after award. Grants were intended to support inquiry into questions identified through the competition process, not to purchase predetermined outcomes.

## 11.0 The Federal Research Compact and the Departure from the Postwar Research Model

### 11.1 The Proposed Rule Should Be Evaluated as a Change to the Federal Research System, Not Merely as a Revision to Grant Administration

The proposed rule is presented as a revision to the requirements governing federal financial assistance. However, its practical significance extends far beyond grants administration.

Many individual provisions may appear administrative when viewed in isolation. Collectively, however, they alter fundamental features of the system through which the United States has supported scientific and technological advancement since World War II.

The proposal therefore should be evaluated not merely as a financial management rule, but as a proposed restructuring of the federal research enterprise.

This broader perspective is important because the success of the American research system has not been the result of any single policy. Rather, it has emerged from a long-standing institutional framework that balances federal support, academic independence, scientific merit review, infrastructure investment, dissemination of knowledge, and workforce development.

The proposed rule departs from multiple elements of that framework simultaneously.

### 11.2 The Postwar Federal Research Compact

Since World War II, federal research policy has largely operated according to principles articulated in Vannevar Bush's 1945 report, *Science, The Endless Frontier*.

The postwar research compact described here is not merely an academic concept derived from *Science, The Endless Frontier*. Its core principles have been repeatedly incorporated into federal law. Congress institutionalized these principles through enactment of the National Science Foundation Act of 1950, which expressly authorized federal support for basic research, scientific education, graduate fellowships, scientific information exchange, and independent research. Subsequent statutes—including the Bayh-Dole Act, Stevenson-Wydler Technology Innovation Act, America COMPETES legislation, the CHIPS and Science Act, and numerous agency-specific research authorities—have reinforced a common framework built upon federal support for research, merit-based evaluation, workforce development, dissemination of knowledge, technology transfer, and long-term national scientific capacity. The proposed rule should therefore be evaluated not only against administrative practice, but also against a body of congressional enactments that have repeatedly reaffirmed these foundational principles over the course of approximately eighty years

While the details have evolved, the central framework has remained remarkably durable. At its core, the federal government and the research community have operated under an implicit compact:

- The federal government provides financial support for research infrastructure and research in service of national needs and public purposes.
- Universities, research institutions, and other recipients invest in people, facilities, and organizational capabilities. The investment in facilities is supported by the federal government.
- Scientific merit review helps allocate resources to the most promising ideas.
- Researchers conduct their work independently and communicate the results openly.
- The nation benefits from new knowledge, innovation, workforce development, economic growth, and improved public welfare.

This framework has helped produce extraordinary advances in science and technology across multiple generations.

The success of the American research enterprise has therefore depended not merely upon funding, but upon the institutions, incentives, and norms associated with this broader compact.

### 11.3 The Proposed Rule Alters Every Major Element of This Compact

A notable feature of the proposal is that it does not challenge only one component of the traditional system.

Instead, it alters multiple components simultaneously.

**Federal Support Becomes Less Predictable**

Historically, grants and cooperative agreements have been awarded through competitive processes and generally have remained stable once awarded, subject to performance and compliance requirements.

The proposed expansion of termination authority, political review, and continuing evaluation against evolving priorities introduces substantially greater uncertainty regarding the durability of awards.

As discussed elsewhere in these comments, this moves the system away from prospective governance and toward retrospective governance.

The result is a reduction in the predictability upon which the federal research enterprise has historically depended.

**Merit Review Is Subordinated to Political Review**

The traditional compact assumes that scientific merit serves as the principal basis for determining which research receives support.

The proposed rule retains peer review but reduces its practical authority by introducing expanded political review and by explicitly subordinating funding decisions to evolving Executive Branch priorities.

This represents a departure from the longstanding norm that scientific questions should be evaluated principally through scientific expertise.

**Independent Scientific Inquiry Becomes More Constrained**

Historically, the federal government has funded research without requiring investigators to produce predetermined conclusions.

The value of scientific research lies precisely in its ability to discover outcomes that may differ from expectations.

Several provisions of the proposed rule create new incentives for investigators to align their activities with evolving political priorities and to avoid topics that may be perceived as controversial or disfavored.

The resulting chilling effects are inconsistent with the traditional understanding that federally supported research should be conducted independently and evaluated on the basis of evidence.

### 11.4 The Proposal Undermines the Infrastructure Component of the Research Compact

An often-overlooked feature of the postwar research model is that federal funding and university infrastructure investments have always been interdependent.

Federal agencies generally do not own the laboratories, facilities, data systems, computing infrastructure, and administrative capabilities needed to conduct much of the nation's research.

Instead, universities and research institutions make these investments.

The federal government supports this infrastructure indirectly through negotiated facilities and administrative ("F&A") cost recovery.

This arrangement is not an accidental feature of the system.

It is a central mechanism through which the United States has built and maintained one of the world's most productive research enterprises.

The proposed preference for lower indirect cost rates implicitly challenges this model.

Institutions that invest heavily in advanced research infrastructure inevitably incur costs associated with maintaining that infrastructure.

Favoring lower indirect cost rates risks penalizing precisely those institutions that have made the largest investments in national research capacity.

The proposal does not adequately explain why this departure from longstanding practice is warranted or evaluate its likely impacts on future infrastructure investment.

### 11.5 The Proposal Weakens Knowledge Dissemination

The postwar research compact does not end when a project generates findings.

The value of scientific research depends upon the dissemination of those findings.

Publication, conferences, workshops, professional societies, technical standards organizations, and other scholarly activities are not peripheral to the research process. They are central components of how knowledge is evaluated, refined, and applied.

The proposed restrictions affecting publication costs, conference participation, and related activities therefore have implications that extend far beyond cost accounting.

They affect the mechanisms through which federally funded knowledge becomes available to:

- other researchers;
- industry;
- policymakers;
- practitioners;
- educators;
- the public.

A system that supports research while simultaneously restricting dissemination weakens one of the principal pathways through which public benefits are realized.

### 11.6 The Proposal Weakens Collaboration

Scientific and technological progress increasingly depends upon collaboration across:

- institutions;
- disciplines;
- sectors;
- nations.

Many of the most significant scientific advances of the last several decades have emerged from networks of collaborators rather than isolated investigators.

The proposed restrictions on international collaboration, memberships, conferences, and related activities diminish the ability of researchers to participate fully in these networks.

The issue is not merely one of convenience.

Collaboration is a mechanism through which ideas are tested, methods are improved, results are validated, and innovations emerge.

The proposal therefore affects a core component of modern scientific practice.

### 11.7 The Proposal Weakens the Workforce Development Mission of Federal Research

The postwar research compact has always involved a dual purpose.

Federal research funding supports both:

1. the production of knowledge; and
2. the development of people.

Graduate students, postdoctoral researchers, research staff, and early-career investigators constitute the workforce pipeline that sustains scientific and technological leadership.

My own graduate education was made possible through federally funded research assistantships, and I have subsequently supported more than fifty graduate students through federally funded projects.

This pattern is repeated across universities throughout the nation.

The proposed rule does not adequately evaluate how increased uncertainty regarding funding continuity, expanded termination authority, restrictions on dissemination, and restrictions on collaboration may affect recruitment and retention of future scientific talent.

Nor does it sufficiently consider international competition for that talent.

If students perceive research careers as increasingly unstable, the resulting losses may not be visible immediately but may be felt for decades.

### 11.8 Cumulative Effects on the Federal Research Compact

The most significant concern raised by the proposed rule is not any one provision.

Rather, it is the cumulative effect of multiple provisions operating simultaneously.

Viewed collectively, the proposal:

- weakens funding stability;
- weakens reliance on scientific merit review;
- weakens infrastructure incentives;
- weakens dissemination;
- weakens collaboration;
- weakens workforce development;
- expands political discretion throughout the research lifecycle.

Each of these changes affects a different component of the traditional federal research compact.

Taken together, they represent a fundamental departure from the system that has guided American science and technology policy for approximately eighty years.

### 11.9 Conclusion

The proposed rule is frequently described as an administrative reform. In substance, however, it represents a challenge to the foundational assumptions that have governed federal support for science and technology since the postwar period.

For decades, the federal government, universities, scientific societies, researchers, students, and research institutions have invested in a system built upon stable federal support, independent scientific inquiry, merit review, infrastructure investment, broad dissemination of knowledge, and workforce development.

These principles are not merely historical norms derived from Science, The Endless Frontier. They have been repeatedly incorporated into federal law. Congress institutionalized many of these principles through the National Science Foundation Act of 1950 and subsequently reinforced them through legislation supporting federal research, scientific workforce development, technology transfer, dissemination of knowledge, and long-term national scientific capacity. These enactments reflect a sustained congressional commitment to a research system based upon scientific merit, investigator independence, broad participation, workforce development, and public benefit.

The proposed rule departs from each of these principles in meaningful ways.

OMB has not sufficiently acknowledged the extent of this departure, nor has it adequately evaluated the consequences of altering multiple elements of the federal research compact simultaneously.

Nor has OMB adequately explained how such a substantial restructuring of federal research governance is consistent with the framework that Congress has repeatedly established and reaffirmed over approximately eighty years. The proposal therefore raises questions not only regarding policy wisdom, but also regarding congressional design, statutory authority, and the extent to which OMB may fundamentally alter institutional arrangements that Congress has repeatedly endorsed.

As a result, the proposal represents not merely a revision to grant administration, but a substantial and inadequately justified restructuring of the institutional framework that has underpinned American scientific leadership for generations.

## 12.0 Workforce Development, Human Capital Formation, and National Capacity

### 12.1 Federal Research Funding Is Also a Workforce Development System

A significant omission in the proposed rule is the failure to evaluate the role of federal financial assistance in developing the nation's scientific, engineering, technical, and professional workforce.

Throughout the proposal, grants and cooperative agreements are largely discussed as mechanisms for advancing programmatic objectives or supporting specific projects. This overlooks a fundamental reality of the federal research enterprise: Federal research funding is simultaneously a knowledge-generation system and a human-capital development system.

For decades, the United States has relied upon research funding not only to produce discoveries, but also to educate, train, mentor, and develop future generations of scientists, engineers, physicians, public-health professionals, entrepreneurs, and technical leaders.

The workforce-development function of federal research funding is not merely an incidental byproduct of the research enterprise. Congress has repeatedly recognized and reinforced this role through federal law. The National Science Foundation Act of 1950 explicitly authorizes support for scientific research, graduate fellowships, scholarships, science education, and strengthening scientific and engineering capacity. Subsequent legislation, including the America COMPETES Acts and the CHIPS and Science Act, likewise reflects congressional recognition that federal research investments serve not only to generate knowledge but also to develop the workforce needed to sustain American scientific, engineering, technological, and economic leadership. These statutes embody a longstanding congressional judgment that workforce development is a core purpose—not a secondary consequence—of federal research support.

The federal research enterprise therefore serves a dual purpose:

1. advancing knowledge and innovation; and
2. developing the workforce that will sustain future innovation.

The proposed rule gives considerable attention to the first objective but very little to no attention to the second.

### 12.2 The Research Workforce Pipeline Begins Long Before a Grant Produces Results

The workforce effects of federal assistance extend throughout a continuum of professional development.

Federal awards commonly support:

- undergraduate researchers;

- Research Experiences for Undergraduates (REU) participants;
- Research Experiences for Teachers (RET) participants;
- graduate research assistants;
- postdoctoral researchers;
- junior faculty members;
- early-career investigators;
- technical staff;
- research scientists.

Each stage represents an investment in future national capacity.

A student participating in an undergraduate research experience today may become a graduate student, faculty member, government scientist, industry researcher, entrepreneur, or senior technical leader years later.

Similarly, a graduate student supported by a federal research grant is not simply labor supporting a project.

That individual is simultaneously receiving advanced education, technical training, mentoring, professional development, and research experience that will generate benefits throughout an entire career.

The proposed rule largely fails to evaluate these long-term workforce effects.

### 12.3 My Own Career Illustrates the Workforce Function of Federal Research Funding

My ability to pursue graduate education was made possible through research assistantships supported by federal funding.

Without those opportunities, I would not have earned advanced degrees or subsequently participated in the scientific, engineering, educational, and public-service activities that have defined my career.

Over more than three decades as a university faculty member, I have in turn supported and mentored more than fifty master's and doctoral students, the vast majority through federally funded research projects.

Many of those individuals have gone on to careers in:

- academia;
- industry;
- consulting;
- government;
- nonprofit organizations.

This pattern is not unique to my experience.

It is repeated throughout the United States thousands of times each year.

Federal research support functions as an intergenerational investment mechanism through which one generation of scientists and engineers helps develop the next.

The proposed rule does not adequately consider how increased uncertainty, expanded termination authority, or restrictions on research activities may affect this process.

### 12.4 Workforce Development Depends on Stability and Predictability

Workforce development requires long planning horizons. A doctoral student commonly requires several years to complete a research program. Postdoctoral appointments frequently last multiple years. Junior faculty often spend many years establishing independent research programs. Institutions recruit students and researchers based on expectations regarding available opportunities and funding continuity.

The proposed rule introduces substantial uncertainty into this system by expanding opportunities for discretionary review, suspension, and termination of awards.

One consequence of uncertainty is often overlooked: The first effect of instability is not cancellation. It is deterrence.

- Students may decide not to pursue graduate study.
- Postdoctoral researchers may decide not to remain in research careers.
- Junior faculty may become less willing to pursue ambitious or innovative projects.
- Institutions may become less willing to make long-term commitments.

These decisions occur long before any grant is actually terminated. They arise from uncertainty itself. OMB does not adequately evaluate these effects.

### 12.5 Workforce Effects Extend Beyond Universities

Federal research funding supports workforce development throughout the broader economy.

Researchers trained through federally funded programs ultimately contribute to:

- private-sector innovation;
- technology development;
- manufacturing;
- environmental protection;
- healthcare;
- energy systems;
- national defense;

- entrepreneurship.

Many major industries benefit directly or indirectly from personnel whose training was made possible through federally supported research. Consequently, workforce impacts should not be viewed as concerns limited to higher education institutions. They are national economic concerns.

The proposal fails to evaluate how changes that reduce participation in research careers may affect long-term economic productivity and competitiveness.

### 12.6 International Competition for Talent Must Be Considered

The United States does not develop scientific talent in isolation.

Universities, industries, and governments around the world compete for highly skilled students, researchers, and technical professionals.

Historically, the United States has enjoyed significant advantages because it has offered:

- strong research institutions;
- stable funding systems;
- intellectual freedom;
- robust opportunities for professional development;
- globally recognized research programs.

The proposed rule risks weakening several of these advantages.

Researchers considering educational and career opportunities often evaluate:

- funding stability;
- research independence;
- opportunities for collaboration;
- ability to publish and disseminate work;
- long-term career prospects.

To the extent that the rule introduces uncertainty regarding these factors, it may reduce the attractiveness of U.S. research careers and institutions.

Such effects would have implications extending far beyond individual grants or individual universities.

### 12.7 Recent Experience Demonstrates That Workforce Responses to Funding Instability Are Not Hypothetical

The workforce concerns described in these comments should not be viewed as purely speculative or hypothetical.

Since January 2025, the federal research community has experienced substantial uncertainty associated with grant terminations, grant suspensions, delayed funding decisions, canceled competitions, changing agency priorities, workforce reductions, organizational restructuring initiatives, and other disruptions affecting federal research programs.

During this period, universities, research institutions, professional societies, and scientific organizations have reported concerns regarding:

- recruitment and retention of research personnel;
- continuity of graduate student support;
- retention of postdoctoral researchers;
- uncertainty regarding long-term research careers;
- movement of researchers toward private-sector opportunities;
- interest in research opportunities outside the United States;
- retirement decisions by senior investigators.

Importantly, these effects have emerged even though many researchers have not personally experienced grant termination. The relevant mechanism is uncertainty itself.

Researchers routinely make forward-looking career decisions based upon expectations regarding funding stability, institutional support, research independence, and long-term professional opportunities. When those expectations deteriorate, workforce responses occur before formal administrative actions affect large numbers of individuals.

The proposed rule should therefore be evaluated against the backdrop of recent real-world experience. The federal research community has already been exposed to a natural experiment demonstrating how uncertainty regarding federal support can influence researcher behavior, institutional planning, and workforce decisions.

The proposal would institutionalize and expand several of the mechanisms that contributed to those concerns, including increased uncertainty, greater opportunities for retrospective intervention, expanded discretion, and increased sensitivity of research activities to evolving political priorities.

Accordingly, the workforce impacts discussed throughout these comments are not merely theoretical forecasts. They are foreseeable extensions of behavioral responses that have already begun to emerge under conditions of funding instability and uncertainty.

### 12.8 National Security and Strategic Capacity Considerations

Workforce development is not merely an educational issue. It is also a matter of national security and strategic capacity. Federal agencies routinely identify workforce shortages in areas such as:

- engineering;
- cybersecurity;
- artificial intelligence;
- energy systems;
- environmental science;
- advanced manufacturing;
- public health;
- data science.

Federal research funding is one of the primary mechanisms through which expertise in these areas is developed.

A policy framework that discourages participation in research careers or reduces confidence in the stability of the research enterprise may inadvertently weaken national capabilities in precisely the areas that federal policy seeks to strengthen.

OMB does not appear to have assessed these consequences.

### 12.9 Human Capital Is One of the Most Important Outputs of Federal Research Funding

Perhaps the most significant analytical omission in the proposed rule is the implicit assumption that the outputs of federal research consist primarily of publications, patents, datasets, technologies, or other tangible deliverables. In reality, one of the most valuable outputs of federally funded research is people.

- Every research project serves simultaneously as a training environment.
- Every graduate assistantship creates new expertise.
- Every postdoctoral appointment develops future leadership capacity.
- Every successful early-career investigator represents a long-term investment in the nation's scientific infrastructure.

The federal research system has been extraordinarily successful because it produces both discoveries and people.

The proposed rule evaluates the former while giving insufficient attention to the latter.

### 12.10 Conclusion

The proposed rule does not adequately consider the role of federal financial assistance as a workforce-development system and a driver of national human-capital formation.

The effects of expanded political discretion, increased funding uncertainty, restrictions on collaboration and dissemination, and the weakening of long-standing institutional practices will not be limited to research outputs. They will also influence career decisions, educational choices, workforce participation, and the long-term capacity of the United States to sustain scientific, engineering, and technological leadership.

These concerns are particularly significant because workforce development is not merely an indirect consequence of federal research funding. It is a purpose repeatedly recognized and reinforced by Congress. Through the National Science Foundation Act of 1950, federal fellowship and training authorities, the America COMPETES Acts, the CHIPS and Science Act, and numerous agency-specific research statutes, Congress has consistently treated development of scientific and engineering talent as a national objective of federal research investment. Federal research funding is therefore intended not merely to produce discoveries, but also to produce the people who will generate future discoveries.

Recent experience also demonstrates that workforce responses to instability are not merely hypothetical. Since January 2025, disruptions affecting portions of the federal research enterprise have been accompanied by widespread concerns regarding researcher retention, graduate student recruitment, postdoctoral career choices, early retirement, movement to private-sector employment, and interest in opportunities outside the United States. While the magnitude of these effects will require future evaluation, they illustrate an important point: researchers, students, institutions, and employers respond to uncertainty long before long-term trends become visible in aggregate workforce statistics.

The proposed rule should therefore be evaluated not only for its direct effects on grants administration, but also for its foreseeable effects on workforce confidence, career decisions, recruitment, retention, succession planning, and the attractiveness of research careers. These impacts are directly relevant to national competitiveness, technological leadership, economic growth, and national security.

Because these workforce impacts are foreseeable, economically significant, and directly connected to purposes repeatedly recognized by Congress, OMB's failure to meaningfully evaluate them constitutes an important omission in the rulemaking record. This omission further contributes to concerns regarding the adequacy of the agency's analysis under the Administrative Procedure Act and raises questions regarding whether the proposal is consistent with longstanding congressional approaches to developing national scientific and engineering capacity.

# 13.0 Loss of Scientific Talent, International Competitiveness, and the Risk of Brain Drain

## 13.1 Federal Research Policy Competes in a Global Market for Talent

The proposed rule largely evaluates federal financial assistance as though the United States operates in isolation. In reality, scientific and technical talent exists within a highly competitive global marketplace.

Universities, research institutes, governments, and private-sector organizations throughout the world actively compete for:

- leading investigators;
- early-career faculty;
- postdoctoral researchers;
- graduate students;
- technical specialists;
- entrepreneurs and innovators.

Historically, the United States has been extraordinarily successful in this competition. That success has depended not only on the availability of funding, but also on the perception that the United States offers:

- scientific independence;
- merit-based evaluation;
- predictable funding systems;
- strong research infrastructure;
- freedom of inquiry;
- opportunities for collaboration;
- stable institutions.

The proposed rule threatens several of these advantages simultaneously.

## 13.2 Scientific Talent Is Highly Mobile

Unlike physical infrastructure, scientific expertise can relocate.

Laboratories, data systems, and instrumentation may be tied to specific locations, but highly trained scientists, engineers, and scholars often possess opportunities to work in multiple countries.

As discussed elsewhere in these comments, the proposed rule introduces uncertainty through:

- expanded political review;
- increased termination authority;
- reputational-risk provisions;
- restrictions affecting publication and collaboration;
- reduced reliance on independent peer-review systems.

Collectively, these changes may alter perceptions regarding the attractiveness of the United States as a place to build a scientific career.

The relevant question is not whether every researcher will leave. *The relevant question is whether enough researchers decide not to come, not to stay, or not to return*.

Even modest shifts in such decisions can have substantial long-term consequences.

### 13.3 Faculty Recruitment and Retention Are Sensitive to Research Independence

As a university administrator and long-time faculty member, I am aware of concerns within the academic community regarding the stability and independence of the federal research enterprise.

Faculty recruitment frequently involves international competition. Leading researchers often receive opportunities from institutions located in multiple countries. Historically, U.S. institutions have been highly competitive because investigators could reasonably expect that:

- research would be evaluated on merit;
- funding systems would remain relatively predictable;
- findings could be disseminated openly;
- political considerations would not routinely override scientific judgment.

The proposed rule creates uncertainty regarding several of these assumptions.

I am personally aware of faculty members who have considered opportunities outside the United States because they perceive increasing risks that research agendas may become constrained by political considerations rather than scientific priorities.

Whether or not those individuals ultimately relocate, the existence of such concerns should itself be significant to policymakers.

### 13.4 Graduate Students and Early-Career Researchers Have More Options Than Ever Before

The risks associated with the proposed rule are not limited to established investigators.

Graduate students and postdoctoral researchers increasingly operate in a global educational environment. Many nations have invested heavily in research universities and increasingly compete for talented students and young investigators.

As discussed elsewhere in these comments, graduate students frequently depend on stable multi-year funding commitments.

Research careers already involve substantial uncertainty. A funding environment characterized by increased risks of political intervention, termination, or administrative disruption may become less attractive relative to alternatives available elsewhere.

Students making decisions regarding graduate education may reasonably compare:

- funding stability;
- research independence;
- publication opportunities;
- international collaboration opportunities;
- long-term career prospects.

The United States has historically held a significant advantage in these areas.

The proposed rule risks weakening that advantage.

### 13.5 Other Nations Are Actively Recruiting Scientific Talent

The possibility of talent migration is not merely theoretical.

Several countries have publicly discussed or implemented efforts to recruit scientists and researchers whose work has been disrupted by changes in the U.S. research environment.

Such initiatives are noteworthy because they indicate that foreign governments view instability within the American research enterprise as a potential competitive opportunity.

From the perspective of those governments, attracting established investigators, high-performing graduate students, and early-career researchers represents a strategic investment.

The United States has traditionally benefited from precisely the opposite dynamic: attracting talented individuals from around the world because of the strength, openness, and stability of its research institutions.

Policies that undermine those perceptions risk reversing a long-standing source of American advantage.

### 13.6 Brain Drain Is Difficult to Reverse

One of the most important characteristics of scientific migration is that it often becomes apparent only after substantial damage has already occurred.

The departure of a single faculty member may appear insignificant. However, the cumulative effects are much larger.

When experienced investigators leave:

- students leave with them;
- postdoctoral researchers relocate;
- research programs move;
- collaborations shift;
- future grant opportunities follow;
- institutional expertise is lost.

Similarly, when talented students choose other countries for graduate education, many do not subsequently return.

The result is a gradual erosion of national scientific capacity that may not become visible until years later.

Once lost, such capacity is often expensive and time-consuming to rebuild.

### 13.7 Government-Wide Scalability of the "Wolf Amendment" Framework

The proposed rule adapts the highly restrictive "Wolf Amendment" framework—historically limited by Congress to specific agencies like NASA—and blindly weaponizes it across all 42 federal grantmaking agencies through a blanket ban on "covered foreign collaborations" under § 200.220.

While safeguarding national security is a paramount priority, applying a rigid, top-down geopolitical filter across non-defense assistance programs harms critical global data-sharing networks.

Fields such as oceanography, climate modeling, and infectious disease epidemiology require bilateral and multilateral international cooperation to trace phenomena that do not observe geopolitical borders.

Artificially decoupling American researchers from global partnerships under a generalized grant rule will inevitably cede scientific leadership to international competitors who operate without these structural constraints.

### 13.8 Implications for National Competitiveness and National Security

Scientific leadership is increasingly recognized as a strategic asset.

The United States faces competition in areas including:

- artificial intelligence;
- advanced manufacturing;
- biotechnology;
- energy technologies;
- environmental technologies;

- health sciences;
- national defense;
- cybersecurity.

The workforce supporting these sectors emerges largely from the same research ecosystem affected by the proposed rule.

Policies that reduce the attractiveness of U.S. research institutions therefore have implications extending well beyond academia.

They affect:

- economic competitiveness;
- technological leadership;
- workforce development;
- national resilience;
- national security.

OMB has not meaningfully evaluated these consequences.

### 13.9 Conclusion

The proposed rule should be evaluated not only for its effects on existing grants and institutions, but also for its effects on the long-term attractiveness of the United States as a destination for scientific talent.

For decades, the United States has benefited from a global reputation for scientific excellence, institutional stability, merit-based evaluation, academic freedom, and openness to innovation. Those characteristics have helped attract and retain many of the world's most talented researchers.

The proposed rule risks weakening several of these advantages simultaneously through increased political oversight, expanded termination authority, diminished predictability, and reduced confidence in the independence of the research enterprise.

The resulting risk is not merely reduced productivity within existing programs. It is the gradual loss of scientific talent, scientific leadership, and innovative capacity to competing nations. OMB has not adequately analyzed this possibility despite its direct relevance to workforce development, national competitiveness, and national security.

Accordingly, the potential for brain drain and reduced international competitiveness represents another significant and insufficiently considered consequence of the proposed rule.

## 14.0 Chilling Effects, Self-Censorship, and Distortion of the National Research Portfolio

### 14.1 The Most Significant Effects of the Proposed Rule May Occur Before Any Formal Enforcement Action

Many analyses of the proposed rule focus on explicit restrictions, termination authorities, or political review mechanisms.

However, some of the most consequential effects of the proposal are likely to occur without any formal invocation of these authorities.

Researchers, institutions, federal agencies, and reviewers routinely make decisions in anticipation of incentives.

As a result, the practical impact of a policy often extends well beyond its formal requirements.

The proposed rule creates a system in which participants must continually assess whether their research activities, collaborations, publications, and proposals might later be determined to conflict with evolving Executive Branch priorities, agency priorities, or interpretations of the national interest.

The foreseeable result is a series of behavioral changes that collectively distort decision-making throughout the research ecosystem.

Importantly, these distortions can occur even when no proposal is formally rejected and no award is formally terminated.

### 14.2 Researchers Will Rationally Modify Their Behavior

Researchers operate in a highly competitive environment in which obtaining support often requires years of effort.

Proposal development can require:

- years of preliminary work;
- extensive collaboration;
- significant institutional support;
- commitments from students and staff;
- substantial investments of professional time.

When a proposed rule creates uncertainty regarding the future acceptability of certain topics, methods, collaborations, or lines of inquiry, investigators naturally respond.

The question is not whether such responses will occur. The question is how broadly they will occur.

Many investigators will rationally conclude that it is safer to avoid projects that may later attract political scrutiny or become vulnerable to reinterpretation under changing priorities.

The result is not necessarily overt censorship. Rather, it is self-censorship.

Researchers begin filtering potential questions before proposals are written, before students are recruited, and before collaborations are formed.

This process is often invisible, yet it can have profound effects on the direction of scientific inquiry.

### 14.3 Institutions Will Become More Risk-Averse

The proposed rule does not affect only individual investigators. Universities, nonprofit organizations, research institutes, state governments, and other recipients must also manage risk.

Research institutions have fiduciary responsibilities to:

- students;
- faculty;
- staff;
- governing boards;
- sponsors.

As uncertainty increases, institutions are likely to adjust their behavior accordingly.

Examples may include:

- discouraging projects perceived as politically sensitive;
- reducing support for high-risk research;
- limiting participation in certain collaborations;
- adopting more restrictive internal review procedures;
- increasing compliance oversight;
- imposing additional administrative controls on investigators.

Collectively, these actions alter the research environment and reduce institutional willingness to support innovative or controversial work.

The resulting effects are likely to be felt most strongly by early-career researchers, who often have less flexibility and fewer resources to absorb risk.

### 14.4 Federal Agencies and Career Staff Will Also Respond to Incentives

The proposed rule assumes that additional political oversight will coexist with existing scientific review structures without substantially affecting agency behavior.

In practice, however, agency personnel are also likely to adapt.Program officers, grants specialists, review managers, legal counsel, and other career staff routinely exercise professional judgment. When political review becomes a more prominent feature of the award process, career staff may reasonably anticipate future scrutiny and adjust their decisions accordingly.

Potential responses include:

- avoiding projects likely to generate controversy;
- narrowing funding recommendations;
- selecting lower-risk portfolios;
- increasing administrative reviews;
- discouraging proposals perceived as vulnerable to challenge.

These behavioral changes may occur even absent explicit direction from political leadership. The structure itself creates incentives that influence agency behavior.

Consequently, the practical effects of the rule may extend far beyond its expressly stated requirements.

### 14.5 The National Research Portfolio Will Be Distorted

The cumulative result of these behavioral changes is distortion of the national research portfolio.

The key issue is not whether specific topics become formally prohibited. The issue is whether the incentive structure increasingly favors some types of research while discouraging others for reasons unrelated to scientific merit.

Historically, the federal research enterprise has relied upon diverse portfolios that include:

- basic research;
- applied research;
- exploratory research;
- high-risk, high-reward research;
- interdisciplinary research;
- emerging scientific fields.

These portfolios are valuable precisely because it is often impossible to know in advance which lines of inquiry will generate the most important discoveries.

The proposed rule may gradually shift portfolio composition toward projects perceived as safest from political, administrative, or funding risk.

Such a shift would not only be visible in individual funding decisions.

Rather, it would also emerge over time as researchers, institutions, reviewers, and agencies adapt to the new incentive structure.

### 14.6 Scientific Questions Most Vulnerable to Chilling Effects

Although chilling effects could arise broadly across disciplines, the risk is especially pronounced in areas involving:

- public health;
- environmental science;
- climate science;
- social determinants of health;
- demographic research;
- environmental justice;
- energy systems;
- risk assessment;
- public policy evaluation;
- epidemiological assessment;
- emerging interdisciplinary fields.

The reason is straightforward. These fields frequently generate findings that may intersect with political debates.

When funding continuity becomes tied more closely to evolving political priorities, investigators may perceive increased risk in pursuing such work.

The resulting reduction in research activity may occur regardless of whether OMB or an agency ever explicitly directs investigators to avoid a particular topic.

### 14.7 Historical Lessons Regarding Scientific Self-Censorship

One of the recurring lessons from the history of science is that political pressure often exerts its greatest influence indirectly.

Researchers rarely need to receive explicit instructions regarding acceptable topics. Instead, they learn to anticipate institutional preferences.

As a result, the most significant effects frequently arise from uncertainty and perceived incentives rather than formal prohibitions.

The proposed rule creates multiple mechanisms through which such dynamics may emerge, including:

- expanded political review;

- continuing reassessment of awards;
- greater discretionary termination authority;
- undefined standards tied to evolving priorities;
- uncertainty regarding permissible research activities.

OMB has not adequately analyzed how these mechanisms may affect behavior throughout the research ecosystem.

### 14.8 Legal Significance

The chilling effects associated with the proposed rule are not speculative. They are a foreseeable consequence of the incentives created by the proposal.

Courts evaluating administrative actions routinely consider whether agencies have adequately assessed reasonably foreseeable consequences of their decisions.

Here, OMB's analysis focuses largely on formal authorities and administrative procedures while giving comparatively little attention to the behavioral responses those authorities are likely to generate.

This omission is significant because many of the most important consequences of the proposal are likely to occur through changes in behavior rather than through formal enforcement actions.

Failure to consider these effects strengthens concerns that the rule is arbitrary and capricious because it neglects an important aspect of the problem before the agency.

### 14.9 Conclusion

The proposed rule does not merely regulate grants and cooperative agreements. It changes incentives throughout the federal research ecosystem.

Investigators will alter proposal strategies. Institutions will become more risk-averse. Agencies will anticipate political review. Students and early-career researchers will reassess career decisions. Collectively, these responses will reshape the national research portfolio.

The resulting distortion of scientific activity may occur even if many of the rule's most controversial authorities are rarely exercised.

For this reason, the effects of the proposal cannot be measured solely by counting terminated grants or rejected proposals. The more significant impact may be the gradual narrowing of scientific inquiry, reduced willingness to pursue innovative work, and increasing alignment of research activities with perceived political preferences rather than scientific opportunity.

OMB has not meaningfully evaluated these foreseeable consequences, despite their direct relevance to the effectiveness, integrity, and long-term productivity of the federal research enterprise.

# 15.0 Collapse of Planning Horizons and the Erosion of Long-Term Scientific Capacity

## 15.1 The Federal Research Enterprise Depends Upon Long Planning Horizons

A central but largely overlooked function of federal financial assistance is that it creates the stability necessary for long-term investments.

Scientific research, technology development, workforce formation, and research infrastructure rarely operate on annual time scales. Many activities supported through federal grants and cooperative agreements require planning horizons measured in years, and in some cases decades.

These activities include:

- recruitment of faculty and staff;
- training of graduate students;
- support of postdoctoral researchers;
- development of research infrastructure;
- acquisition of major scientific equipment;
- establishment of collaborative research networks;
- long-term data collection programs;
- development and validation of new methods and technologies.

The federal research enterprise functions effectively because recipients can reasonably anticipate that properly awarded projects will be allowed to proceed according to their approved periods of performance, subject to normal requirements relating to performance, compliance, and stewardship.

The proposed rule introduces significant uncertainty into this environment.

While many discussions focus on termination authority itself, the more profound consequence may be the shortening of planning horizons throughout the entire research ecosystem.

## 15.2 Uncertainty Changes Behavior Long Before Any Grant Is Terminated

The most significant consequence of expanded discretionary termination authority is not necessarily the number of awards that are ultimately terminated.

Rather, it is the anticipation that awards may be terminated. Institutions and individuals routinely make forward-looking decisions based upon expectations regarding future funding stability.

When future support becomes uncertain, behavior changes immediately.

For example:

- universities become more hesitant to make faculty commitments;
- departments become more cautious in admitting graduate students;
- investigators become less willing to pursue ambitious projects;
- institutions become less willing to invest in research infrastructure;
- collaborators become more reluctant to commit to multi-year partnerships.

The economic literature has long recognized that uncertainty itself can reduce investment. The same principle applies to research.

Institutions confronted with uncertainty tend to postpone commitments, reduce risk-taking, and favor short-term decisions over long-term investments.

The proposed rule creates precisely these incentives.

### 15.3 Graduate Education Operates on Multi-Year Time Horizons

Perhaps nowhere is the importance of planning horizons more visible than in graduate education. A typical master's student may require approximately two years to complete a research program. Doctoral students commonly require four years.

These timelines are not arbitrary. They reflect the complexity of advanced scientific training and the time required to conduct meaningful original research.

When a faculty member recruits a doctoral student, both parties implicitly assume a level of continuity. The student is making a substantial commitment of time, income, and career opportunity. The institution is committing mentoring resources, facilities, and often financial support. Federal research funding frequently provides the foundation for these commitments.

A system that introduces substantial uncertainty regarding future funding inevitably influences decisions by both students and institutions. The likely outcome is not merely reduced efficiency. The likely outcome is a reduction in participation.

Talented students who might otherwise pursue research careers may choose alternatives offering greater stability and predictability.

The resulting consequences may not become fully visible for years.

### 15.4 Early-Career Researchers Are Particularly Vulnerable

The effects of shortened planning horizons are distributed unevenly.

Established investigators often possess broader professional networks, more diverse funding portfolios, and greater institutional support.

Early-career researchers generally possess fewer such protections.

Assistant professors frequently operate under timelines defined by:

- tenure clocks;
- laboratory establishment;
- student recruitment;
- publication expectations;
- grant acquisition requirements.

Uncertainty regarding funding continuity disproportionately affects these researchers because even relatively short disruptions can have lasting career consequences.

The proposed rule does not meaningfully evaluate this effect. Nor does it adequately consider how increased uncertainty may influence the willingness of talented individuals to enter academic research careers in the first place.

### 15.5 Research Infrastructure Requires Long-Term Commitments

Many forms of research depend upon infrastructure that cannot be acquired, developed, or deployed quickly.

Examples include:

- advanced analytical instrumentation;
- environmental monitoring systems;
- specialized laboratories;
- field research platforms;
- data collection networks;
- computational resources;
- prototype technologies.

These assets frequently require years of development and substantial upfront investment. Their value is realized over extended periods of use.

A research environment characterized by uncertainty introduces the risk that such investments become stranded before their intended benefits are realized.

The proposed rule does not adequately analyze these risks despite their direct relevance to research productivity and stewardship of federal resources.

Indeed, uncertainty may generate outcomes directly contrary to the stated goals of efficiency and accountability by discouraging investments that would otherwise enhance research effectiveness.

### 15.6 Long-Term Collaborations Become More Difficult

Modern research increasingly depends on collaboration. Many collaborations require years to establish.

Investigators must develop:

- trust;
- shared methodologies;
- data-sharing arrangements;
- governance structures;
- joint research agendas.

Large collaborative projects often involve multiple universities, government agencies, nonprofit organizations, and industry partners. Such collaborations are inherently dependent on expectations regarding continuity.

The introduction of greater uncertainty regarding funding duration and project continuation can discourage formation of these relationships. Organizations become less willing to commit personnel and resources when the future viability of projects is less certain.

The resulting effect is a reduction in collaborative capacity across the research enterprise.

### 15.7 National Research Capacity Depends Upon Continuity

The cumulative effect of shortened planning horizons extends beyond individual projects. It affects the capacity of the nation itself.

National scientific leadership emerges from:

- sustained investments;
- accumulated expertise;
- stable institutions;
- long-term workforce development;
- infrastructure development;
- enduring collaborative networks.

The United States became a global scientific leader because federal policy historically encouraged long-term investment and long-term thinking.

The proposed rule moves in the opposite direction.

By increasing the importance of evolving political priorities and expanding opportunities for midstream intervention, it shifts incentives toward shorter-term behavior throughout the system.

Such changes may not produce immediate visible effects, but their long-term consequences could be substantial.

### 15.8 Reliance Interests and Administrative Law Implications

The collapse of planning horizons is not merely a policy concern. It is also legally relevant.

Institutions, investigators, students, and research organizations have structured decades of investment decisions around assumptions of relative stability in the federal assistance framework. Those assumptions have produced substantial reliance interests.

The proposed rule does not meaningfully analyze how expanded termination authority, political review, and ongoing reassessment may affect these reliance interests.

Nor does it adequately evaluate the foreseeable consequences of shortening planning horizons across the research enterprise.

This omission strengthens concerns under *Fox*, *Encino Motorcars*, *Regents*, and related administrative-law precedents requiring agencies to account for serious reliance interests when departing from established practices.

### 15.9 Conclusion

The most significant consequence of the proposed rule may be the gradual collapse of planning horizons throughout the federal research enterprise.

- When institutions cannot reliably plan, they invest less.
- When students cannot rely on continuity, they pursue other opportunities.
- When researchers cannot count on sustained support, they avoid ambitious work.
- When collaborations become uncertain, they are never formed.

The resulting damage occurs before any grant is terminated and before any formal enforcement action is taken.

For this reason, OMB should evaluate not only the direct administrative effects of the proposed rule, but also its foreseeable impact on the long-term planning assumptions upon which the nation's scientific, engineering, educational, and innovation systems depend. Failure to do so leaves a critical aspect of the proposal insufficiently analyzed and further contributes to the rule's vulnerability under the Administrative Procedure Act.

## 16.0 Paperwork Reduction Act and Unfunded Administrative Burdens

### 16.1 The Proposed Rule Significantly Expands Administrative Requirements Without Adequate Analysis of Their Cumulative Burden

A recurring theme throughout the proposed rule is the assertion that the revisions will improve efficiency, accountability, and stewardship of federal funds. However, many provisions of the rule appear to impose substantial new administrative obligations on recipients, subrecipients, pass-through entities, and federal agencies themselves. The rule repeatedly introduces new layers of review, documentation, verification, certification, approval, monitoring, and oversight while simultaneously characterizing itself as a streamlining effort.

This characterization warrants careful scrutiny.

From the perspective of a research institution, the question is whether OMB has adequately evaluated the cumulative administrative burden created by the interaction of all new requirements operating simultaneously across the federal assistance lifecycle.

The proposed rule does not appear to do so.

### 16.2 The Paperwork Reduction Act Requires Objective Assessment of Information Collection Burdens

The Paperwork Reduction Act ("PRA") was enacted to ensure that federal agencies do not impose unnecessary information collection, reporting, recordkeeping, and compliance burdens on the public.

The central premise of the PRA is straightforward:

- Administrative requirements consume time, labor, and financial resources and therefore must be evaluated systematically before being imposed.

While the proposed rule frequently discusses accountability and oversight, it provides comparatively little analysis of the cumulative administrative activities that recipients would be required to undertake in order to demonstrate compliance.

The administrative burden associated with a regulatory requirement is not limited to the completion of a form. It includes:

- development of policies and procedures;
- collection of supporting documentation;
- creation of tracking systems;
- monitoring activities;
- training personnel;
- legal review;

- auditing;
- record retention;
- internal approvals;
- corrective actions;
- reporting and certification activities.

The proposed rule would substantially expand many of these activities.

### 16.3 The Rule Introduces Numerous New Administrative Obligations

Numerous provisions appear likely to increase information collection, monitoring, and documentation burdens.

Examples include:

- E-Verify and workforce verification requirements;
- expanded subrecipient monitoring obligations;
- enhanced responsibility determinations;
- expanded pre-award risk assessments;
- conference approval requirements;
- publication approval and review requirements;
- payment justification requirements;
- expanded reporting and certification obligations;
- documentation of compliance with evolving Executive Branch priorities;
- expanded reviews associated with termination, suspension, and continuation decisions.

Each of these requirements generates additional administrative work. Importantly, the burden includes the principal investigator or project director, as well as many others.

Institutions must typically involve:

- sponsored programs offices;
- compliance offices;
- human resources personnel;
- grants managers;
- legal counsel;
- information technology staff;
- financial administrators;

- department-level administrators.

As a result, the true burden of compliance is often substantially greater than the burden associated with any individual reporting requirement.

OMB has not adequately quantified these system-wide effects.

### 16.4 The Rule Fails to Consider Existing Regulatory Burdens

A particularly significant omission is the apparent failure to evaluate the proposed requirements within the broader compliance environment that already governs federally funded activities.

Research institutions currently operate under an extensive framework of existing obligations, including:

- Uniform Guidance requirements;
- agency-specific grant regulations;
- human subjects protections and Institutional Review Boards (IRBs);
- animal research oversight and Institutional Animal Care and Use Committees (IACUCs);
- export control requirements;
- research security requirements;
- conflict-of-interest regulations;
- research misconduct procedures;
- public access and data management requirements;
- cybersecurity requirements;
- privacy protections;
- financial auditing obligations.

Each of these requirements serves an important purpose.

The relevant question is whether OMB has evaluated the aggregate burden created when those new requirements are layered upon an already complex compliance infrastructure.

The proposed rule appears to assess individual provisions in relative isolation while providing limited or no analysis of their cumulative effect.

### 16.5 Administrative Burden Is Not Cost-Free

An important but frequently overlooked reality is that administrative activities require labor.

Every additional review, certification, approval, documentation requirement, or reporting obligation requires personnel to perform that work. They may also require modification, augmentation, or replacement of enterprise systems, which entails effort to assess needs, requirements, acceptance criteria, validation, operational factors, performance tracking, and allocation resources.

As an academic researcher, center director, Associate Dean for Research, and former senior leader of a federal scientific organization, I have observed a consistent trend across several decades: Increases in compliance obligations are rarely absorbed without cost.

Instead, organizations typically respond by:

- hiring additional administrative personnel;
- reallocating existing staff;
- diverting faculty effort from research and mentoring activities;
- increasing institutional overhead expenditures;
- imposing additional internal controls and review requirements.

These costs ultimately reduce the resources available for:

- research;
- workforce development;
- technology transfer;
- scientific dissemination;
- public engagement.

Consequently, administrative burden is not merely a compliance issue. It is a resource-allocation issue. Resources devoted to administration are resources unavailable for mission-related activities.

### 16.6 OMB Has Not Adequately Quantified the Burden It Is Imposing

A recurring concern throughout the proposal is the absence of rigorous estimates regarding:

- administrative labor hours;
- implementation costs;
- training costs;
- information technology system modifications;
- legal and compliance review costs;
- institutional staffing requirements;
- transaction costs associated with approvals and certifications;
- opportunity costs associated with delayed project execution.

Several provisions are likely to require substantial new institutional processes.

Yet the preamble provides limited if any evidence that OMB conducted a comprehensive assessment of the aggregate cost of these requirements across the federal assistance ecosystem.

This omission is particularly notable given the sheer scale of the affected community, which includes:

- universities;
- colleges;
- nonprofit organizations;
- state governments;
- local governments;
- hospitals;
- research institutes;
- tribal organizations;
- private-sector recipients.

Even modest administrative burdens can translate into significant national costs when imposed across such a broad population.

### 16.7 Administrative Delays Are a Form of Burden

Burden should not be measured solely in labor hours.

Administrative delay also imposes substantial costs.

The proposed rule creates numerous opportunities for additional review and approval processes.

These may include:

- pre-award reviews;
- political reviews;
- conference approvals;
- publication reviews;
- enhanced risk assessments;
- termination and continuation reviews.

Each review introduces the potential for delay. In a research environment, delays have real consequences:

- graduate students may lose time toward degree completion;

- personnel may be hired later than planned;
- field seasons may be missed;
- equipment purchases may be delayed;
- collaborative opportunities may be lost.

OMB does not appear to have meaningfully analyzed these costs.

### 16.8 PRA, APA, and Cost-Benefit Concerns Intersect

The failure to adequately evaluate administrative burden creates multiple legal vulnerabilities.

First, it raises concerns under the Paperwork Reduction Act to the extent that new information collection, recordkeeping, reporting, certification, and monitoring requirements have not been properly identified and evaluated.

Second, it raises concerns regarding the adequacy of the rule's economic and regulatory impact analyses.

Third, it contributes to broader Administrative Procedure Act concerns because agencies are required to consider important aspects of the problem before them.

A rule that imposes substantial compliance obligations while failing to objectively assess those obligations risks being viewed as arbitrary and insufficiently reasoned.

### 16.9 Elimination of Fixed-Amount Awards and Subawards Contradicts Burden-Reduction Mandates

The proposal's blanket elimination of fixed-amount awards and subawards under the justification of enhancing oversight creates an immense, counterproductive administrative burden.

Fixed-amount subawards are the primary vehicle used by primary recipients to collaborate with smaller entities, including community-based organizations, local nonprofits, and smaller international partners who lack the complex cost-accounting infrastructure required for cost-reimbursement tracking.

By forcing every subrecipient into a full cost-reimbursement model, the rule directly undermines OMB’s stated objective to "reduce recipient burden" and completely conflicts with the goal in § 200.205 to "broaden the range of recipients."

### 16.10 Mandatory E-Verify and "Do Not Pay" Requirements for All Financial Assistance

The proposed requirement extending mandatory Department of Homeland Security (DHS) E-Verify participation and Treasury "Do Not Pay" queries across all federal financial assistance instruments represents an unprecedented expansion of compliance obligations.

For large research universities and multi-state pass-through entities, verifying the immigration and federal registry status of every single employee, graduate student, or contractor charging time to an award creates severe operational friction.

OMB has failed to provide any empirical baseline or cost-benefit analysis demonstrating why turning the financial assistance ecosystem into a distributed immigration and payment-enforcement registry is a necessary or proportionate means of managing scientific and educational programs.

### 16.11 Procedural Deficiencies Under the Paperwork Reduction Act

A foundational requirement of federal rulemaking is compliance with the Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3521. The PRA prohibits an agency from conducting or sponsoring a government-wide information collection unless it first conducts a rigorous evaluation, publishes a specific, objective estimate of the cumulative burden hours imposed on the public, and obtains a valid OMB control number. In the preamble to the proposed rule, OMB asserts that the regulation "does not contain a new requirement for information collection" and that "the Paperwork Reduction Act does not apply." This assertion appears to be unsupported by various provisions of the proposed regulation in the context of statutory requirements under the PRA.

The proposed Uniform Grants Regulation (UGR) appears to introduce several broadly scoped and mandatory information collections that would require recipients and subrecipients to restructure their administrative, accounting, and reporting workflows:

#### Mandatory Payment Justifications (§ 200.305)

The rule introduces an new information collection requirement for all recipients and subrecipients (excluding States) to submit detailed written justifications describing the explicit purpose and specific award-related work supporting every individual payment request.

#### Affirmative Performance Report Certifications (§ 200.329)

Recipients would be newly required to provide programmatic validation and written confirmation within every performance report certifying that all downstream subawards have been successfully reported to SAM.gov.

#### Related-Entity Transaction Tracking (§ 200.331)

Pass-through entities would be newly required to systematically review, classify, and document transactions with affiliates, subsidiaries, and related organizations that were historically handled via internal cost allocations.

### Mandatory E-Verify Controls (§ 200.303(f))

The proposed rule would expand internal control requirements by requiring all recipients and subrecipients to actively collect, verify, and maintain employment eligibility documentation for all domestic personnel under a federal award.

Each of these provisions appear to fall under the statutory definition of an "information collection" under 44 U.S.C. § 3502(3). By declaring the PRA inapplicable, OMB has insulated the administrative record from critical empirical scrutiny. The record contains no data calculating the cumulative burden hours, software modification expenses, or labor costs that universities, nonprofits, and research institutions must expend to satisfy these new reporting structures. Under the Administrative Procedure Act (APA), an agency's failure to comply with a mandatory procedural vetting statute could constitutes a fatal defect, that could render the resulting rule "not in accordance with law" under 5 U.S.C. § 706(2)(A).

## 16.12 Conclusion

The proposed rule substantially expands administrative obligations throughout the federal assistance ecosystem while providing limited analysis of the cumulative burden these requirements will impose.

The relevant question is not whether individual requirements are defensible in isolation. The relevant question is whether OMB has adequately quantified and justified the aggregate burden created when all new obligations are considered together.

The administrative reality of modern federally funded research already includes extensive compliance systems relating to human subjects protections, animal welfare, export control, research security, conflicts of interest, financial stewardship, data management, and public access. The proposed rule layers additional obligations on top of those existing requirements without adequately demonstrating that the benefits justify the costs.

Accordingly, OMB should conduct a substantially more rigorous assessment of information-collection burdens, implementation costs, administrative labor requirements, and opportunity costs associated with the proposed rule. Failure to do so raises concerns under the Paperwork Reduction Act, weakens the economic justification for the proposal, and contributes to broader vulnerabilities under the Administrative Procedure Act.

## 17.0 From Guidance to Government-Wide Regulation: Reallocation of Authority Within the Federal Assistance System

### 17.1 The Proposed Rule Is Not Merely Revising Administrative Requirements

A central but underappreciated feature of the proposed rule is that it does much more than revise specific requirements governing federal financial assistance. The proposal changes the institutional structure through which those requirements are created, interpreted, and implemented.

Historically, the Uniform Guidance has functioned as a government-wide framework for grants administration. It established common principles while preserving substantial agency discretion to adapt implementation to the statutory purposes, programmatic needs, and scientific realities of their respective programs.

Historically, OMB's role in developing government-wide grants guidance has been grounded in authorities related to federal financial management, administrative consistency, grants administration, and stewardship of public funds. The Uniform Guidance was developed to harmonize administrative requirements governing issues such as cost principles, audits, financial management systems, indirect costs, procurement standards, reporting, and award administration.

The proposed rule extends substantially beyond these traditional functions by influencing how awards are evaluated, how scientific merit review interacts with political review, how agencies exercise programmatic discretion, and how ongoing awards may be reassessed against evolving political priorities. OMB should therefore more clearly explain the statutory basis for extending a framework developed to promote administrative consistency into one that increasingly influences the substantive governance of federal assistance programs

Rather than serving primarily as a framework, the Uniform Guidance increasingly becomes a government-wide operating system through which OMB establishes binding requirements that constrain agency discretion and standardize decision-making across highly diverse federal programs.

This distinction is important because it involves not merely a change in regulatory requirements, but a change in the allocation of authority within the federal government.

In practical terms, OMB is not simply revising grant rules. OMB is reallocating decision-making authority away from individual agencies and toward a more centralized government-wide regulatory structure.

The proposal therefore should be evaluated not only as a grants-management rule, but also as a structural change in federal governance.

### 17.2 The Traditional Uniform Guidance Model Preserved Agency Expertise and Flexibility

The existing federal assistance system reflects a recognition that different agencies operate under different statutory missions and support fundamentally different activities.

For example:

- NIH supports biomedical and public health research.
- NSF supports fundamental scientific and engineering research.
- DOE supports both basic and applied research tied to energy systems and national security.
- NOAA supports atmospheric, oceanographic, and climate research.
- USDA supports agricultural science, extension, and rural development.
- EPA supports environmental research, monitoring, and public health protection.

Each agency operates under distinct statutory authorities, programmatic objectives, scientific cultures, and stakeholder communities.

The diversity of federal assistance programs reflects deliberate congressional design. Congress has assigned different scientific, technical, educational, and public-service missions to different agencies through agency-specific statutory authorities. Examples include the National Science Foundation Act of 1950, which directs NSF to support fundamental scientific and engineering research and science education; the Public Health Service Act and related statutes governing NIH biomedical and public-health research; the Department of Energy Organization Act and related authorities supporting energy, national-security, and scientific research; the Organic Administration Act and numerous agricultural research statutes governing USDA research, extension, and rural-development activities; the National Oceanic and Atmospheric Administration authorities governing atmospheric, oceanic, weather, climate, and fisheries research; and environmental statutes including the Clean Air Act, Clean Water Act, Safe Drinking Water Act, and related authorities that support EPA research and scientific assessment activities. These agencies were not created to pursue identical objectives through identical mechanisms. Rather, Congress established a diverse federal research ecosystem in which specialized agencies apply subject-matter expertise to distinct statutory missions.

The existing Uniform Guidance accommodates this diversity by establishing common administrative principles while preserving agency flexibility to implement statutory missions. The proposed rule moves significantly toward a model in which government-wide requirements increasingly shape substantive aspects of program administration. OMB has not adequately explained why centralized decision-making should be presumed superior to the agency-specific expertise that Congress deliberately embedded within specialized scientific, technical, educational, and public-service agencies.

This flexibility has been one of the principal strengths of the federal assistance system.

It allows agencies to benefit from the expertise of:

- career program managers;
- scientific review officers;

- grants specialists;
- technical experts;
- agency leadership with direct knowledge of program operations.

The proposed rule moves in the opposite direction by increasing standardization and centralization.

### 17.3 The Proposal Centralizes Authority Within OMB

Throughout the proposed rule, references to guidance, agency discretion, and agency-specific implementation are replaced with more prescriptive regulatory requirements.

The cumulative effect is to elevate OMB's role from coordinator of government-wide grants policy to primary architect of a more centralized federal assistance regime.

This transformation raises a series of important questions.

- Why should a central administrative office be presumed to possess greater expertise regarding the administration of biomedical research than NIH?
- Why should OMB be presumed better positioned than NSF to determine how scientific merit review should operate?
- Why should OMB be presumed better positioned than NOAA, USDA, DOE, EPA, or other specialized agencies to determine how their highly technical research, education, infrastructure, and public-service programs should be administered?

The proposed rule provides little discussion of these questions.

Nor does it explain why longstanding agency discretion should be constrained to the extent contemplated by the proposal.

### 17.4 Uniformity Is Not Always Efficiency

The preamble frequently treats standardization as inherently desirable. However, federal assistance programs exist precisely because Congress has directed agencies to pursue diverse public purposes through diverse mechanisms.

The optimal administration of a biomedical research grant may differ substantially from the optimal administration of:

- a climate monitoring program;
- an agricultural extension project;
- a university research center;
- a public health surveillance initiative;
- an engineering demonstration project;
- a watershed restoration effort.

A regulatory system that prioritizes uniformity over mission-specific flexibility risks producing outcomes that are less effective for all participants.

The proposal appears to assume that centralization and standardization will improve administration, but it provides limited evidence demonstrating that this assumption is correct.

OMB should explain why a centralized model is preferable to one that allows agencies to adapt implementation based upon programmatic expertise and statutory missions.

### 17.5 The Proposal Weakens Agency Ability to Apply Subject-Matter Expertise

One of the central strengths of the current system is that many important decisions are made by individuals and organizations possessing deep expertise in the relevant fields.

For example:

- scientific merit review is conducted by experts in the relevant disciplines;
- program managers possess detailed knowledge of agency missions;
- agency career staff understand the operational realities of their programs.

The proposed rule repeatedly substitutes broader government-wide directives for agency-specific judgment.

This shift has implications beyond administrative procedure. It affects how expertise enters the decision-making process. As authority becomes increasingly centralized, there is a corresponding risk that:

- discipline-specific knowledge is given less weight;
- programmatic nuance is lost;
- decisions become more detached from technical realities;
- flexibility for unique circumstances is reduced.

OMB has not meaningfully analyzed these consequences.

### 17.6 The Proposal May Exceed the Traditional Scope of OMB's Coordinating Role

Historically, OMB's role in federal grants administration has largely involved coordination, consistency, financial stewardship, and government-wide policy development.

The proposed rule appears to move beyond these traditional functions. In addition to establishing administrative requirements, the proposal increasingly influences:

- how awards are evaluated;
- how merit review is treated;
- how termination decisions are made;
- how agencies exercise discretion;

- how programmatic priorities are incorporated into funding decisions.

These are not merely accounting matters. They are substantive components of federal program administration. To the extent that the proposal centralizes authority over such matters, OMB should clearly identify the statutory basis for doing so.

The rule repeatedly assumes that such authority exists, but provides limited analysis explaining where Congress has authorized a restructuring of this magnitude.

### 17.7 Major Questions and Administrative Law Concerns

The significance of these changes extends beyond grants management.

The proposal affects a government-wide framework governing hundreds of billions of dollars in annual federal assistance and influencing a substantial portion of federally supported research, education, infrastructure, health, environmental, and community-development activities.

As discussed elsewhere in these comments, the proposal therefore raises questions under established administrative-law principles concerning:

- agency authority;
- delegation;
- statutory interpretation;
- major policy changes;
- reasoned decision making.

A particularly important question is whether Congress clearly authorized OMB to transform what has historically operated as a flexible government-wide framework into a more prescriptive and centralized regulatory system.

The preamble does not appear to provide a sufficiently detailed analysis of this issue given the significance of the proposed changes.

### 17.8 The Rule Alters Federal Governance, Not Merely Grants Administration

Perhaps the most important point is that the proposal should be evaluated for what it actually does. Viewed as an integrated whole, it reallocates authority within the federal government.

Authority that historically resided with:

- agencies,
- career experts,
- peer-review systems,
- program managers,

is increasingly centralized within a government-wide framework administered through OMB and reinforced through expanded political oversight. This is a major institutional change and should be analyzed as such.

The preamble does not appear to acknowledge the magnitude of this shift, evaluate alternatives that would preserve greater agency flexibility, or explain why a more centralized model is necessary.

### 17.9 Conclusion

The proposed rule transforms the Uniform Guidance from a flexible government-wide framework into a more prescriptive system of centralized regulation. In doing so, it reallocates authority from specialized federal agencies toward OMB, reduces agency flexibility, and constrains the ability of agencies to tailor implementation to their statutory missions and technical requirements.

OMB has not adequately explained why this transformation is necessary, what statutory authority supports it, what evidence demonstrates the need for reducing agency discretion, or what consequences may result from concentrating authority in a centralized government-wide structure.

Accordingly, the proposal raises significant concerns regarding statutory authority, administrative-law principles, agency expertise, and the long-term governance of the federal assistance system. These issues warrant substantially greater analysis before any final rule is adopted.

## 18.0 Procedural Deficiencies in Award Termination and Suspension

### 18.1 Expanded Termination Authority Requires Correspondingly Strong Procedural Protections

A recurring theme throughout the proposed rule is the expansion of agency discretion to suspend, terminate, or otherwise discontinue financial assistance awards based on evolving determinations regarding agency priorities, Executive Branch priorities, program objectives, or the national interest.

The proposal devotes substantial attention to expanding termination authorities. It devotes considerably less attention to the procedural protections that should accompany such authority.

This imbalance is important. In administrative law, the existence of discretionary authority does not eliminate the need for procedural safeguards. Indeed, as discretion increases, the importance of clear procedural protections generally increases as well.

The central question raised by the proposal is therefore not simply whether agencies may terminate awards under certain circumstances. The more important question is: What procedural protections remain available to recipients when agencies exercise that authority?

The proposed rule does not provide a sufficiently clear answer.

### 18.2 The Rule Increases Discretion While Reducing Procedural Certainty

Historically, grant termination has often been associated with relatively identifiable circumstances such as:

- material noncompliance;
- failure to perform;
- misuse of funds;
- failure to satisfy award conditions;
- statutory limitations.

Such situations generally involve objective facts that can be documented, reviewed, and evaluated.

The proposed rule moves beyond these traditional grounds and increasingly authorizes action based upon broader and more subjective concepts, including:

- agency priorities;
- Executive Branch priorities;
- national interest considerations;
- policy alignment considerations;

- reputational concerns.

As decision criteria become more subjective, procedural safeguards become more important because the likelihood of inconsistent interpretation increases.

Yet the proposal appears to expand discretionary authority without providing comparable expansion of procedural protections.

This creates a risk that recipients may be exposed to significant adverse actions without clear procedural mechanisms to challenge those decisions.

### 18.3 Notice Requirements Are Insufficiently Defined

One of the most fundamental procedural protections in any administrative process is notice.

Recipients facing potential suspension or termination should reasonably expect to receive:

- clear identification of the basis for the proposed action;
- identification of relevant facts;
- identification of applicable standards;
- sufficient detail to permit meaningful response.

The proposed rule does not clearly articulate the level of specificity required when agencies rely on broader concepts such as national interest, reputational concerns, or changing priorities.

Without such specificity, affected recipients may find it difficult to determine:

- the basis for agency concerns;
- the evidence relied upon;
- the actions necessary to address those concerns.

The absence of clear notice standards increases the risk of arbitrary implementation and inconsistent treatment across agencies.

### 18.4 Opportunity to Respond Appears Underspecified

Meaningful administrative process generally requires more than notification. It also requires a meaningful opportunity to respond.

The proposed rule does not clearly establish:

- the timing of recipient responses;
- the scope of information recipients may present;
- whether recipients may challenge factual assertions;
- whether recipients may submit independent evidence;

- whether recipients may request reconsideration before termination becomes effective.

These omissions are particularly significant for research institutions because awards often support:

- employees;
- graduate students;
- postdoctoral researchers;
- research participants;
- multi-institutional partnerships;
- long-term infrastructure investments.

A termination decision may have consequences extending far beyond the immediate award.

Accordingly, recipients should have a meaningful opportunity to address agency concerns before irreversible actions are taken.

### 18.5 Appeal Rights and Independent Review Mechanisms Are Unclear

The proposal provides limited discussion regarding the mechanisms through which recipients may challenge termination decisions.

Several important questions remain insufficiently addressed.

For example:

- What appeal rights exist?
- What level of review is available?
- Who conducts that review?
- What standards govern the review?
- Is review conducted by the same officials who made the original decision?
- Is independent review available?
- What evidence may be considered?

The absence of clearly articulated review procedures creates uncertainty for recipients and increases the possibility of inconsistent agency implementation.

This issue is especially important when termination decisions are based on subjective standards rather than objective compliance failures.

In such situations, procedural review mechanisms often serve as an important safeguard against arbitrary decision making.

### 18.6 Standards of Review Are Poorly Defined

Procedural protections are closely linked to substantive standards. A fundamental concern with the proposed rule is that several termination-related concepts lack clear limiting principles.

Terms such as:

- "national interest";
- "agency priorities";
- "Presidential priorities";
- "reputational concerns";

are inherently broad and potentially subject to changing interpretation.

When decision standards are vague, procedural protections become especially important because they provide a mechanism for testing whether those standards have been applied consistently and fairly.

The proposal does not adequately explain:

- how these standards will be applied;
- what evidence will be sufficient to support agency action;
- how conflicting evidence will be evaluated;
- how recipients may challenge agency interpretations.

This creates uncertainty for both recipients and agency personnel.

### 18.7 Evidentiary Requirements Remain Unclear

The proposal appears to allow significant agency action while providing limited guidance regarding evidentiary requirements.

For example:

- What factual showing is required to establish that an award no longer serves the national interest?
- What evidence demonstrates reputational harm?
- What evidence demonstrates misalignment with agency priorities?
- Must agencies develop an administrative record supporting such determinations?
- What documentation must be retained?

These questions are particularly important because research programs frequently involve topics that may be scientifically, politically, or socially controversial.

Absent clear evidentiary standards, there is an increased risk that decisions may be influenced by perceptions, assumptions, or political pressures rather than objective findings.

### 18.8 The Risk of Inconsistent Agency Implementation

Another concern is the likelihood of substantial variation across agencies. Historically, one rationale for the Uniform Guidance has been to promote consistency. Ironically, broad discretionary standards may produce the opposite effect.

Different agencies, different political leaders, and different program offices may reasonably interpret concepts such as:

- national interest;
- reputational risk;
- policy alignment;
- program priorities

in dramatically different ways. The result may be a patchwork of implementation practices that vary not because of statutory requirements, but because of differences in interpretation. Such outcomes are difficult for recipients to anticipate and difficult for courts to review.

OMB does not adequately evaluate this risk.

### 18.9 Reliance Interests Magnify the Importance of Procedural Protections

As discussed elsewhere in these comments, federal assistance awards create substantial reliance interests.

Institutions frequently commit:

- personnel;
- graduate student support;
- facilities;
- equipment purchases;
- subcontractual obligations;
- collaborative agreements

in reliance upon awarded funding.

When recipients make such commitments, procedural protections become especially important.

The greater the reliance interest, the greater the need for:

- transparency;

- notice;
- meaningful review;
- objective standards.

The proposal pays insufficient attention to this relationship.

Instead, it appears to expand termination authority while largely assuming that existing procedural mechanisms remain adequate.

That assumption is not supported by analysis in the preamble.

### 18.10 Administrative Law and Due Process Concerns

The concerns identified above are not merely matters of administrative convenience.

They implicate fundamental principles underlying administrative law. Agencies exercising broad discretionary authority are generally expected to operate under procedures that:

- promote consistency;
- constrain arbitrary decision making;
- create reviewable records;
- provide meaningful opportunities for affected parties to respond.

The proposed rule's expansion of discretionary authority without corresponding procedural detail raises concerns regarding:

- arbitrary and capricious decision making;
- failure to consider reliance interests;
- insufficiently reasoned agency action;
- inadequate procedural safeguards.

These concerns become particularly significant when decisions are based on broad and potentially subjective criteria.

### 18.11 Future Litigation Risks

The procedural issues discussed here may ultimately become among the most important aspects of the rule from a litigation perspective. Even if courts conclude that agencies possess authority to terminate awards under certain circumstances, future litigation is likely to examine:

- the procedures used to reach those decisions;
- the adequacy of notice;
- the opportunity to respond;
- the standards applied;

- the evidentiary record supporting agency action;
- the consistency of implementation;
- the extent to which agencies considered reliance interests;
- whether agency decisions were supported by a reasoned explanation.

Courts reviewing agency action under the Administrative Procedure Act have repeatedly emphasized the importance of reasoned decision-making, consideration of relevant factors, development of an adequate administrative record, and consistent application of agency standards. Similar principles have long informed judicial evaluation of procedural adequacy where government decisions affect significant interests and where broad discretionary authority creates risks of inconsistent or erroneous decision-making.

The procedural concerns identified here are not merely matters of administrative preference. Courts reviewing agency actions under the Administrative Procedure Act have repeatedly emphasized the importance of reasoned decision-making, consideration of relevant factors, consistency in application, and development of an adequate record supporting agency action. *Motor Vehicle Manufacturers Ass'n v. State Farm Mutual Automobile Insurance Co.* requires agencies to articulate a rational connection between the facts found and the choices made. *Department of Homeland Security v. Regents of the University of California* further underscores the importance of considering reliance interests when altering established programs and practices. Moreover, broader principles of procedural fairness reflected in decisions such as *Mathews v. Eldridge* recognize that procedural safeguards become increasingly important as the stakes of governmental decisions increase and as the risk of erroneous or inconsistent outcomes grows. Many of the procedural deficiencies identified in these comments—including vague standards, limited guidance regarding evidentiary requirements, unclear review mechanisms, and insufficient consideration of reliance interests—are therefore directly relevant to the legal sustainability of future agency actions taken pursuant to the proposed rule.

The proposed rule does not appear to have been drafted with sufficient attention to these issues. As a result, individual termination decisions implemented under the rule may be vulnerable to challenge even if the underlying authority survives judicial scrutiny.

### 18.12 Conclusion

The proposed rule significantly expands agency authority to suspend, terminate, or otherwise disrupt existing awards. However, it provides comparatively little guidance regarding the procedural safeguards that should govern the exercise of that authority.

Notice requirements, response opportunities, appeal mechanisms, evidentiary standards, standards of review, and protections against inconsistent implementation remain inadequately developed. These omissions are particularly problematic given the substantial reliance interests associated with federal financial assistance and the increasing use of subjective decision criteria such as national interest, reputational concerns, and policy alignment.

These concerns are amplified because the proposal increases discretionary authority while relying upon standards that are often broad, subjective, and potentially subject to changing interpretation. Under such circumstances, procedural safeguards become more important, not less, because they provide the principal mechanism for ensuring that similarly situated recipients receive consistent treatment and that agency decisions remain subject to meaningful review.

Accordingly, OMB has not adequately demonstrated that the procedural framework accompanying the proposed expansion of termination authority is sufficient to protect against arbitrary decision making, ensure consistent implementation, or preserve confidence in the integrity of the federal assistance system. These deficiencies create additional vulnerabilities under the Administrative Procedure Act and increase the likelihood of future litigation challenging agency actions taken pursuant to the rule.

## 19.0 Vagueness, Subjective Standards, and the Risk of Arbitrary Enforcement

### 19.1 Regulatory Uncertainty Is Not an Incidental Feature of the Proposed Rule

One of the most significant legal and operational concerns raised by the proposed rule is its extensive reliance on broad, subjective, and often undefined terms as the basis for funding decisions, oversight actions, suspension decisions, and award terminations.

Throughout the proposal, decision-making authority is repeatedly tied to concepts such as:

- "national interest";
- "Presidential priorities";
- "agency priorities";
- "reputational risk";
- ideological considerations;
- evolving policy objectives;
- other similarly broad and inherently subjective concepts.

Some degree of discretion is inevitable in any regulatory framework. However, the proposed rule relies upon these concepts not as secondary considerations, but as central decision criteria affecting the entire lifecycle of federal awards.

The resulting uncertainty appears to be a structural feature of the rule rather than an incidental consequence. This distinction is important because uncertainty affects behavior throughout the federal assistance ecosystem, including recipients, applicants, reviewers, institutions, and federal agencies themselves.

### 19.2 The Rule Provides Inadequate Standards for Key Decision Criteria

A recurring problem throughout the proposal is that major consequences may result from standards that are inadequately defined.

For example:

- What constitutes the "national interest"?
- How should competing national interests be weighed?
- What constitutes sufficient alignment with Presidential priorities?
- Which agency priorities are controlling when agencies have multiple statutory objectives?
- What constitutes a reputational risk?
- Whose perception determines whether reputational harm exists?
- What evidentiary showing is required before such determinations may be made?

The proposed rule provides limited guidance, if any, regarding these questions.

As a result, recipients may be unable to determine with reasonable certainty:

- what conduct is expected;
- what activities present risk;
- how decisions will be made;
- how compliance will be evaluated.

This uncertainty reduces predictability and undermines the transparency that has historically been an important feature of federal financial assistance.

### 19.3 Subjective Standards Increase the Risk of Inconsistent Implementation

One purpose of government-wide regulation is presumably to promote consistency. However, the extensive reliance on subjective standards may produce the opposite effect.

Broad concepts such as:

- national interest;
- reputational concerns;
- policy alignment;
- Presidential priorities;

are inherently susceptible to differing interpretations.

Different:

- agencies;
- program offices;
- agency leaders;
- political appointees;
- review officials;

may reasonably reach different conclusions when applying these terms.

As a result, similarly situated recipients may receive substantially different treatment depending upon:

- the agency administering the award;
- timing of the decision;
- changes in leadership;
- changes in administration;
- differences in interpretation among decision makers.

The proposal does not adequately analyze the likelihood or consequences of such variability.

### 19.4 Vagueness Encourages Self-Censorship

The practical consequences of vagueness extend beyond formal decision making.

When rules are unclear, participants often adopt precautionary behavior designed to minimize perceived risk. As a result, the most significant effects of vague standards often occur before any enforcement action is taken.

For example, investigators may decide not to:

- pursue certain research questions;
- establish certain collaborations;
- submit certain proposals;
- collect certain categories of data;
- publish certain findings.

Institutions may similarly become more cautious in:

- proposal review;
- project approval;
- hiring decisions;
- support of controversial research areas.

This behavior is entirely predictable.

When the boundaries of acceptable activity become uncertain, risk-averse institutions and individuals frequently narrow their activities voluntarily.

The resulting chilling effects may therefore arise even when agencies never formally invoke the authorities created by the rule.

### 19.5 The Rule Creates Incentives for Strategic Compliance Rather Than Scientific Merit

Another consequence of vague standards is that recipients increasingly direct effort toward predicting administrative preferences rather than maximizing scientific value.

Historically, applicants for federal research funding have generally attempted to maximize:

- scientific rigor;
- innovation;
- feasibility;
- broader impacts;
- relevance to published program objectives.

The proposed rule risks introducing an additional challenge: determining how changing political priorities, reputational concerns, and evolving interpretations of the national interest may affect funding outcomes.

When standards become difficult to predict, applicants often spend increasing effort attempting to infer what decision makers may prefer rather than focusing exclusively on the intrinsic quality of the proposed work.

This dynamic can distort both proposal development and project execution.

### 19.6 Reputational Risk Is Particularly Problematic

Among the various subjective standards introduced or expanded by the proposal, "reputational risk" is especially concerning.

Reputation is not a technical concept with clear objective boundaries.

It is inherently dependent upon:

- perception;
- context;
- public opinion;
- political disagreement;
- changing social and policy priorities.

Many important areas of scientific inquiry have at various times generated controversy.

Examples include research involving:

- tobacco;
- asbestos;
- lead exposure;
- environmental pollution;
- climate science;
- infectious disease;
- public health interventions;
- emerging technologies.

Research often becomes controversial precisely because it challenges prevailing assumptions or established interests.

A standard that permits adverse action based upon reputational concerns therefore risks penalizing activities that are scientifically important but politically controversial.

The proposal does not adequately explain how such risks would be assessed, documented, reviewed, or constrained.

### 19.7 The Rule Creates an Environment Favoring Arbitrary Enforcement

A fundamental purpose of regulatory standards is to constrain discretion.

Well-defined standards enable regulated parties to understand expectations and enable reviewing bodies to assess whether those standards have been applied consistently.

The proposed rule often moves in the opposite direction.

The combination of:

- broad discretionary authority;
- vague decision criteria;
- limited procedural protections;
- evolving policy priorities;

creates a framework in which outcomes may become difficult to predict and difficult to review.

Thus, the rule would create conditions under which arbitrary or inconsistent implementation becomes more likely because decision makers are provided broad discretion without corresponding objective constraints.

Administrative law has long recognized that such situations create heightened risks of uneven treatment and insufficient accountability.

### 19.8 Implications for Reliance Interests

Vagueness also directly affects reliance interests. Institutions cannot effectively plan when the standards governing award continuation, termination, or compliance are uncertain.

Universities, research institutes, nonprofit organizations, states, local governments, and other recipients routinely make long-term commitments involving:

- personnel;
- facilities;
- infrastructure;
- equipment;
- data collection efforts;
- collaborative agreements.

Such investments depend upon the ability to reasonably anticipate how federal requirements will be interpreted and applied. The more uncertain the standards become, the more difficult it becomes to make rational long-term decisions.

Thus, vagueness contributes directly to the broader collapse of planning horizons discussed elsewhere in these comments.

### 19.9 APA and Constitutional Concerns

The concerns raised by the proposal are not merely operational.

They implicate core principles of administrative law.

The Administrative Procedure Act requires agencies to engage in reasoned decision making and to articulate standards that permit meaningful review.

Where regulations rely heavily upon vague or undefined concepts, courts may struggle to determine:

- whether the agency has acted consistently;
- whether similarly situated parties are being treated alike;
- whether agency actions are based on evidence or discretion alone.

In addition, vague standards can amplify constitutional concerns when they affect expressive activities, scientific inquiry, academic research, publication, collaboration, or other areas in which uncertainty itself may suppress otherwise lawful conduct.

Courts have long expressed concern regarding regulatory frameworks that combine significant consequences with vague decision criteria. Decisions such as *Grayned v. City of Rockford*, *City of Chicago v. Morales*, and *FCC v. Fox Television Stations* reflect broader legal principles emphasizing fair notice, the avoidance of arbitrary enforcement, and the need for sufficiently clear standards to guide both regulated parties and governmental decision-makers. Although the legal contexts differ, the underlying concerns are relevant here. The proposed rule repeatedly relies upon broad concepts such as "national interest," "Presidential priorities," "agency priorities," and "reputational risk" while providing limited guidance regarding their meaning, evidentiary basis, or implementation. This creates foreseeable risks of inconsistent interpretation, uneven treatment, and arbitrary enforcement

The cumulative effect of multiple vague standards operating throughout the grant lifecycle is substantial.

### 19.10 Conclusion

The proposed rule repeatedly relies upon broad and subjective concepts—including national interest, Presidential priorities, agency priorities, reputational concerns, and related standards—while providing limited guidance regarding their meaning, application, evidentiary basis, or review.

As a result, regulatory uncertainty is a defining characteristic of the proposed framework.

That uncertainty creates predictable and foreseeable consequences:

- chilling effects;
- self-censorship;
- inconsistent implementation;
- unequal treatment;
- increased compliance costs;
- shortened planning horizons;
- distortion of research portfolios.

OMB has not adequately evaluated these consequences or explained why such extensive reliance on vague standards is necessary.

Accordingly, the proposal raises significant concerns regarding arbitrary enforcement, administrative consistency, reliance interests, and compliance with fundamental principles of administrative law. The resulting vulnerabilities would likely become central issues in any future challenge to agency actions taken pursuant to the rule.

## 20.0 Reputational Risk as a Basis for Federal Action: Implications for Academic Freedom, Scientific Inquiry, and Viewpoint Discrimination

### 20.1 The Use of "Reputational Risk" as a Regulatory Standard Warrants Special Scrutiny

Among the many changes proposed by the rule, few may be as consequential—or as legally vulnerable—as the introduction of "reputational risk" as a consideration in the administration of federal financial assistance.

At first glance, reputational considerations may appear reasonable. Federal agencies have a legitimate interest in protecting the integrity of federal programs and maintaining public confidence in the stewardship of public funds.

However, the concern raised by the proposed rule is not simply that the term "reputational risk" is vague, although it is.

The deeper concern is that reputation is inherently subjective and frequently shaped by political disagreement, ideological conflict, media narratives, and changing public opinion.

Unlike fraud, waste, abuse, nonperformance, or financial mismanagement, reputational harm often lacks objective metrics or stable boundaries.

As a result, a regulatory framework that permits adverse action based on reputational concerns creates a substantial risk that scientific, educational, and public-interest activities may be judged not on their quality or legality, but on their perceived political acceptability.

### 20.2 Scientific Progress Frequently Begins as Controversy

One of the central lessons of the history of science is that many discoveries and research programs now recognized as essential were initially controversial, politically inconvenient, or contrary to prevailing assumptions.

Examples are abundant. Research on:

- the health risks of tobacco use;
- lead exposure and children's health;
- asbestos-related disease;
- diesel emissions;
- ozone pollution;
- climate change;
- PFAS contamination;
- infectious disease transmission;
- vaccine effectiveness;

- environmental justice;
- public-health interventions;

all generated controversy during their development.

In many cases, the controversy was not the result of poor science.

Rather, it arose because the findings challenged powerful interests, established practices, economic assumptions, political narratives, or prior scientific consensus.

Indeed, some of the most important scientific advances in modern history emerged precisely because researchers pursued questions that others found uncomfortable or inconvenient.

This historical reality raises a critical concern regarding the proposed rule:

*Research that creates reputational controversy is often the very research that federal support is intended to encourage.*

If controversial findings become a basis for heightened scrutiny, administrative burdens, termination risks, or funding decisions, the federal government risks discouraging precisely the forms of inquiry that have historically produced some of society's most important advances.

### 20.3 Reputational Risk Is Inherently Linked to Viewpoint

A further concern is that assessments of reputational risk frequently depend upon judgments about ideas, perspectives, or topics rather than objective conduct.

For example, a research project investigating:

- environmental contamination;
- public-health disparities;
- climate impacts;
- emerging technologies;
- energy policy;
- infectious disease responses;

may be viewed favorably by some stakeholders and unfavorably by others.

The same project may be considered socially beneficial by one group and reputationally problematic by another.

Because reputation is largely a function of perception, reputational-risk determinations inevitably become entangled with questions of viewpoint.

This creates a significant danger that administrative decisions may be influenced not by scientific rigor, methodological quality, or compliance with award terms, but by anticipated reactions to the research itself.

Such a framework risks transforming federal assistance decisions into judgments regarding acceptable viewpoints rather than judgments regarding scientific or programmatic merit.

### 20.4 The Rule Creates Incentives for Viewpoint-Based Self-Censorship

The most significant effects of a reputational-risk framework may occur before any formal enforcement action is taken. Researchers frequently make decisions regarding:

- research topics;
- publication strategies;
- collaborations;
- conference presentations;
- public engagement activities.

If investigators perceive that controversial findings may generate reputational concerns capable of affecting future funding or ongoing awards, they may rationally adjust their behavior. Examples could include:

- avoiding politically sensitive research questions;
- avoiding controversial datasets;
- declining participation in public discussions;
- altering the framing of findings;
- avoiding collaborations perceived as risky.

Institutions may react similarly by encouraging more cautious behavior among faculty and researchers.

The resulting chilling effects are especially concerning because they operate indirectly.

No explicit prohibition is required.

The mere existence of uncertainty regarding how reputational concerns may be interpreted can be sufficient to alter behavior.

Proposed 2 CFR § 200.218 introduces a sweeping, government-wide restriction banning federal financial assistance from being used to promote, support, or encourage "theories that impose disparate-impact liability based on federally protected characteristics."

This provision introduces an existential crisis for public health, environmental engineering, and socioeconomic research fields where analyzing disparate impacts is the primary empirical methodology used to identify systemic risks and health disparities.

By attempting to administratively regulate away the funding of research evaluating disparate-impact data, OMB is engaged in a form of viewpoint-based restriction that directly threatens academic freedom and scientific integrity.

This restriction forces investigators into immediate self-censorship and ensures that the future "evidence base" of the federal government will be structurally blind to measurable inequities in public safety, medicine, and environmental exposure.

### 20.5 Academic Freedom Depends Upon Freedom to Pursue Unpopular Questions

American universities have historically operated under the principle that scholars should be free to pursue questions wherever the evidence leads.

This principle recognizes that scientific inquiry is most productive when investigators are able to examine hypotheses without fear that controversial findings will lead to institutional punishment.

The proposed rule introduces a risk that federally supported researchers may increasingly evaluate projects through a new lens:

*Could pursuing this research create reputational concerns that affect current or future federal support?*

Such considerations are fundamentally different from traditional scientific considerations regarding:

- methodological rigor;
- feasibility;
- significance;
- reproducibility;
- relevance.

To the extent the rule encourages investigators to avoid questions because they may generate reputational controversy, it directly undermines principles of academic freedom that have long contributed to American scientific leadership.

### 20.6 Scientific Innovation Requires Protection for Uncomfortable Ideas

Scientific innovation frequently arises from research that challenges existing assumptions.

Research that confirms prevailing beliefs is often less controversial than research that identifies previously unrecognized risks, failures, hazards, or unintended consequences. Historically, transformative discoveries have often required investigators to persist despite skepticism, criticism, or opposition.

A system that penalizes controversy risks creating incentives for conformity. The resulting effect may not be visible immediately. Rather, it emerges gradually as researchers avoid questions that could create administrative risk. Over time, the result is a narrowing of the range of ideas, hypotheses, and approaches pursued within the research enterprise.

Such outcomes are particularly concerning because they are difficult to measure and often become apparent only years after opportunities for discovery have been lost.

### 20.7 Vagueness Magnifies the Problem

The concerns discussed above are intensified by the absence of clear standards defining:

- what constitutes reputational risk;
- how reputational risk will be measured;
- who will determine whether it exists;
- what evidence will support such determinations;
- how recipients may contest those determinations.

Without objective criteria, different agencies and decision-makers may reach dramatically different conclusions regarding similar situations.

The result is increased uncertainty, inconsistent implementation, and diminished predictability throughout the federal assistance system.

The rule therefore combines two problematic features:

1. A highly subjective decision criterion; and
2. Limited guidance regarding how that criterion will be applied.

This combination increases the likelihood of arbitrary enforcement and makes it difficult for recipients to understand what conduct is expected.

### 20.8 Reputational Harm Is Not Limited to Recipients: Agency Actions Can Also Damage Public Trust

The proposed rule appears to assume that reputational risk is principally generated by recipients and funded activities. This perspective is incomplete.

Federal agencies also face reputational risks arising from their own actions, particularly when those actions depart from established scientific, administrative, and ethical standards.

Throughout much of the modern era, federal scientific agencies have invested substantial effort in developing procedures intended to promote:

- scientific integrity;
- transparency;
- objectivity;
- peer review;

- conflict-of-interest management;
- evidence-based decision making;
- public accountability.

These practices exist not merely to improve internal operations, but also to maintain public confidence in agency decisions.

Public trust is one of the most valuable assets possessed by scientific agencies.

In many cases, agencies rely upon trust and credibility to support:

- public-health recommendations;
- environmental assessments;
- scientific advisory activities;
- risk management decisions;
- emergency response activities;
- regulatory actions.

An agency's scientific reputation depends upon a perception that decisions are made through consistent application of established procedures rather than through political preference or ad hoc judgment.

If an agency terminates, suspends, delays, or modifies awards in ways that appear inconsistent with peer-review outcomes, scientific integrity policies, established administrative procedures, or historical practice, the agency itself may suffer reputational harm.

Indeed, widespread perceptions that scientific decisions are being overridden by political considerations can significantly diminish confidence in agency expertise.

Such outcomes may be particularly damaging because they affect not only individual awards but also broader public perceptions regarding the legitimacy and credibility of agency science.

The proposed rule does not meaningfully evaluate these risks.

As a result, the rule treats reputational concerns as largely one-sided while overlooking the possibility that agency actions undertaken pursuant to the rule may themselves become a source of reputational harm.

### 20.9 Government-Imposed Termination or Suspension Can Cause Significant Reputational Harm to Recipients

The proposed treatment of reputational risk also fails to account for reputational harm experienced by recipients themselves.

Federal awards are often highly visible within professional communities.

Suspension, termination, enhanced scrutiny, compliance actions, or formal investigations may carry significant professional consequences even when no misconduct has occurred.

For example, when a federally funded project is terminated, external observers may predictably infer:

- scientific deficiencies;
- compliance failures;
- financial irregularities;
- performance problems;
- ethical concerns.

In many cases, such inferences may be incorrect.

Nevertheless, reputational damage can occur regardless of whether the underlying action ultimately proves justified.

The consequences may extend to:

- individual investigators;
- research staff;
- graduate students;
- postdoctoral researchers;
- departments;
- universities;
- nonprofit organizations;
- collaborative partners.

These effects can influence:

- hiring decisions;
- promotion decisions;
- tenure evaluations;
- future funding opportunities;
- professional standing within scientific societies;
- opportunities for collaboration.

Particularly concerning is the risk that terminations based upon vague concepts such as "reputational risk," "national interest," or changing policy priorities may create reputational harm without any finding of wrongdoing, misconduct, poor performance, or noncompliance.

A scientific reputation may take decades to build and only moments to damage.

Yet the proposed rule does not appear to evaluate how agency actions themselves may create reputational consequences for affected recipients.

Nor does the proposal appear to provide procedural safeguards specifically designed to mitigate those harms.

This omission is especially significant because reputational harms can persist long after an award has ended and may affect individuals who had no role in the circumstances leading to agency action, including students, trainees, technicians, and collaborators.

### 20.10 Constitutional, Administrative Law, and Scientific Integrity Concerns

The reputational-risk provisions raise concerns that extend well beyond questions of regulatory drafting. They implicate core principles of administrative law, scientific integrity, academic freedom, and governmental accountability.

First, reputational assessments are inherently intertwined with the content of research, publication, speech, public engagement, and scientific inquiry. Because controversy often arises from disagreement over ideas rather than misconduct, the use of reputational concerns as a basis for agency action risks creating incentives for recipients to avoid lawful but politically contentious activities. Such incentives can create viewpoint-based chilling effects even in the absence of formal restrictions.

Second, the provisions rely on subjective standards that provide limited guidance regarding how reputational concerns are to be identified, measured, documented, evaluated, or reviewed. Vagueness of this nature increases the risk of inconsistent implementation across agencies, unequal treatment of similarly situated recipients, and arbitrary decision-making. It also complicates meaningful judicial review by depriving courts of objective standards against which agency actions may be evaluated.

Third, the proposal appears to consider reputational risk primarily as a concern arising from recipients and funded activities while largely ignoring reputational harms caused by agency actions themselves. This is a significant omission.

Federal scientific agencies derive a substantial portion of their credibility from adherence to established principles of scientific integrity, peer review, transparency, objectivity, and evidence-based decision-making. If agencies suspend, terminate, or otherwise interfere with awards in ways that appear inconsistent with these principles, the agencies themselves may experience reputational harm. Such actions can undermine confidence in federal scientific institutions, weaken public trust, and diminish the perceived legitimacy of agency decisions.

Fourth, the proposal does not adequately account for reputational harms imposed upon recipients themselves. Suspension, termination, investigation, or enhanced oversight of an award may create lasting reputational consequences for investigators, students, postdoctoral researchers, departments, institutions, and collaborating organizations—

even where no finding of misconduct, noncompliance, or scientific deficiency exists. The mere existence of agency action may be interpreted by peers, employers, collaborators, or the public as evidence of wrongdoing.

These concerns become particularly significant when reputational considerations are used as a basis for suspension, termination, enhanced oversight, or other adverse actions affecting ongoing awards.

These concerns are reinforced by longstanding legal principles addressing academic freedom, viewpoint neutrality, vagueness, and arbitrary governmental action. Courts have repeatedly recognized the importance of protecting intellectual inquiry from governmental standards that are insufficiently defined or that risk penalizing particular viewpoints. Decisions such as *Sweezy v. New Hampshire* and *Keyishian v. Board of Regents* reflect the special importance of academic freedom and intellectual independence in institutions devoted to research and learning. Likewise, principles reflected in *Rosenberger v. University of Virginia* caution against governmental frameworks that may advantage or disadvantage activities based upon viewpoint.

Related legal principles addressing fair notice and vagueness further reinforce these concerns. Courts have repeatedly recognized that individuals and institutions should be able to understand the standards governing governmental action and should not be required to guess how subjective criteria will be interpreted or applied. When significant consequences may result from standards lacking clear boundaries, the risk of inconsistent implementation and arbitrary enforcement increases. Those concerns are particularly relevant here because "reputational risk" is not defined through objective, measurable criteria and may depend heavily upon changing political, social, or institutional judgments.

The concern is not limited to the possibility of future viewpoint discrimination arising from vague standards. The proposal itself contains provisions that identify certain concepts, perspectives, and ideological frameworks as disfavored. Consequently, the risk is that subjective standards such as "reputational risk," "national interest," and policy-alignment requirements may operate in conjunction with expressly articulated substantive preferences, creating incentives for recipients to avoid particular research questions, hypotheses, publications, collaborations, findings, or lines of inquiry perceived as inconsistent with those preferences.

Thus, the use of broad and subjective concepts such as "reputational risk" creates a foreseeable risk that controversial research, unpopular conclusions, or politically sensitive lines of inquiry may receive differential treatment. That risk is amplified by the absence of clear standards governing how reputational concerns will be identified, evaluated, documented, and reviewed.

The reputational-risk provisions also raise familiar administrative-law concerns. Courts reviewing agency actions under the Administrative Procedure Act have repeatedly emphasized the importance of reasoned decision-making, adequate explanation, and meaningful constraints on discretion. To the extent that adverse actions may be based upon subjective assessments of reputational harm rather than objective criteria, serious questions may arise regarding consistency, evidentiary support, fair notice, meaningful judicial review, and susceptibility to arbitrary enforcement. These considerations further strengthen concerns regarding the legal sustainability of the proposed framework.

Accordingly, the reputational-risk provisions are not merely questions of program administration. They implicate constitutional values associated with free inquiry, administrative-law principles requiring clear standards and non-arbitrary decision-making, established scientific integrity norms, and the public's trust in federal institutions.

### 20.11 Conclusion

The proposed use of reputational risk as a basis for federal action is concerning not merely because the term is vague, but because reputation itself is shaped by disagreement, controversy, politics, evolving social norms, media narratives, and changing public opinion.

History demonstrates that many of the most important scientific advances initially generated significant controversy. Research concerning tobacco, lead exposure, asbestos, diesel emissions, ozone pollution, PFAS contamination, climate change, and numerous public-health interventions often challenged prevailing assumptions before eventually becoming foundational to public policy and public welfare. The possibility of controversy is therefore not evidence of poor science; in many cases it is evidence that science is addressing important and socially consequential questions.

A regulatory framework that permits adverse funding consequences based upon reputational concerns risks discouraging precisely the types of inquiry that federal research programs were created to support. It creates foreseeable incentives for self-censorship, viewpoint-based decision-making, reduced intellectual diversity, diminished scientific innovation, and distortion of research priorities.

Moreover, the proposal evaluates reputational risk asymmetrically. It considers potential reputational harms to agencies arising from recipients, but largely ignores reputational harms arising from agency conduct itself and reputational harms imposed upon recipients through suspension, termination, investigation, or public scrutiny. This omission is particularly significant because public trust in federal scientific institutions depends upon consistent adherence to scientific integrity, objective procedures, and evidence-based decision-making.

The resulting risks are substantial:

- chilling effects on scientific inquiry;
- distortion of research portfolios;
- reduced academic freedom;
- inconsistent implementation across agencies;

- arbitrary enforcement;
- reputational injury to investigators and institutions;
- erosion of public trust in federal science.

OMB has not adequately analyzed these consequences, provided objective standards for implementation, or demonstrated why such risks are necessary to achieve legitimate program objectives.

Accordingly, the reputational-risk provisions warrant substantial reconsideration. They represent not only one of the most operationally problematic elements of the proposed rule, but also one of its most significant legal vulnerabilities under principles of administrative law, scientific integrity, academic freedom, and constitutional governance.

The proposal treats reputational harm as a risk created by researchers, while largely ignoring reputational harms caused by agency actions themselves and reputational harms imposed upon recipients.

## 21.0 Implementation Feasibility, Administrative Capacity, and Operational Realities

### 21.1 The Proposed Rule Assumes Administrative Capacity That Has Not Been Demonstrated

A recurring theme throughout the proposed rule is the expansion of review, oversight, approval, certification, monitoring, and termination authorities. The proposal repeatedly assumes that agencies will be able to execute these responsibilities effectively and consistently.

However, the preamble provides little analysis of a fundamental question: *Has OMB demonstrated that the federal government possesses the personnel, expertise, time, systems, and resources required to implement these new requirements?*

The answer is not obvious.

The proposed rule introduces numerous mechanisms that depend upon additional administrative review and decision-making. These include:

- expanded pre-award reviews;
- increased political review of awards;
- enhanced risk assessments;
- expanded subrecipient oversight requirements;
- conference approval processes;
- publication review and approval processes;
- ongoing reassessment of active awards;
- expanded termination and suspension authorities;
- documentation of compliance with evolving priorities.

Each of these requirements consumes administrative capacity.

Yet the rule provides limited quantitative analysis, if any, of the resources necessary to implement them.

### 21.2 The Scale of the Federal Assistance Enterprise Matters

The federal financial assistance system is enormous.

The agencies affected by the proposal collectively administer tens of thousands of grants, cooperative agreements, fellowships, training awards, and other assistance instruments each year.

Examples include programs administered by:

- NIH;

- NSF;
- DOE;
- USDA;
- NOAA;
- EPA;
- CDC;
- DOD;
- and numerous additional agencies.

The proposed rule often discusses oversight mechanisms as though individual decisions occur in isolation. In practice, however, agencies operate at scale.

Questions that seem modest when applied to a single award become much more significant when multiplied across thousands or tens of thousands of awards.

For example:

- How many additional award reviews will be required annually?
- How many awards will require political review?
- How many personnel will conduct those reviews?
- How long will reviews take?
- How many disputes or appeals should be expected?
- What additional staffing will be necessary?

The rule does not appear to provide answers to these questions.

### 21.3 Political Review Creates a Potential Administrative Bottleneck

One of the most significant implementation concerns involves the proposed expansion of political review.

Historically, agency grant programs have relied heavily upon:

- independent peer reviewers;
- scientific review panels;
- career program managers;
- grants management specialists;
- technical experts.

These systems distribute workload across large numbers of qualified personnel possessing relevant subject-matter expertise.

The proposed rule introduces greater involvement by senior political officials in funding decisions and award oversight. This raises practical questions regarding scalability. For example:

- How many awards can senior political leadership realistically review?
- What technical expertise will be available for highly specialized proposals?
- How will reviews be conducted within existing award timelines?
- How will consistency be maintained across review teams and agencies?

Many research proposals contain highly technical subject matter requiring years of specialized training to evaluate competently.

The proposal does not explain how additional political review layers will operate efficiently in such environments.

### 21.4 Subject-Matter Expertise Cannot Be Assumed

Many federal awards involve highly specialized scientific, engineering, medical, environmental, or technical issues.

Examples include:

- biomedical research;
- artificial intelligence;
- atmospheric science;
- toxicology;
- climate modeling;
- advanced energy systems;
- public health surveillance;
- agricultural biotechnology.

Effective review of such work generally depends upon specialized expertise. Historically, agencies have addressed this challenge through:

- peer review;
- career technical staff;
- rotating scientific experts;
- advisory committees.

The proposed rule appears to assume that additional review layers can be added without affecting decision quality.

However, the rule does not explain how sufficient expertise will be available at each stage of review, particularly when decisions involve questions regarding scientific merit, technical feasibility, or programmatic significance.

### 21.5 Delays Are a Predictable Consequence of Increased Review Requirements

Administrative burden is not measured solely in labor hours.

It is also measured in delay.

Each new layer of review creates additional opportunities for:

- processing delays;
- scheduling delays;
- requests for clarification;
- reconsideration requests;
- bottlenecks in approval workflows.

Research programs frequently operate under strict scheduling constraints.

Examples include:

- growing seasons;
- field campaigns;
- environmental monitoring windows;
- academic calendars;
- student funding cycles;
- equipment procurement schedules;
- clinical research timelines.

Even modest delays can have significant consequences.

A delayed award may mean:

- loss of a field season;
- postponement of graduate student support;
- inability to hire personnel;
- delayed procurement of equipment;
- interruption of collaborative projects.

The preamble does not adequately analyze these operational impacts.

### 21.6 Agency Capacity Constraints May Produce Unintended Consequences

An additional concern is that agencies operating under capacity constraints often respond in predictable ways. When administrative requirements expand faster than staffing and resources, agencies frequently:

- increase processing times;
- reduce flexibility;
- rely on more formulaic decision making;
- prioritize defensibility over innovation;
- avoid complex or potentially controversial projects.

These responses are rational from an organizational perspective. However, they often produce outcomes directly contrary to policy goals. For example, efforts intended to improve oversight may inadvertently reduce innovation, increase delay, and discourage ambitious research.

The proposed rule does not meaningfully evaluate these risks.

### 21.7 My Experience Suggests Significant Implementation Challenges

Based on my experience as:

- a federally funded investigator;
- a university research administrator;
- an Associate Dean for Research;
- and a senior leader of a federal scientific organization responsible for research programs;

I am particularly concerned that OMB has underestimated the complexity of implementing the proposed changes.

Federal research programs already rely upon extensive administrative infrastructures involving:

- peer review systems;
- program managers;
- grants specialists;
- financial personnel;
- legal counsel;
- compliance offices.

These systems are designed around existing authorities, timelines, and staffing levels.

The proposal introduces substantial additional layers of review and oversight without demonstrating that agencies possess the personnel, expertise, training, information systems, or resources required to implement them effectively.

In practical terms, the proposal appears to assume administrative capacity that may not exist.

### 21.8 APA Implications

Implementation feasibility is not merely a management issue. It is also an administrative-law issue.

The Administrative Procedure Act requires agencies to engage in reasoned decision-making and to consider important aspects of the problem before them.

A proposal that depends upon substantial new administrative activity should be accompanied by a realistic assessment of:

- staffing requirements;
- review capacity;
- operational feasibility;
- implementation timelines;
- expected delays;
- associated costs.

The proposed rule contains limited analysis of these issues despite their obvious relevance to successful implementation.

These implementation concerns are reinforced by longstanding administrative-law principles requiring agencies to consider important aspects of the problem before them and to provide a reasoned explanation for their conclusions. Courts applying the Administrative Procedure Act have repeatedly emphasized that agencies must respond to foreseeable implementation problems rather than simply assume that proposed requirements can be administered effectively. Decisions such as *Motor Vehicle Manufacturers Ass'n v. State Farm Mutual Automobile Insurance Co.* and *Department of Homeland Security v. Regents of the University of California* reflect the broader principle that agencies should evaluate operational realities, practical consequences, administrative constraints, and reliance interests when proposing substantial policy changes. Where implementation depends upon significant new responsibilities, increased oversight, expanded reviews, or additional staffing, the absence of a realistic assessment of administrative capacity may itself become evidence of inadequate consideration of an important aspect of the problem.

As a result, OMB has not adequately demonstrated that the proposed framework can be administered efficiently, consistently, or at the scale required across the federal government.

### 21.9 Conclusion

The proposed rule substantially increases the complexity of administering federal financial assistance while providing limited evidence that agencies possess the personnel, expertise, systems, or resources required to implement the new requirements.

OMB repeatedly assumes that additional reviews, approvals, monitoring activities, and oversight functions can be absorbed into existing operations. However, the proposal provides little analysis regarding staffing needs, review capacity, administrative delays, technical expertise requirements, or operational bottlenecks.

The resulting gap between proposed responsibilities and demonstrated implementation capacity raises serious questions regarding feasibility.

The concern is not merely that implementation may be difficult. The concern is that implementation feasibility appears largely to have been assumed rather than demonstrated. OMB has not provided substantial analysis of how agencies will obtain the personnel, technical expertise, training, information systems, management controls, and review capacity necessary to carry out the proposed framework. Nor has OMB meaningfully evaluated whether additional layers of review may themselves create delays, bottlenecks, inconsistencies, and unintended consequences that undermine the rule's stated objectives.

These questions are important not only from a management perspective but also under the Administrative Procedure Act, because an agency cannot reasonably assume that a complex government-wide regulatory regime will function effectively without first evaluating whether the institutions responsible for implementation are capable of carrying it out.

## 22.0 Effects on Scientific Integrity, Information Quality, and Future Federal Decision-Making

### 22.1 The Proposed Rule Should Be Evaluated Not Only by Its Effect on Grants, but by Its Effect on the Quality of Knowledge Produced

Much of the discussion surrounding the proposed rule focuses appropriately on administrative burden, grant management, compliance obligations, political oversight, and recipient impacts. However, a critical issue has received comparatively little attention:

*The ultimate purpose of many federal financial assistance programs is to produce reliable knowledge upon which future public and private decisions depend.*

Federal agencies support research not as an end in itself, but because research provides the evidence base for future decision-making. The quality of future federal decisions depends directly on the quality of the information available to decision makers. Consequently, the proposed rule should be evaluated not only according to how it affects grants administration, but also according to how it affects:

- scientific integrity;
- information quality;
- evidence generation;
- technical credibility;
- the reliability of future governmental decisions.

The proposal largely fails to conduct this analysis.

### 22.2 Scientific Integrity Is a Governance Issue, Not Merely an Ethical Principle

Scientific integrity is often discussed as a matter of professional ethics.

In practice, it is also a matter of institutional design.

Scientific integrity depends on governance structures that encourage:

- independent inquiry;
- transparent methods;
- objective evaluation;
- peer review;
- open dissemination;
- freedom to report findings regardless of whether they support preferred outcomes.

The United States has spent decades developing policies intended to protect these principles throughout the federal scientific enterprise.

These safeguards emerged because scientific credibility depends on confidence that conclusions were reached through evidence rather than political preference.

The proposed rule alters many of the institutional mechanisms that support scientific integrity, including:

- peer-review processes;
- dissemination mechanisms;
- collaboration pathways;
- funding stability;
- independence of investigators;
- political oversight of research activities.

These changes create risks that extend beyond individual awards.

They affect the conditions under which evidence itself is generated.

### 22.3 Information Quality Depends on Scientific Independence

A fundamental premise underlying federal science policy is that scientific quality improves when investigators are free to pursue evidence wherever it leads. This principle is especially important because many scientific findings are unexpected.

Researchers frequently discover:

- previously unknown risks;
- unintended consequences;
- failures of existing assumptions;
- limitations of current technologies;
- emerging threats;
- novel opportunities.

Indeed, some of the most important scientific contributions occur precisely because the results differ from what researchers, policymakers, or sponsors initially expected.

A system that creates incentives for political alignment, self-censorship, or avoidance of controversial topics risks degrading information quality even if scientific activity continues.

The problem is that certain questions may never be asked, certain studies may never be conducted, and certain findings may never be disseminated.

Information quality is diminished not only by inaccurate science but also by the absence of needed science.

### 22.4 Distortions in Research Governance Produce Distortions in Knowledge Production

An important but often overlooked relationship exists between governance and knowledge. The structure through which research is funded influences:

- what topics are studied;
- which proposals are pursued;
- which collaborations are formed;
- what data are collected;
- what findings are disseminated.

Consequently:

Distortions in research governance eventually become distortions in the knowledge base itself.

- If investigators avoid politically sensitive questions, the resulting evidence base becomes incomplete.
- If institutions discourage controversial projects, important risks may remain unidentified.
- If collaboration is restricted, opportunities for methodological improvement may be lost.
- If publication becomes more difficult, findings become less accessible and less influential.

The resulting damage often occurs gradually and may be difficult to detect until years later.

Nevertheless, the effects are real and potentially substantial.

### 22.5 Poor Information Leads to Poor Decisions

The federal government depends heavily upon scientific and technical information to perform responsibilities assigned by Congress. In many instances, federal statutes explicitly or implicitly require agencies to rely upon the best available scientific, technical, engineering, medical, or economic information when making decisions.

Examples include:

- environmental regulation under statutes such as the Clean Air Act and Clean Water Act, which depend upon scientific assessments of exposure, emissions, environmental fate, ecological impacts, and human health risks;
- public-health protection activities conducted by agencies such as CDC, NIH, FDA, and EPA, which rely upon epidemiological, toxicological, clinical, and public-health research;
- emergency preparedness and response activities carried out under public health, environmental, homeland security, and disaster-response authorities;

- energy policy and energy technology programs conducted pursuant to numerous Department of Energy authorities that depend upon engineering, economic, and scientific analyses;
- infrastructure planning and resiliency initiatives that increasingly require technical assessment of climate, environmental, engineering, demographic, and economic factors;
- agricultural programs administered by USDA that depend upon research concerning crops, soil health, water resources, pests, biotechnology, and food systems;
- national security assessments that depend upon scientific and technical information concerning energy systems, climate risks, public health threats, emerging technologies, cybersecurity, advanced manufacturing, and other strategic issues;
- climate adaptation, resilience, disaster-risk reduction, and natural-resource management activities that depend upon observational, modeling, and risk-assessment capabilities;
- technology development, innovation, and competitiveness initiatives that rely upon federally supported research and development activities.

Many federal statutes require agencies to base decisions on scientific evidence, substantial evidence, reasoned analysis, or the best available information. Even where the phrase "best available science" does not appear explicitly in governing statutes, federal agencies routinely rely upon scientific research, peer review, technical assessment, and evidence-based decision making to satisfy their legal obligations and to support judicially reviewable administrative records.

As a result, the quality of future federal decisions is directly related to the quality of the scientific information available to decision makers.

Therefore:

Poor research governance can ultimately produce poor administrative records.

Poor administrative records can lead to weaker regulations, weaker risk assessments, weaker public-health protections, weaker environmental protections, less effective infrastructure planning, less informed economic decisions, and greater vulnerability of agency actions to judicial challenge.

The proposed rule is therefore not merely a grants-management regulation. To the extent that it diminishes scientific independence, discourages inquiry, weakens dissemination, constrains collaboration, or distorts research priorities, it risks degrading the evidentiary foundation upon which many federal statutory responsibilities depend.

OMB has not adequately analyzed this downstream effect on the federal government's future scientific and technical information base, despite its direct relevance to the effective implementation of numerous federal programs and statutory mandates.

The quality of these decisions depends upon the quality of the underlying evidence.

As a result: Bad grant governance can ultimately produce bad policy outcomes.

When the scientific evidence base becomes weaker, future decisions become less reliable.

Specifically, degradation of information quality can lead to:

- poorer regulations;
- weaker risk assessments;
- less effective public-health interventions;
- less accurate environmental analyses;
- weaker economic decision-making;
- diminished preparedness for emerging challenges.

The rule therefore has implications extending far beyond research administration.

It affects the future capacity of government to make informed decisions.

During my service as a senior leader within EPA's Office of Research and Development, a principal purpose of scientific investment was to improve the evidentiary basis for future agency decisions, including risk assessments, exposure assessments, regulatory analyses, environmental modeling, and technology evaluation. The value of such research was not limited to the publications it produced, but extended to the quality, credibility, and defensibility of future agency actions that depended upon that research.

### 22.6 Implications for Risk Assessment and Environmental Decision-Making

Based on my experience as both a researcher and a senior leader within EPA's Office of Research and Development, I am particularly concerned about the effects of the proposed rule on the scientific foundations of federal decision-making.

Risk assessment provides an illustrative example. Effective risk assessment depends upon:

- high-quality exposure data;
- toxicological evidence;
- epidemiological studies;
- uncertainty analysis;
- model development and validation;
- independent peer review.

These activities require sustained scientific investment and frequently involve research that spans many years. They also often generate findings that are controversial because they affect significant economic, regulatory, or political interests. Historically, the strength of federal risk-assessment programs has depended upon the credibility of the underlying science.

Any policy that weakens scientific independence, discourages inquiry, or distorts funding priorities ultimately threatens the quality of future risk assessments. The consequence is not merely a scientific problem. It becomes a public-policy problem.

### 22.7 Implications for Information Quality Act Principles

The federal government has long recognized the importance of maximizing the quality, objectivity, utility, and integrity of information used in policymaking.

These principles reflect a recognition that governmental decisions are only as reliable as the information on which they are based.

The proposed rule contains extensive discussion of accountability for financial resources but comparatively little discussion of accountability for information quality.

Yet many of the proposal's most significant provisions have direct adverse implications for:

- objectivity;
- transparency;
- reproducibility;
- scientific independence;
- information accessibility.

These concerns are particularly notable because OMB itself has long emphasized the importance of information quality, objectivity, transparency, and scientific peer review in federal decision-making. Through government-wide information quality policies and the Information Quality Bulletin for Peer Review, OMB has encouraged federal agencies to improve the credibility, reliability, and scientific integrity of information used to support important governmental decisions. The resulting peer-review frameworks adopted across federal agencies reflect a recognition that high-quality decisions depend upon high-quality information. Yet the proposed rule contains little analysis of whether expanded political oversight, weakened reliance on traditional scientific review mechanisms, restrictions affecting dissemination and collaboration, and incentives for self-censorship may adversely affect the quality of information available to future policymakers. The proposal therefore appears difficult to reconcile with longstanding federal commitments to objectivity, transparency, scientific integrity, and information quality.

OMB should evaluate whether the proposed changes support or undermine the broader federal commitment to high-quality information.

The current record does not appear to contain such an analysis.

A recurring theme throughout these comments is that OMB has focused extensively on accountability for expenditures while devoting comparatively little attention to accountability for information quality. However, for many federal research programs, the ultimate public benefit arises not from the expenditure itself but from the quality of the knowledge produced. Any governance changes that affect scientific independence, dissemination, peer review, collaboration, or research priorities should therefore be evaluated not only for their administrative consequences, but also for their effects on the future quality, objectivity, utility, and integrity of information available for governmental decision-making.

### 22.8 Public Trust Depends on Confidence in Scientific Processes

Federal agencies derive substantial legitimacy from public confidence in the integrity of their scientific processes.

Members of the public may disagree with particular policies, but confidence is strengthened when decisions are perceived as arising from:

- objective evidence;
- transparent methods;
- independent review;
- established procedures.

Conversely, public trust may be weakened when scientific decisions appear to be influenced by political preferences rather than evidence.

The proposed rule repeatedly expands opportunities for political intervention while reducing the practical influence of traditional scientific safeguards.

OMB does not adequately evaluate whether these changes could affect public confidence in the credibility of federally supported science.

This omission is significant because trust itself is a valuable public asset.

### 22.9 The Rule Threatens the Future Evidence Base of Government

The most important consequences of the proposed rule extend beyond their effects on today's research projects. The proposed rule will affect tomorrow's evidence base. The federal government will face future challenges involving:

- public health;
- environmental protection;

- energy systems;
- infrastructure resilience;
- technological competitiveness;
- national security;
- economic development.

Addressing those challenges will require high-quality scientific and technical information.

Policies that weaken the processes through which that information is generated create long-term risks that may not become visible until years after the rule is implemented.

By then, opportunities to generate critical evidence may already have been lost.

### 22.10 Conclusion

The proposed rule should be evaluated not only as a regulation governing federal financial assistance, but also as a policy affecting the quality, availability, credibility, and independence of the scientific and technical information upon which future governmental decisions depend.

Scientific integrity, information quality, and evidence generation are not incidental byproducts of federal assistance programs. They are among the principal purposes for which many federal research, education, public health, environmental, agricultural, energy, and technology programs exist. Congress has repeatedly assigned agencies responsibilities that depend upon the development, evaluation, and use of reliable scientific and technical information. In many instances, agencies are explicitly or implicitly expected to base decisions upon the best available evidence, substantial evidence, reasoned analysis, peer-reviewed science, or similarly rigorous information sources.

The proposed rule alters multiple institutional features that support the production of such information, including peer review, dissemination, collaboration, investigator independence, funding stability, and the relationship between scientific judgment and political oversight. These changes affect not only the conduct of research itself, but also the quality of the evidence that will be available to future policymakers, program managers, regulators, risk assessors, and courts.

The consequences extend far beyond individual grants or cooperative agreements. Poor research governance can produce a weaker scientific record. A weaker scientific record can produce weaker risk assessments, weaker public-health protections, weaker environmental analyses, less effective infrastructure and energy planning, poorer economic decision-making, and administrative records that are more vulnerable to judicial challenge. The ultimate costs of degraded scientific information are borne not only by researchers and institutions, but by the public agencies and citizens who depend upon sound evidence to support informed decision-making.

As a former senior leader of a federal scientific organization, I view this concern as particularly significant. A primary purpose of federal investment in science is not merely to fund research activities, but to strengthen the evidentiary foundation upon which future governmental decisions will rest. The value of these investments therefore lies not only in the publications, data sets, methods, and technologies they generate, but also in their contribution to the quality, credibility, and defensibility of future agency actions.

OMB has not adequately evaluated these relationships. Nor has it adequately analyzed how the proposed changes may affect the federal government's future scientific and technical information base. This omission is especially significant because many of the proposal's most consequential effects may emerge years after implementation through degradation of the evidence available for future decisions.

Accordingly, the proposal's implications for scientific integrity, information quality, and the future evidentiary foundation of federal decision-making represent a substantial and insufficiently analyzed aspect of the rulemaking. This failure to consider an important aspect of the problem further contributes to concerns regarding arbitrariness and vulnerability under the Administrative Procedure Act.

## 23.0 Preservation of Objection to the Sufficiency of the Comment Period

### 23.1 The Scope of the Proposed Rule Warrants a More Extensive Opportunity for Public Participation

This comment respectfully objects to the adequacy of the comment period provided for this rulemaking and preserves that objection for purposes of any future administrative or judicial review.

The proposed rule is not a narrow technical amendment to existing administrative requirements. Rather, it represents a sweeping revision of the governance framework for federal financial assistance across the federal government. The proposal affects programs involving scientific research, higher education, public health, environmental protection, workforce development, infrastructure, state and local government operations, nonprofit organizations, and numerous other areas supported through federal assistance.

As discussed throughout these comments, the rule proposes changes affecting:

- merit review and award selection;
- termination and suspension authority;
- publication and dissemination;
- conference participation;
- international collaboration;
- subrecipient oversight;
- indirect cost recovery;
- workforce development;
- compliance obligations;
- information collection requirements;
- implementation of Executive Branch priorities;
- administration of grants and cooperative agreements throughout the federal government.

The breadth and significance of these changes distinguish this rulemaking from routine updates to administrative guidance.

### 23.2 The Comment Period Is Disproportionate to the Scope and Complexity of the Proposal

Meaningful notice-and-comment rulemaking depends not only on publication of a proposed rule but also on providing affected parties a reasonable opportunity to evaluate its implications.

The proposed rule affects:

- federal agencies;
- universities;
- research institutions;
- nonprofit organizations;
- state governments;
- local governments;
- tribal governments;
- health-care institutions;
- industry partners;
- professional societies;
- students and trainees.

Many of the proposal's effects are indirect, cumulative, and operational in nature.

Identifying these effects requires analysis by:

- legal counsel;
- grants management professionals;
- compliance officers;
- financial administrators;
- scientific leaders;
- principal investigators;
- institutional leadership.

For large organizations, assessment of a proposal of this magnitude often requires coordination across multiple offices and stakeholders.

A compressed comment period significantly limits the ability of affected parties to conduct the type of comprehensive review necessary to identify consequences that may not be immediately apparent from the text of the proposal.

### 23.3 Many Consequences of the Proposal Require Analysis That Cannot Reasonably Be Completed Within a Compressed Timeframe

Several of the most significant issues raised by the proposal involve questions that require substantial evaluation, including:

- long-term workforce impacts;

- financial impacts;
- implementation feasibility;
- administrative burden;
- scientific integrity concerns;
- effects on research productivity;
- effects on public health and environmental programs;
- constitutional issues;
- Administrative Procedure Act issues;
- Paperwork Reduction Act implications;
- interactions with agency-specific statutory authorities.

Many affected stakeholders do not maintain in-house expertise in all of these areas and therefore require additional time to consult with outside experts, professional organizations, legal counsel, collaborating institutions, and affected personnel.

This concern is particularly important given that the proposal would affect a government-wide framework that has evolved over many decades.

A rulemaking that alters foundational features of the federal assistance system should be supported by a participation process commensurate with its breadth and significance.

### 23.4 Inadequate Time Limits the Development of the Administrative Record

A principal purpose of notice-and-comment rulemaking is the creation of a robust administrative record.

The quality of that record depends upon affected parties having a meaningful opportunity to:

- identify legal concerns;
- evaluate operational consequences;
- provide empirical evidence;
- develop economic analyses;
- assess implementation challenges;
- propose alternatives.

Where comment periods are insufficiently short relative to the complexity of a proposal, important information may never become part of the administrative record.

This concern is especially relevant here because many of the issues discussed in these comments—including reliance interests, scientific integrity, workforce development, implementation feasibility, administrative burden, and long-term impacts on research governance—require substantial analysis that extends beyond ordinary grants-management considerations.

### 23.5 Preservation of Objection

For the reasons described above, I respectfully object to the adequacy of the comment period provided for this rulemaking.

**This comment should not be construed as agreement that the notice-and-comment process has afforded affected parties an adequate opportunity for participation.**

The submission of these comments reflects a good-faith effort to identify significant legal, policy, scientific, administrative, and operational concerns within the time provided. However, given the breadth, complexity, and government-wide implications of the proposal, it is likely that additional concerns, evidence, analyses, and stakeholder perspectives would emerge if affected parties were afforded a more extended opportunity for review and comment.

This objection is based not merely on the length of the comment period itself, but on the interaction between the duration of the comment period and the scope of the proposal. The Administrative Procedure Act contemplates meaningful public participation in rulemaking. Meaningful participation becomes more difficult when a proposal affects numerous federal agencies, statutory programs, regulated entities, research institutions, governmental recipients, and professional communities while simultaneously providing limited supporting analysis regarding implementation, alternatives, staffing requirements, costs, and operational consequences.

Courts evaluating notice-and-comment rulemaking have repeatedly emphasized that meaningful participation depends not only on the opportunity to submit comments, but also on adequate disclosure of information necessary for interested parties to understand and evaluate agency proposals. Principles reflected in decisions such as *Home Box Office, Inc. v. FCC* and *Owner-Operator Independent Drivers Ass'n v. FMCSA* underscore this concern. To the extent that the compressed comment period limited the ability of affected parties to evaluate the proposal's legal, operational, scientific, and workforce implications, that limitation may have impaired development of the administrative record itself.

The concerns identified here are amplified by the fact that many of the issues discussed throughout these comments—including implementation feasibility, workforce impacts, reliance interests, scientific integrity effects, alternatives analysis, and administrative-capacity constraints—are not readily apparent from the regulatory text alone. Evaluation of such issues requires substantial analysis and consultation. Where a proposal is both unusually broad and supported by a limited technical record, a compressed comment period increases the risk that important information never becomes part of the administrative record available to the agency at the time of final decision-making.

### 23.6 Conclusion

The proposed rule represents one of the most significant revisions to the federal financial assistance framework in decades. Its scope extends far beyond routine grants administration and affects the operation of a substantial portion of the federal government's research, education, public health, environmental, infrastructure, and workforce-development activities.

Given the breadth of the proposal, the number of affected stakeholders, the complexity of the underlying legal and policy issues, and the potential consequences for hundreds of billions of dollars in federal assistance, the comment period provided is insufficient to ensure the fully informed participation contemplated by the notice-and-comment process.

Accordingly, this comment preserves an objection to the adequacy of the comment period and to any assumption that affected parties have been provided a reasonable opportunity to identify and analyze all significant consequences of the proposed rule.

## 24.0 Effects on Environmental, Health, and Safety Research

### 24.1 The Proposed Rule Has Implications Beyond Research Administration

Much of the discussion surrounding the proposed rule focuses on grants administration, compliance obligations, merit review, and federal assistance governance. Those concerns are important. However, an additional and insufficiently examined consequence is the potential effect of the rule on research that informs governmental decisions regarding environmental protection, public health, infrastructure resilience, emergency preparedness, and public safety.

The question is not whether environmental and health research are important. The more relevant question is: *How will the proposed rule affect the generation of scientific evidence upon which critical public decisions depend?*

Many of the rule's most consequential provisions—expanded political review, increased termination authority, reputational-risk considerations, and heightened emphasis on alignment with evolving Executive Branch priorities—fall most heavily on areas of research that frequently intersect with public policy debate.

As a result, the rule may disproportionately affect scientific fields that provide information necessary to identify hazards, evaluate risks, protect public health, and support emergency management decisions.

### 24.2 Environmental and Public Health Research Frequently Addresses Politically Contested Topics

A recurring theme throughout the proposal is the increased role of political judgment relative to traditional scientific evaluation. This is especially significant because many environmental, health, and safety research topics are inherently controversial.

Congress has long recognized that environmental, public-health, and safety issues often involve scientific uncertainty, economic consequences, and political controversy. Rather than treating controversy as a justification for increased political control of scientific judgments, numerous federal statutes establish processes intended to ensure that decisions remain grounded in scientific evidence and expert evaluation. Examples include Sections 108 and 109 of the Clean Air Act governing National Ambient Air Quality Standards, provisions of the Endangered Species Act requiring reliance upon the best scientific and commercial data available, and numerous provisions of the Clean Water Act, Safe Drinking Water Act, Public Health Service Act, and other statutes that depend upon scientific and technical assessments. Courts have likewise recognized the importance of scientifically grounded decision-making in highly technical regulatory contexts. These statutory frameworks reflect a recurring congressional judgment that controversial questions should be informed by rigorous scientific evaluation rather than resolved primarily through political considerations.

Examples include research concerning:

- air pollution;
- climate change;
- extreme heat;
- wildfire smoke;
- environmental contamination;
- PFAS and other emerging contaminants;
- energy systems;
- occupational exposures;
- environmental justice;
- public-health disparities;
- infectious disease preparedness;
- transportation emissions;
- chemical risk assessment.

Such research often influences future regulatory, economic, infrastructure, or public-health decisions. Consequently, these fields frequently become the subject of political disagreement.

The fact that a research topic is politically contested, however, does not diminish its scientific importance. In many cases, the opposite is true. The most consequential public-policy questions are often those for which reliable scientific evidence is needed most urgently.

The proposed rule does not adequately examine how expanded political review and discretionary termination authority may affect research in these areas.

### 24.3 The Rule Creates Special Risks for Research Intended to Identify Emerging Hazards

Many federal research programs are designed specifically to identify risks before they become crises. The purpose of such research is often preventive.

Examples include:

- identifying emerging environmental contaminants;
- assessing long-term health risks associated with chemical exposures;
- evaluating infrastructure vulnerabilities;
- developing early-warning systems;
- understanding climate-related hazards;
- identifying risk factors associated with disease and mortality.

Research of this type often challenges existing assumptions and may generate findings that are politically inconvenient, economically disruptive, or controversial. Historically, some of the most important environmental and public-health discoveries initially encountered substantial resistance.

Examples include:

- lead exposure and children's health;
- tobacco-related disease;
- asbestos-related illness;
- ozone pollution;
- diesel emissions;
- PFAS contamination.

Had research concerning these issues been discouraged because it generated controversy or reputational concerns, many resulting public-health protections might have been significantly delayed.

The proposed rule does not meaningfully address this risk.

### 24.4 Scientific Risk Assessment Depends Upon Independent Research

Throughout my career, I have conducted and supervised research involving:

- exposure assessment;
- environmental modeling;
- emissions measurement;
- risk assessment;
- uncertainty analysis;
- environmental health;
- air quality;
- transportation systems.

I have also served in leadership roles involving federal scientific programs whose purpose was to generate evidence used by decision makers. One lesson consistently emerges from these experiences: *Effective risk assessment depends upon scientific independence*. Risk assessments are only as credible as the underlying science.

That science must be free to:

- identify previously unrecognized risks;
- quantify uncertainty;

- challenge existing assumptions;
- evaluate competing hypotheses;
- communicate findings regardless of whether those findings are politically convenient.

The proposed rule repeatedly introduces mechanisms that could influence the willingness of investigators and institutions to pursue certain questions, disseminate certain findings, or continue research areas perceived as politically sensitive.

Any such effect would directly undermine the quality of future risk assessments.

### 24.5 Climate, Heat, and Extreme Weather Research Illustrate the Problem

Recent years have demonstrated the importance of research supporting understanding of extreme heat, drought, wildfire risk, severe weather, infrastructure resilience, and related hazards.

Such research informs decisions involving:

- emergency management;
- public-health preparedness;
- transportation systems;
- electric grid reliability;
- water resources;
- agricultural planning;
- community resilience.

The value of this work lies not in advancing a particular political perspective, but in providing information that decision makers can use to protect lives, property, and critical infrastructure.

However, many of these topics have also become politically contested.

Under the proposed rule, research operating in politically sensitive areas may face heightened vulnerability because of:

- expanded political review;
- reputational-risk considerations;
- evolving policy priorities;
- discretionary termination authority.

The concern is not that specific studies will necessarily be prohibited.

Rather, the concern is that the cumulative incentive structure may discourage investigators, institutions, reviewers, and agencies from supporting work that could later become politically controversial.

### 24.6 Chilling Effects Have Particular Consequences in Environmental and Public Health Research

As discussed elsewhere in these comments, one of the most important consequences of the proposed rule may be self-censorship and risk avoidance.

These effects are especially important in environmental and public-health research because many of the most valuable questions involve uncertainty.

Researchers frequently investigate:

- potential hazards;
- emerging contaminants;
- low-probability, high-consequence events;
- long-term exposure effects;
- interactions among multiple stressors;
- risks affecting vulnerable populations.

Such work often produces findings that are difficult, controversial, or disruptive.

If investigators begin avoiding these topics because of uncertainty regarding political review, reputational consequences, funding continuation, or future award opportunities, the resulting knowledge gaps may persist for years.

The public may not be aware of the resulting losses because the affected research often never occurs.

### 24.7 Consequences for Public Decision-Making

Environmental, health, and safety research informs an extraordinary range of governmental decisions.

These include decisions regarding:

- environmental protection;
- public-health interventions;
- infrastructure investments;
- disaster preparedness;
- occupational safety;
- transportation planning;

- energy systems;
- emergency response.

Weakening the scientific foundation supporting these decisions does not eliminate risk. It merely increases uncertainty. As a result, the costs of diminished research capacity ultimately extend far beyond universities and research institutions. They affect governments, businesses, communities, and individual citizens who rely on informed decision-making.

### 24.8 Failure to Consider These Consequences

The proposed rule contains extensive discussion regarding accountability, oversight, and Executive Branch priorities.

It contains comparatively little analysis of how the rule may affect research that generates evidence needed to support future environmental, health, safety, and resilience decisions.

This omission is particularly significant because many of the proposal's most consequential provisions are likely to have their greatest impact on fields where scientific findings intersect with public policy.

OMB should specifically evaluate:

- effects on environmental health research;
- effects on exposure assessment and risk assessment;
- effects on climate and resilience research;
- effects on public-health science;
- effects on emergency preparedness research;
- effects on long-term environmental monitoring and data collection.

The current record does not demonstrate that these issues have been adequately considered.

### 24.9 Conclusion

The proposed rule affects more than the administration of federal grants and cooperative agreements. It affects the future production of scientific knowledge that supports public decisions concerning environmental hazards, public health, infrastructure resilience, emergency preparedness, and public safety.

Because these fields frequently address politically contested topics, they are especially vulnerable to the combined effects of political review, reputational-risk concerns, expanded termination authority, and the broader chilling effects created by the proposal.

As a result, the rule risks systematically disadvantaging research that informs some of the federal government's most important responsibilities: identifying hazards, evaluating risks, protecting public health, preparing for emergencies, and supporting evidence-based decision-making.

OMB has not adequately analyzed these consequences. Accordingly, the potential impacts on environmental, health, and safety research represent another significant and insufficiently considered aspect of the proposed rule, further contributing to concerns regarding its reasonableness under the Administrative Procedure Act.

## 25.0 Deficient Development of the Administrative Record

### 25.1 The Administrative Record Appears Incomplete Relative to the Scope of the Proposal

The proposed rule represents one of the most consequential revisions to federal financial assistance policy in decades. It affects a government-wide framework governing hundreds of billions of dollars in annual federal assistance and influencing research, education, workforce development, public health, environmental protection, infrastructure, and numerous other activities.

Given the extraordinary breadth of the proposal, one would expect the rulemaking record to contain substantial supporting analysis addressing:

- operational feasibility;
- implementation capacity;
- compliance costs;
- workforce impacts;
- effects on scientific productivity;
- impacts on research dissemination;
- effects on public-private partnerships;
- effects on international collaboration;
- effects on research infrastructure;
- effects on agency operations.

However, many of the proposal's most consequential provisions are accompanied by limited to no quantitative analysis and limited to no supporting documentation.

The resulting record appears disproportionately thin relative to the scale of the changes proposed.

### 25.2 OMB Has Not Provided Sufficient Technical Support Documentation

In my experience participating in and overseeing federal rulemakings, major regulatory actions are frequently accompanied by extensive supporting documentation, including:

- technical support documents;
- implementation analyses;
- economic analyses;
- operational assessments;
- alternatives analyses;
- workload estimates;
- agency implementation plans.

Such materials serve a critical purpose. They allow the public to evaluate:

- underlying assumptions;
- analytical methods;
- baseline conditions;
- projected effects;
- uncertainties.

The public cannot meaningfully evaluate analyses that have not been provided.

Numerous provisions of the proposed rule raise obvious questions regarding implementation, costs, staffing, timing, and feasibility. Yet the proposal frequently offers conclusions without accompanying documentation sufficient to evaluate the basis for those conclusions.

This limits the ability of affected stakeholders to provide informed comments and weakens the overall administrative record.

### 25.3 OMB Has Not Adequately Evaluated Regulatory Alternatives

Another significant deficiency is the limited discussion of alternatives.

Throughout the proposal, OMB frequently assumes that broad government-wide restructuring is necessary without systematically evaluating less disruptive approaches.

Potential alternatives might include:

- prospective implementation rather than retrospective intervention;
- agency-specific implementation mechanisms;
- targeted enforcement of existing authorities;
- enhanced auditing and monitoring;

- pilot programs;
- risk-based approaches;
- threshold-based requirements;
- exemptions for peer-reviewed scientific awards.

The proposal rarely explains why narrower alternatives would be insufficient.

Reasoned decision-making is strengthened when agencies demonstrate that alternative approaches were considered and rejected based upon evidence and analysis.

The current record provides limited evidence that such an evaluation occurred.

### 25.4 The Rule Often Assumes Rather Than Demonstrates Causal Relationships

Throughout the preamble, the proposal frequently assumes that expanded political review, increased oversight authority, expanded termination authority, and additional administrative controls will improve accountability, efficiency, or stewardship.

However, the proposal provides limited to no empirical evidence demonstrating:

- that the identified problems exist at the asserted scale;
- that existing authorities are insufficient;
- that the proposed interventions will solve the identified problems;
- that benefits will exceed costs.

For a proposal of this scope, assumptions are not a substitute for analysis.

OMB should provide substantially more documentation supporting the causal connections underlying the rule.

### 25.5 Administrative-Law Implications of Record Development Deficiencies

The concerns identified throughout this chapter are not merely questions of analytical completeness. They have direct implications under established principles of administrative law.

The Administrative Procedure Act requires agencies to engage in reasoned decision-making and to consider important aspects of the problems they seek to address. Courts reviewing agency actions have repeatedly held that agencies must provide a rational explanation for their decisions, evaluate reasonably foreseeable consequences, consider relevant factors, and develop an administrative record sufficient to support their conclusions. Decisions such as *Motor Vehicle Manufacturers Association v. State Farm Mutual Automobile Insurance Co.*, *Department of Homeland Security v. Regents of the University of California*, and *Encino Motorcars, LLC v. Navarro* reflect the broader principle that significant policy changes should be accompanied by meaningful analysis, reasoned explanation, and consideration of competing alternatives.

Many of the concerns discussed throughout these comments—including implementation feasibility, staffing requirements, reliance interests, workforce impacts, scientific impacts, information-quality impacts, indirect effects, cumulative effects, and reasonable alternatives—appear to receive limited treatment in the record supporting the proposed rule. The issue is not merely that commenters may disagree with OMB's conclusions. Rather, the issue is that important analytical foundations necessary to evaluate those conclusions appear to be absent, incomplete, or insufficiently documented.

The significance of these omissions is amplified by the scope of the proposal. The proposed rule does not merely revise administrative procedures. It seeks to alter important aspects of federal financial assistance governance across numerous agencies and programs affecting research, education, public health, environmental protection, infrastructure, workforce development, and other activities. As the magnitude of a proposed action increases, the need for a correspondingly robust administrative record likewise increases.

Accordingly, the deficiencies identified in this chapter raise concerns not only regarding the quality of the agency's analysis, but also regarding whether the resulting administrative record is sufficient to support reasoned decision-making under the standards traditionally applied in judicial review of agency action.

### 25.6 Conclusion

The proposed rule rests upon an administrative record that is insufficiently developed relative to the significance of the proposed changes.

OMB has proposed a major restructuring of federal financial assistance governance without providing a correspondingly robust body of technical support documentation, implementation analysis, alternatives analysis, and empirical evidence.

The resulting deficiencies are significant because they are not merely omissions of supporting detail; they involve categories of analysis that courts have repeatedly regarded as important components of reasoned administrative decision-making.

These deficiencies impair meaningful public participation and raise significant concerns regarding whether the agency has adequately considered the full range of consequences associated with the proposal.

## 26.0 Failure to Conduct Appropriate Expert and Stakeholder Engagement Prior to Proposal

### 26.1 Major Rulemakings Benefit From Early Public Engagement

A notable feature of this rulemaking is not merely what OMB proposed, but how the proposal was developed.

For a rule affecting virtually the entire federal assistance ecosystem, there appears to have been limited pre-proposal engagement with the communities most directly affected by the proposed changes.

Major federal rulemakings often benefit from mechanisms such as:

- requests for information;
- advance notices of proposed rulemaking;
- public listening sessions;
- stakeholder workshops;
- advisory committee consultations;
- technical roundtables.

Such processes help agencies identify operational concerns before positions become embedded in formal regulatory text.

The apparent absence of comparable engagement here is noteworthy given the breadth of the proposal.

### 26.2 The Proposal Contains Numerous Issues That Would Likely Have Emerged Through Earlier Consultation

Many concerns identified throughout these comments involve practical implementation issues that are readily apparent to individuals involved in research administration, grants management, workforce development, scientific program management, and federal assistance administration.

Examples include (but are not limited to):

- conference participation restrictions;
- publication-cost restrictions;
- implementation feasibility;
- political review bottlenecks;
- workforce-development impacts;
- impacts on graduate education;

- effects on collaboration;
- administrative burden;
- impacts on research dissemination.

These are not obscure concerns.

Many would likely have emerged quickly through structured pre-proposal engagement with:

- universities;
- nonprofit research organizations;
- professional societies;
- state governments;
- local governments;
- federal program administrators;
- scientific advisory groups.

The fact that many of these issues appear not to have been fully anticipated suggests that opportunities for earlier engagement may have been insufficient.

### 26.3 Experience From Federal Rulemaking Suggests the Value of Early Engagement

Based on my experience both as a recipient of federal funding and as a former senior leader within a federal scientific organization, major policy initiatives routinely benefit from extensive engagement before publication of proposed regulatory text.

Such engagement serves several purposes:

- identifying unintended consequences;
- evaluating operational feasibility;
- assessing implementation burdens;
- developing realistic timelines;
- testing regulatory alternatives;
- identifying conflicts with existing programs and requirements.

The objective is not to achieve consensus.

Rather, it is to ensure that decision-makers understand the practical realities of implementation before regulatory choices become formalized.

The proposed rule would have benefited from a more extensive process of this type.

### 26.4 Advisory Expertise Appears Underutilized

Federal agencies have historically relied on numerous mechanisms to obtain independent technical and operational expertise.

These mechanisms include:

- scientific advisory committees;
- grants-management councils;
- professional societies;
- external stakeholders;
- technical working groups;
- agency advisory boards;
- Engagement with states under cooperative federalism;
- Tribal consultation in recognition of Tribal treaty rights.

A proposal that fundamentally affects research administration, workforce development, dissemination, collaboration, and scientific governance would appear particularly well-suited for consultation with such groups.

The administrative record does not clearly demonstrate that expertise of this nature was systematically incorporated into development of the proposal.

### 26.5 Public Participation Was Further Constrained by the Compressed Comment Period

The limited pre-proposal engagement becomes more significant when combined with the relatively short comment period.

Ordinarily, pre-proposal engagement allows stakeholders to begin evaluating potential changes before formal notice-and-comment begins.

Here, many stakeholders appear to have been confronted with a complex government-wide proposal without the benefit of earlier structured engagement.

As a result, the notice-and-comment period served as the first meaningful opportunity for many affected parties to assess the proposal's implications.

This increases the importance of providing sufficient time and supporting documentation, both of which are unduly limited relative to the proposal's scope.

### 26.6 Administrative-Law Implications of Limited Stakeholder Engagement

The concerns identified in this chapter do not arise because OMB was necessarily obligated to employ any particular consultation mechanism before issuing a proposed rule. Rather, they arise because the scope and complexity of the proposal make the absence of substantial stakeholder engagement relevant to the adequacy of the resulting administrative record.

Administrative agencies frequently engage with affected parties, subject-matter experts, professional organizations, regulated entities, state and local governments, and other stakeholders before proposing major regulatory changes. Such engagement serves an important function by identifying implementation constraints, operational realities, reliance interests, unintended consequences, technical concerns, and potential alternatives that may not be apparent from internal agency analysis alone.

These considerations also have implications under the Administrative Procedure Act. Courts have repeatedly emphasized that agencies should consider important aspects of the problem before them and provide reasoned explanations for major policy choices. See, e.g., *Motor Vehicle Manufacturers Association v. State Farm Mutual Automobile Insurance Co.* and *Department of Homeland Security v. Regents of the University of California*. When a proposal affects numerous agencies, programs, recipients, students, researchers, institutions, and professional communities, the absence of meaningful engagement with those communities may increase the risk that important information never becomes part of the administrative record and therefore never becomes part of the agency's decision-making process.

Many concerns identified throughout these comments—including implementation feasibility, workforce-development impacts, reliance interests, scientific integrity concerns, administrative burdens, information-quality effects, and potential alternatives—are precisely the types of issues that are often identified through pre-proposal engagement. The apparent absence of such engagement therefore raises questions not only regarding process, but also regarding the completeness of the analysis supporting the proposal.

### 26.7 Conclusion

The proposal was developed with less pre-proposal stakeholder engagement, technical consultation, and operational vetting than would ordinarily be expected for a rule of this magnitude.

The issue is not whether OMB was legally required to conduct any specific workshop, hearing, advisory committee review, or advance notice proceeding.

The issue is whether OMB developed a sufficiently informed record before proposing changes that affect virtually every component of the federal financial assistance ecosystem.

Many of the concerns identified throughout these comments—including implementation challenges, administrative burdens, workforce impacts, scientific integrity concerns, dissemination barriers, and operational contradictions—are precisely the types of issues that earlier stakeholder engagement is designed to identify.

Their recurring appearance throughout the comment record suggests that the proposal may have benefited from a substantially more robust process of expert and stakeholder consultation before publication.

## 27.0 Failure to Evaluate Regulatory Alternatives Consistent with OMB Circular A-4

### 27.1 OMB's Own Guidance Requires Meaningful Evaluation of Regulatory Alternatives

A foundational principle of sound regulatory analysis is that agencies should evaluate a reasonable range of alternatives before selecting a regulatory approach.

This principle is reflected throughout OMB Circular A-4, which emphasizes the importance of identifying a baseline, evaluating alternative approaches, assessing costs and benefits, and selecting regulatory options that achieve stated objectives while minimizing unnecessary burdens.

The purpose of alternatives analysis is straightforward.

Agencies rarely face a binary choice between retaining the status quo and adopting the most sweeping available intervention. Meaningful analysis ordinarily requires consideration of whether narrower, more targeted, less burdensome, or more flexible approaches could achieve substantially similar objectives.

For a proposal of the scope and significance presented here, rigorous alternatives analysis is especially important.

However, the proposed rule provides limited to no indication that such an analysis was conducted for many of its most consequential provisions.

The concerns raised by this proposal involve both the ends and the means—both the legitimacy of the objectives being pursued and the adequacy of the mechanisms selected to pursue them.

### 27.2 The Proposal Frequently Assumes That Broad Restructuring Is Necessary

A recurring feature of the proposal is the implicit assumption that major structural changes to the federal assistance system are necessary to achieve the Administration's objectives, setting aside whether the objectives themselves are supportable with regard to Constitutional concerns; Major Questions Doctrine; statutory authority; separation of powers; congressional program design; viewpoint discrimination; First Amendment concerns; academic freedom; centralization of executive power; departure from the postwar research compact; or other concerns.

Throughout the proposal, OMB frequently moves directly from identification of a perceived concern to adoption of a government-wide regulatory solution.

The analysis rarely explains:

- why existing authorities are insufficient;
- why targeted interventions would be inadequate;
- why agency-specific approaches would be ineffective;

- why prospective implementation would not achieve the desired result;
- why less disruptive alternatives were rejected.

As a result, the proposal often presents regulatory choices as though they were self-evident rather than the product of comparative analysis. Thus, even if OMB's objectives were accepted, the rule is deficient.

### 27.3 Important Alternatives Appear Not to Have Been Fully Evaluated

Numerous provisions discussed throughout these comments illustrate the absence of a meaningful alternatives analysis.

For example, with respect to expanded political review of awards, setting aside whether the Administration’s goals may be counter to Constitutional concerns; Major Questions Doctrine; statutory authority; separation of powers; congressional program design; viewpoint discrimination; First Amendment concerns; academic freedom; centralization of executive power; departure from the postwar research compact; or other concerns, OMB does not appear to evaluate alternatives such as:

- review limited to awards above specified dollar thresholds;
- review limited to narrowly defined categories of awards;
- sampling-based oversight;
- post-award auditing and monitoring;
- prospective implementation through future funding opportunities;
- reliance on existing agency review systems.

Similarly, with respect to expanded termination authority, OMB does not appear to evaluate alternatives such as:

- prospective application to future awards only;
- enhanced procedural protections;
- more narrowly defined termination criteria;
- heightened evidentiary standards;
- independent review mechanisms.

Likewise, with respect to dissemination, collaboration, publication, and conference participation restrictions, OMB provides little analysis of alternatives that would preserve legitimate oversight objectives while minimizing disruption to scientific communication and workforce development. Furthermore, OMB does provide little analysis of the baseline alternative of existing oversight mechanisms.

The issue is not whether these alternatives ultimately would be preferable.

The issue is that the administrative record does not clearly demonstrate that they were meaningfully considered.

### 27.4 The Rule Does Not Adequately Examine Incremental Approaches

The proposal frequently adopts broad government-wide requirements that apply simultaneously across a large and diverse federal assistance ecosystem.

Yet the record contains little to no analysis of whether incremental approaches might achieve similar objectives (setting aside the merits of the objectives, which may not be lawful or properly authorized) with fewer risks.

Potential incremental alternatives could include:

- pilot programs;
- phased implementation;
- agency-specific implementation;
- limited-duration demonstration projects;
- targeted oversight enhancements;
- periodic evaluation before broader expansion.

Such approaches would have allowed OMB to collect evidence regarding actual impacts before imposing permanent government-wide requirements.

The proposal does not adequately explain why such options were rejected.

This omission is notable because many provisions involve substantial uncertainty regarding implementation, administrative burden, workforce impacts, research productivity, and unintended consequences.

### 27.5 Failure to Consider Alternatives Is Particularly Significant Given the Magnitude of the Change

The need for alternatives analysis increases as the scope of a proposed action increases.

As discussed elsewhere in these comments, the proposal does not merely modify administrative procedures. It restructures significant aspects of federal assistance governance.

Among other things, it:

- centralizes authority;
- increases political oversight;
- expands discretionary termination authority;
- alters peer-review and merit-review processes;
- affects dissemination and collaboration;

- changes longstanding expectations regarding award stability.

For changes of this magnitude, one would reasonably expect a detailed evaluation of alternative paths capable of achieving the same objectives with less disruption to federal agencies, recipients, students, researchers, and program beneficiaries.

The proposal provides comparatively little to no such analysis.

### 27.6 The Absence of Alternatives Analysis Impairs Meaningful Public Comment

The failure to adequately evaluate alternatives creates an additional procedural concern.

Meaningful notice-and-comment participation depends upon the public understanding not only what the agency proposes to do, but why the agency selected that approach rather than available alternatives.

When alternatives are not disclosed or analyzed, commenters are deprived of an opportunity to evaluate:

- the agency's assumptions;
- comparative costs and benefits;
- tradeoffs among competing approaches;
- whether less burdensome solutions are available.

As a result, deficiencies in alternatives analysis directly affect the quality of the administrative record itself.

### 27.7 My Experience in Federal Program Management Underscores the Importance of Alternatives Analysis

Throughout my career, both as a federal scientific leader and as a university researcher and science advisor to federal agencies, major policy decisions were seldom evaluated as simple choices between current practice and a single preferred alternative.

In practice, effective decision-making often required careful consideration of multiple options, including:

- phased implementation;
- targeted interventions;
- pilot activities;
- risk-based approaches;
- enhanced oversight mechanisms;
- prospective rather than retrospective application.

Such alternatives frequently achieved policy objectives while avoiding unintended consequences that became apparent only through comparative analysis.

The proposed rule would benefit from a similar evaluation.

Indeed, many of the concerns discussed throughout these comments—including implementation feasibility, workforce impacts, scientific integrity concerns, administrative burden, and disruption of long-term planning—might have been identified earlier through a more rigorous alternatives analysis.

### 27.8 Administrative-Law Significance of Alternatives Analysis

The concerns identified in this chapter extend beyond compliance with OMB Circular A-4. They also have implications under broader principles of administrative law.

Courts reviewing agency actions under the Administrative Procedure Act have repeatedly emphasized the importance of reasoned decision-making and careful consideration of available policy options. Decisions such as *Motor Vehicle Manufacturers Association v. State Farm Mutual Automobile Insurance Co.*, *Department of Homeland Security v. Regents of the University of California*, and *Encino Motorcars, LLC v. Navarro* reflect a recurring principle that agencies should meaningfully consider alternative approaches, evaluate foreseeable consequences, and explain why selected options are preferable to available alternatives.

The significance of alternatives analysis is particularly great when agencies propose substantial changes to longstanding institutional arrangements. Evaluation of alternatives helps agencies identify less burdensome approaches, reduce unintended consequences, improve implementation feasibility, and better balance competing policy objectives. It also enables reviewers and the public to understand whether the chosen approach reflects reasoned decision-making or merely the assertion of preferred outcomes.

The proposed rule appears to offer relatively limited discussion of alternative governance structures, implementation approaches, phased implementation options, less disruptive mechanisms, or potential modifications that might achieve stated objectives while reducing adverse effects on scientific independence, workforce development, research productivity, information quality, and administrative burden.

Accordingly, the concerns identified in this chapter involve more than a departure from analytical practices reflected in Circular A-4. They also raise broader questions regarding whether the agency has adequately evaluated available options before proposing a government-wide restructuring of federal financial assistance governance.

### 27.9 Conclusion

OMB Circular A-4 reflects a longstanding principle of sound governance: agencies should not merely justify their preferred regulatory approach but should evaluate reasonable alternatives that may achieve similar objectives with fewer costs and unintended consequences.

The purpose of alternatives analysis is not merely to identify different ways of achieving a policy objective. It is to demonstrate that the selected approach remains preferable after competing options have been considered and evaluated.

The proposed rule provides limited evidence that such an evaluation was conducted for many of its most consequential provisions. Instead, the record frequently moves directly from identification of perceived concerns to adoption of broad government-wide solutions without adequately examining narrower, incremental, targeted, prospective, or less burdensome alternatives.

This omission is particularly significant because the proposal involves a substantial restructuring of federal financial assistance governance. The greater the scope of regulatory change, the greater the need for rigorous evaluation of alternatives.

Accordingly, OMB has not adequately demonstrated either (1) that the policy objectives embodied in the proposal are consistent with congressional design, statutory authority, constitutional limitations, and longstanding principles governing federal financial assistance, or (2) that the regulatory mechanisms selected represent the most reasonable, effective, or least burdensome means of pursuing those objectives. As a result, the proposal raises questions not only about implementation and regulatory design, but also about the underlying justification for the rule itself. This deficiency weakens the analytical foundation of the proposal, limits meaningful public comment, and contributes to broader concerns regarding reasoned decision-making under the Administrative Procedure Act.

## 28.0 Key Findings, Conclusions, and Recommendations

### 28.1 Introduction

The proposed rule is presented as an update to government-wide requirements governing federal financial assistance. After reviewing the proposal as an integrated whole, however, I conclude that it constitutes a substantially more consequential action.

The proposal represents a **structural transformation of federal financial assistance governance**.

Its effects extend well beyond grants administration and financial management. The proposal would alter the institutional relationships among Congress, OMB, federal agencies, peer-review systems, recipients, researchers, students, and the public.

These comments identify concerns regarding statutory authority, constitutional principles, administrative law, implementation feasibility, scientific integrity, workforce development, research productivity, information quality, and national competitiveness.

The central findings are summarized below.

### 28.2 Principal Findings

#### Finding 1: The Proposal Is a Structural Transformation of Federal Financial Assistance Governance

The proposal should not be evaluated as a routine administrative revision.

Viewed as an integrated framework, it:

- centralizes authority within OMB and the Executive Branch;
- reduces the relative influence of agency-specific expertise;
- expands political oversight;
- changes the relationship between peer review and political review;
- alters the nature of federal assistance relationships;
- expands opportunities for discretionary intervention after award.

The resulting framework differs materially from the system that has governed federal financial assistance for decades.

#### Finding 2: The Proposal Shifts Federal Assistance from Prospective Governance to Retrospective Control

Historically, changes in administration priorities have generally been implemented through future appropriations, future priorities, future competitions, and future funding opportunities.

The proposed rule instead creates mechanisms through which previously awarded projects remain vulnerable to continuing reassessment based on evolving priorities, national-interest determinations, reputational concerns, and related considerations.

This shift from **prospective governance to retrospective control** is one of the most consequential features of the proposal and was not adequately analyzed by OMB.

**Finding 3: The Proposal Politicizes Merit Review and Weakens Established Scientific Governance Structures**

The proposal reduces the practical influence of peer review.

The proposal risks:

- reducing confidence in peer review;
- increasing self-censorship;
- discouraging scientific risk-taking;
- narrowing research portfolios;
- weakening scientific independence;
- reducing public confidence in federally funded science.

OMB has not adequately evaluated these consequences.

**Finding 4: The Proposal Disrupts the Scientific Production Process**

Science is not produced solely through grant awards.

The scientific production process depends upon:

- proposal development;
- peer review;
- conferences;
- collaboration;
- publication;
- workforce development;
- graduate education;
- postdoctoral training;
- dissemination of findings;
- international engagement.

The proposal repeatedly affects these activities while largely treating them as secondary administrative matters.

They are not secondary. They are essential components of the generation, validation, communication, and application of scientific knowledge.

**Finding 5: The Proposal Creates a Collapse of Planning Horizons**

Many of the proposal's effects arise from uncertainty rather than direct enforcement.

Institutions, students, postdoctoral researchers, investigators, collaborators, and agencies make decisions based upon expectations regarding stability and continuity.

When those expectations become uncertain:

- investments decline;
- collaborations become more difficult;
- workforce recruitment becomes more difficult;
- infrastructure development slows;
- risk-taking decreases.

The resulting collapse of planning horizons may be one of the proposal's most significant long-term consequences.

**Finding 6: The Proposal Represents a Departure from the Federal Research Compact**

For approximately eighty years, federal research policy has been characterized by a durable institutional compact built upon:

- federal support for research;
- scientific merit review;
- investigator independence;
- dissemination of knowledge;
- workforce development;
- long-term institutional investment.

The proposal alters each of these elements simultaneously.

The proposal also raises questions regarding the consistency of this departure with congressional enactments that have repeatedly reinforced federal commitments to scientific merit review, workforce development, dissemination of knowledge, technology transfer, and long-term scientific capacity

OMB has not adequately evaluated the cumulative implications of this departure.

**Finding 7: The Proposal Raises Significant Legal and Administrative Concerns**

These comments identify substantial questions regarding:

- statutory authority;

- congressional program design;
- separation of powers;
- the Major Questions Doctrine;
- reliance interests;
- procedural protections;
- vagueness;
- arbitrary enforcement;
- Administrative Procedure Act requirements;
- Paperwork Reduction Act requirements;
- constitutional concerns associated with speech, inquiry, and viewpoint discrimination.

These issues warrant substantially greater analysis than is contained in the current record.

The proposal appears vulnerable not only because of its substantive provisions but also because of limited consideration of reliance interests, implementation feasibility, workforce impacts, alternatives, stakeholder engagement, information-quality effects, and other factors that courts have repeatedly recognized as important components of reasoned administrative decision-making.

**Finding 8: Congressional Design and Scientific Capacity**

Congress has repeatedly structured major scientific, public-health, environmental, agricultural, energy, and technological programs around expert evaluation, scientific evidence, workforce development, and agency-specific expertise. The proposal introduces a more centralized and politically directed framework without adequately explaining how that restructuring is consistent with the institutional arrangements Congress has repeatedly established through statute.

### 28.3 Findings Regarding the Sufficiency of the Administrative Record

A recurring theme throughout these comments is that OMB has not demonstrated the level of analytical rigor ordinarily associated with a rulemaking of this scope.

Several fundamental questions remain inadequately addressed:

- Where is the baseline analysis?
- Where is the alternatives analysis?
- Where is the implementation assessment?
- Where are the staffing estimates?
- Where is the uncertainty analysis?

- Where is the evaluation of reliance interests?
- Where is the assessment of indirect effects?
- Where is the evidence demonstrating that the proposed mechanisms will solve the identified problems?
- Where is the analysis of unintended consequences?
- Where are the technical support documents necessary to evaluate the agency's assumptions?

The absence of these foundational analytical elements is particularly notable because OMB traditionally requires similar analyses from other federal agencies.

Furthermore, OMB has not adequately demonstrated either (1) that the policy objectives embodied in the proposal are consistent with congressional design, statutory authority, constitutional limitations, and longstanding principles governing federal financial assistance, or (2) that the regulatory mechanisms selected represent the most reasonable, effective, or least burdensome means of pursuing those objectives. As a result, the proposal raises questions not only about implementation and regulatory design, but also about the underlying justification for the rule itself.

### 28.4 Recommendations

Based upon the concerns identified throughout these comments, OMB should not finalize the rule in its current form.

At a minimum, OMB should:

**Recommendation 1: Withdraw or Substantially Revise the Proposal**

The current proposal contains significant analytical, legal, operational, and governance deficiencies that warrant major revision before further consideration.

**Recommendation 2: Develop a More Robust Administrative Record**

OMB should prepare and publish additional analyses addressing:

- implementation feasibility;
- workforce impacts;
- scientific impacts;
- administrative burden;
- information quality effects;
- research productivity impacts;
- indirect effects;
- uncertainty;

- reliance interests.

**Recommendation 3: Conduct a Comprehensive Alternatives Analysis**

Consistent with the principles reflected in OMB Circular A-4, OMB should evaluate:

- narrower alternatives;
- phased implementation;
- pilot approaches;
- agency-specific approaches;
- risk-based approaches;
- prospective alternatives;
- enhanced oversight alternatives using existing authorities.

**Recommendation 4: Convene Additional Public Engagement Processes**

Before pursuing changes of this magnitude, OMB should undertake additional stakeholder engagement through mechanisms such as:

- requests for information;
- listening sessions;
- workshops;
- technical roundtables;
- consultations with affected communities.

**Recommendation 5: Reevaluate Provisions Affecting Scientific Merit Review**

OMB should carefully reconsider provisions that:

- subordinate peer review to political review;
- increase political intervention in scientific funding decisions;
- diminish the practical role of scientific expertise.

**Recommendation 6: Reevaluate Provisions Expanding Retrospective Control**

OMB should reconsider provisions that permit ongoing reassessment of awarded activities based upon evolving priorities and should evaluate alternatives that preserve the traditional emphasis on prospective governance.

**Recommendation 7: Conduct a Comprehensive Evaluation of Workforce and Competitiveness Impacts**

OMB should specifically evaluate:

- graduate education impacts;

- postdoctoral workforce impacts;
- faculty recruitment and retention effects;
- international competitiveness;
- brain drain risks;
- long-term national scientific capacity.

### 28.5 Final Conclusion

The central concern raised by these comments is straightforward.

The proposed rule is not merely an administrative revision.

It is a proposed restructuring of the governance architecture through which the federal government supports research, education, workforce development, public health, environmental protection, infrastructure, and numerous other public purposes.

The proposal raises questions not only about the means selected to achieve its stated objectives, but also about the legal authority, constitutional foundations, congressional consistency, and institutional wisdom of several objectives embodied within the proposal itself.

Most importantly, the proposal does not appear to rest upon the analytical, procedural, and evaluative rigor traditionally associated with major federal rulemaking.

The concerns identified throughout these comments are therefore less about any single policy objective than about the absence of the careful analysis, consideration of alternatives, stakeholder engagement, implementation assessment, and evidentiary support that should precede a regulatory action of this magnitude.

These comments further conclude that the proposal should be evaluated not only against administrative practice, but also against congressional design. For decades, Congress has enacted statutes that support scientific independence, merit-based evaluation, workforce development, technology transfer, information quality, and long-term national scientific capacity. OMB has not adequately explained how a rule that centralizes authority, expands political oversight, weakens traditional merit-review structures, and increases retrospective control of active awards is consistent with these longstanding congressional commitments.

Accordingly, OMB should not finalize the rule without substantially revisiting both the objectives of the proposal and the analyses offered in support of it. The current record does not demonstrate that either has been adequately justified.

## 29.0 Response to Anticipated Agency Counterarguments

### 29.1 Introduction

Because the proposed rule would represent a substantial change in the governance of federal financial assistance, it is important to anticipate several responses that OMB may offer regarding the concerns described throughout these comments.

The observations below are intended to clarify the nature of the concerns being raised and to explain why several likely counterarguments do not fully address the issues presented.

### 29.2 The Concern Is Not That OMB Lacks Any Authority

OMB may respond that agencies already possess significant authority to administer awards, conduct oversight, address noncompliance, terminate awards, and ensure appropriate stewardship of federal funds.

These comments do not suggest otherwise.

The concern is also not limited to the scope of OMB's authority in the abstract. Congress has established numerous federal research, public-health, environmental, agricultural, and scientific programs through agency-specific statutory frameworks that emphasize subject-matter expertise, scientific evaluation, workforce development, dissemination of knowledge, and agency mission execution. The question is whether OMB has adequately explained how a government-wide restructuring that centralizes authority, expands political oversight, and constrains agency discretion is consistent with these congressionally designed institutional arrangements

Thus, the appropriate comparison is therefore not between a world with authority and a world without authority. The relevant comparison is between:

- the existing federal assistance framework; and
- the significantly revised framework proposed by OMB.

The fact that some authority already exists does not eliminate the need to analyze the consequences of expanding or restructuring that authority.

### 29.3 The Concern Is Not Merely How Authority Is Exercised

OMB may argue that many comments focus on hypothetical future misuse of authority.

That characterization misses a central point. Many concerns identified herein do not depend upon misuse. They arise from creation of the authority itself.

Administrative systems influence behavior through incentives. Researchers, institutions, students, reviewers, collaborating organizations, and federal personnel routinely make forward-looking decisions based upon expected risks and incentives. Consequently, authorities can produce significant effects even when used sparingly and even when exercised in good faith.

The issue is not whether future officials might abuse discretion. The issue is how the existence of expanded discretion changes behavior throughout the system.

### 29.4 Retaining Peer Review Does Not Preserve the Traditional Role of Peer Review

OMB may argue that concerns regarding politicization are misplaced because peer review remains part of the proposed framework.

These comments do not claim that peer review disappears. Rather, they note that the practical role of peer review changes. A system can preserve peer review formally while simultaneously diminishing its influence.

The relevant question is not whether peer review occurs. The relevant question is:

*What happens when peer-review conclusions conflict with political judgments?*

Historically, scientific merit review has generally served as the principal mechanism for evaluating scientific quality.

The proposal moves toward a system in which scientific review may be overridden, superseded, revisited, or subordinated to political determinations.

That is a meaningful institutional change even if peer review technically remains intact.

### 29.5 The Most Significant Consequences Are Behavioral Rather Than Administrative

OMB may argue that commenters have not demonstrated large numbers of terminated awards, rejected proposals, denied publications, or prohibited collaborations.

However, many of the most important effects discussed throughout these comments occur before formal administrative action.

Examples include:

- self-censorship;
- risk avoidance;
- reduced infrastructure investment;
- reduced collaboration;
- avoidance of controversial topics;
- workforce attrition;
- reduced recruitment;
- shortened planning horizons.

Such effects are difficult to quantify precisely because they frequently involve activities that never occur.

A proposal not submitted, a student not recruited, a collaboration not formed, or a faculty member who chooses another country generally leaves no easily measurable record.

The difficulty of measurement does not make such effects unreal or unforeseeable.

These concerns are not merely theoretical. Since January 2025, portions of the federal research enterprise have already experienced funding disruptions, grant terminations, delayed competitions, organizational restructuring, and heightened uncertainty. Reports of increased interest in opportunities outside the United States, movement toward private-sector employment, concerns regarding graduate recruitment, and discussions of early retirement illustrate that workforce responses to uncertainty can emerge before long-term statistical trends become visible. The proposal should therefore be evaluated against observable behavioral responses rather than treated as a purely hypothetical exercise.

### 29.6 The Relevant Unit of Analysis Is the Entire System

OMB may respond by evaluating individual provisions separately and concluding that each provision, viewed in isolation, imposes only modest burdens.

Such an approach would overlook one of the central concerns raised throughout these comments.

Recipients do not experience individual provisions in isolation.

They experience:

- political review;
- risk assessments;
- documentation requirements;
- publication restrictions;
- conference restrictions;
- collaboration restrictions;
- termination authority;
- reputational-risk provisions;
- oversight requirements;

as components of a single integrated governance framework.

Many of the proposal's most significant consequences emerge from interactions among provisions rather than from any single provision viewed independently.

The cumulative effects are therefore at least as important as the effects of any individual section.

### 29.7 Accountability and Scientific Independence Are Complementary Objectives

OMB may characterize these comments as implying a choice between accountability and scientific independence.

That framing is incorrect. Nothing in these comments argues against:

- auditing;
- fraud prevention;
- conflict-of-interest management;
- responsible stewardship;
- financial oversight;
- lawful program administration.

Indeed, existing federal research programs already operate within extensive accountability frameworks.

The concern is not that accountability is undesirable. The concern is that OMB repeatedly assumes that additional political oversight and discretionary authority will improve accountability without adequately evaluating accompanying costs.

Historically, the federal research enterprise has sought to achieve both accountability and scientific independence.

These comments therefore question whether the proposal appropriately balances those objectives.

### 29.8 Existing Safeguards Do Not Eliminate the Need for Analysis

OMB may argue that existing review processes, agency procedures, legal requirements, and internal controls will prevent inappropriate outcomes.

Even if true, that argument does not answer several concerns presented throughout these comments.

If existing safeguards are expected to prevent significant harm, then OMB should explain:

- which safeguards will operate;
- how they will operate;
- how they interact with new authorities;
- how they mitigate identified risks;

- why those protections are sufficient.

Merely asserting that safeguards exist is not a substitute for analysis.

OMB may also argue that existing scientific-integrity policies, peer-review systems, information-quality requirements, and agency procedures are sufficient to mitigate potential harms. However, that argument implicitly recognizes the importance of these safeguards. The relevant question is therefore not whether such safeguards exist, but whether the proposed rule weakens, bypasses, or alters their practical influence. OMB's own Information Quality and Peer Review policies reflect a longstanding recognition that high-quality governmental decisions depend upon high-quality scientific information. The proposal contains little analysis of whether its governance changes are consistent with those principles.

The burden remains on OMB to demonstrate that foreseeable risks have been adequately considered.

### 29.9 The Concerns Extend Beyond Current Political Priorities

OMB may characterize these comments as disagreement with particular policy priorities.

That interpretation would be mistaken. The concerns described herein are primarily structural and institutional.

Authorities created today will remain available to future administrations with different priorities and different policy preferences. Accordingly, the relevant question is not whether current officials can be trusted to exercise expanded authority responsibly.

The relevant question is whether the institutional framework created by the proposal remains sound regardless of who occupies positions of authority in the future.

Good governance requires designing structures that remain effective across administrations, political transitions, and changing policy environments.

### 29.10 The Rule Must Be Evaluated on Both Its Objectives and Its Means

Some defenses of the proposal may focus exclusively on whether the selected mechanisms are effective.

However, several concerns identified throughout these comments operate at a more fundamental level.

These comments challenge both:

1. the legitimacy, legal basis, and justification of several objectives embodied in the proposal; and
2. the adequacy of the mechanisms selected to pursue those objectives.

Questions involving:

- statutory authority;
- congressional design;
- constitutional limitations;
- viewpoint discrimination;
- separation of powers;
- Major Questions Doctrine concerns;

cannot be resolved simply by demonstrating that a particular mechanism might advance an asserted policy objective.

Even if one accepts OMB's stated objectives, important questions remain regarding the proportionality, necessity, effectiveness, legality, and administrative feasibility of the mechanisms selected to achieve them. Reasoned decision-making ordinarily requires some demonstration that alternative approaches were considered and that the selected approach performs better than reasonably available alternatives. The proposal largely assumes, rather than demonstrates, that broad government-wide restructuring is the most appropriate means of achieving its stated objectives.

The rule therefore raises questions regarding both ends and means.

### 29.11 The Core Issue Is the Adequacy of OMB's Analysis

Ultimately, the central concern raised throughout these comments is not whether reasonable people may disagree regarding policy goals.

Nor is it whether one supports or opposes any particular administration.

The principal concern is whether OMB has supplied the level of analytical rigor ordinarily expected for a rulemaking of this magnitude.

Recurring questions remain insufficiently answered:

- Where is the baseline analysis?
- Where is the alternatives analysis?
- Where is the implementation assessment?
- Where are the staffing estimates?
- Where is the uncertainty analysis?
- Where is the evaluation of reliance interests?
- Where is the assessment of indirect effects?

- Where is the evidence demonstrating that the proposed mechanisms address the identified problems?
- Where is the analysis of foreseeable unintended consequences?
- Where are the technical support documents needed to evaluate agency assumptions?

These questions recur throughout the proposal because they concern fundamental components of reasoned administrative decision-making.

### 29.12 The Absence of Formal Requirements Does Not Eliminate the Need for Reasoned Process

OMB may argue that it was not legally required to prepare particular technical support documents, conduct public hearings, issue an advance notice of proposed rulemaking, convene advisory committees, or engage in any specific pre-proposal consultation process.

However, the absence of a mandatory procedural requirement does not eliminate the broader administrative-law expectation that agencies engage in reasoned decision-making and consider important aspects of the problem before them. Many of the concerns identified throughout these comments arise not because OMB failed to satisfy a particular procedural checkbox, but because important categories of analysis appear absent despite their obvious relevance to the proposal.

The proposal represents one of the most consequential revisions to federal financial assistance governance in decades, yet the administrative record does not reflect the level of analytical development, technical support, stakeholder engagement, or operational evaluation ordinarily associated with a policy change of this magnitude.

The issue is therefore not whether OMB satisfied the minimum procedural requirements necessary to publish a proposed rule.

The issue is whether OMB developed a record sufficient to support a government-wide restructuring affecting hundreds of billions of dollars in annual federal assistance and a broad range of research, education, workforce-development, public-health, environmental, infrastructure, and governmental activities.

Those are distinct questions.

### 29.13 The Opportunity To Submit Comments Does Not Cure Deficiencies in the Underlying Record

OMB may argue that stakeholders have been afforded the opportunity to identify concerns through the notice-and-comment process itself.

However, meaningful public participation depends upon the existence of a sufficiently developed record to evaluate.

Commenters can evaluate analyses that are presented.

They cannot meaningfully evaluate:

- analyses that have not been disclosed;
- assumptions that have not been explained;
- alternatives that have not been identified;
- implementation plans that have not been developed;
- staffing assumptions that have not been described;
- cost estimates that have not been produced.

Notice-and-comment rulemaking is not a substitute for agency analysis.

Rather, public comment is intended to inform, refine, challenge, and improve analyses already developed by the agency.

To the extent that important supporting analyses are absent, the quality of public participation is necessarily constrained.

### 29.14 The Administrative Record Should Be Commensurate With the Significance of the Proposal

OMB may argue that it has provided sufficient explanation to satisfy applicable procedural requirements.

That response does not fully address the concerns raised throughout these comments.

A recurring theme of administrative law is proportionality. The greater the significance of a proposed action, the greater the need for careful analysis, clear explanation, and robust consideration of alternatives and consequences.

The proposed rule is not a minor technical revision. As discussed throughout these comments, it affects:

- the governance of federal financial assistance;
- scientific merit review;
- workforce development;
- dissemination of federally supported knowledge;
- research collaboration;

- termination authority;
- agency discretion;
- reliance interests;
- implementation of congressional programs.

For a proposal of this scale, the administrative record should reasonably be expected to contain extensive supporting analysis addressing foreseeable consequences, implementation requirements, alternatives, uncertainties, and operational impacts.

The current record is not commensurate with the significance of the proposed changes.

### 29.15 The Lack of Early Stakeholder Engagement Matters Because Many Problems Were Predictable

OMB may argue that stakeholder concerns can be addressed after publication of the proposed rule through submission of comments.

However, one purpose of pre-proposal engagement is to identify foreseeable operational problems before positions become embedded in regulatory text.

Many concerns raised throughout these comments—including implementation feasibility, administrative bottlenecks, workforce-development impacts, dissemination barriers, scientific-integrity concerns, effects on graduate education, international competitiveness concerns, and reliance-interest issues—are not obscure or unforeseeable consequences.

They are precisely the types of issues that experienced stakeholders routinely identify during requests for information, advisory consultations, listening sessions, workshops, and other pre-rulemaking engagement activities.

The recurring appearance of these concerns throughout the comment record suggests not merely disagreement regarding policy outcomes, but the possibility that the proposal was developed without sufficient engagement from the communities most directly affected by its implementation.

The significance of limited stakeholder engagement is also evident from the nature of the concerns raised throughout these comments. Implementation feasibility, workforce-development impacts, graduate education effects, publication and dissemination barriers, scientific-integrity concerns, agency-capacity constraints, alternatives analysis, and information-quality implications are precisely the types of issues that experienced stakeholders routinely identify during pre-proposal consultation processes. Their repeated appearance throughout these comments suggests not merely disagreement with the proposal, but potential deficiencies in the information-gathering process that preceded it.

Accordingly, the concern is not simply that additional consultation would have been desirable.

The concern is that inadequate consultation may have contributed directly to the analytical and operational deficiencies identified throughout these comments.

### 29.16 Congressional Ratification of the Federal Research Model

OMB may argue that prior research policies reflect administrative preferences rather than enduring governmental commitments. However, many of the principles discussed throughout these comments—including scientific merit review, workforce development, dissemination of knowledge, investigator independence, scientific capacity building, and technology transfer—have been repeatedly reinforced through congressional enactments such as the National Science Foundation Act, Bayh-Dole Act, America COMPETES legislation, the CHIPS and Science Act, and numerous agency-specific research authorities. Consequently, the concern is not solely that OMB is departing from historical practice; it is that OMB is proposing substantial alterations to institutional arrangements that Congress has repeatedly endorsed and reinforced through statute.

### 29.17 The Proposed Rule Crosses the Constitutional Line Between Programmatic Definition and Unconstitutional Conditions

Following the Supreme Court's elimination of administrative deference, OMB can no longer shield its policy preferences behind a veil of agency discretion. The proposed Uniform Grants Regulation (UGR) oversteps statutory boundaries, misapplies Spending Clause precedents, and fails basic tenets of reasoned rulemaking.

**Anticipated Agency Position:** OMB will likely argue that under *Rust v. Sullivan* (1991), the federal government is entitled to define the limits of its own public subsidies, and that prohibiting the use of federal awards to advance "disparate-impact liability theories" (§ 200.218) or "gender ideology" (§ 200.300) is merely a lawful exercise of defining a funded program.

**The Recipient Rebuttal:** OMB's reliance on *Rust* is fundamentally flawed and ignores the limitations established in *Agency for International Development v. Alliance for Open Society International (AOSI)* (2013).

- **Extracurricular Speech Regulation:** The Supreme Court in *AOSI* drew a sharp line between programmatic conditions (ensuring funds are spent on the grant's objective) and conditions that seek to leverage a federal subsidy to regulate a recipient's speech or ideology outside the program.
- **The Extraterritorial Reach of § 200.219:** The proposed rule's "Discriminatory Event Services" provision (§ 200.219) raises substantial unconstitutional-conditions concerns. It explicitly purports to regulate public entities (such as public universities) on property under their control **regardless of whether the specific event or facility is funded by a federal award**. By tethering a university's entire campus operations to the receipt of unrelated federal financial assistance, OMB appears to be extending grant conditions beyond the funded activity itself and into

broader institutional practices, raising concerns regarding extraterritorial regulation and viewpoint neutrality.

- **Suppression of Scientific Methodology:** Under § 200.218, the blanket ban on funding research that utilizes "disparate-impact liability theories" functions as an ideological filter on pure scientific methodology. This directly subverts the statutory mandates of enabling legislation (e.g., the National Science Foundation Act), which direct agencies to fund objective, merit-based scientific inquiry, not politically sanitized data gathering.

### 29.18 Refuting the "Absolute Discretion" and Procurement Analogy

**Anticipated Agency Position:** OMB will likely argue that because discretionary grants are not an entitlement, agencies possess absolute, unreviewable discretion under *Lincoln v. Vigil* (1993) to insert pre-issuance political reviews (§ 200.205), declare peer-review recommendations purely advisory, and terminate awards at will under a procurement-style "national interest" standard (§ 200.340).

**The Recipient Rebuttal:** OMB appears to be blurring the longstanding statutory distinction between federal procurement and federal financial assistance reflected in the Federal Grant and Cooperative Agreement Act (FGCAA), 31 U.S.C. §§ 6301–6308.

- **Misuse of *Lincoln v. Vigil*:** *Lincoln* addressed an agency's decision to reallocate funds from an unrestricted, lump-sum programmatic appropriation. It does *not* stand for the proposition that once an individual, multi-year discretionary grant is awarded to a recipient, the agency possesses unchecked authority to pull that funding based on changing political winds.
- **The Contractual Quality of Grants:** As affirmed in *Pennhurst State School & Hospital v. Halderman* (1981), federal grants operate as a binding exchange of promises. Once a recipient accepts an award and incurs liabilities, the grant carries contract-like protections.
- **Subverting the FGCAA:** By importing a "termination for convenience" framework into § 200.340—allowing termination if an award fails to align with "Federal agency priorities or the national interest as they exist at the time of termination"—OMB is unlawfully transforming assistance instruments into procurement instruments. This creates an unstable, ad-hoc funding environment that Congress explicitly sought to prevent when it legally separated the acquisition and assistance lifecycles.

### 29.19 Countering OMB's Claim of Centralized Rulemaking Authority

**Anticipated Agency Position:** OMB will assert that its transition from "Guidance" to a binding "Uniform Grants Regulation (UGR)," combined with the joint signature of forty-plus grantmaking agencies, provides the necessary statutory coverage under the Chief Financial Officers (CFO) Act (31 U.S.C. § 503) and 31 U.S.C. § 6307.

**The Recipient Rebuttal:** In a post-deference regulatory environment, OMB's self-serving reading of its enabling statutes cannot withstand judicial scrutiny.

- **The Impact of *Loper Bright* (2024):** Following *Loper Bright Enterprises v. Raimondo*, courts no longer defer to an agency's interpretation of ambiguous statutory text. The CFO Act and the FGCAA grant OMB narrow authority to issue *housekeeping* rules—specifically, uniform financial management, accounting controls, and administrative reporting standards.
- **The "Joint Promulgation" Illusion:** Laundering substantive, non-financial policies through a "joint rulemaking" cannot retroactively manufacture statutory authority that Congress never delegated. Neither OMB nor the participating agencies can point to a clear congressional mandate authorizing them to weaponize 2 CFR Part 200 to enforce immigration compliance (E-Verify via § 200.303(f)), regulate campus speaker policies (§ 200.219), or enact a government-wide ban on "covered foreign collaborations" (§ 200.220). Because Congress did not explicitly grant OMB the power to dictate the geopolitical and sociological terms of American research, these provisions are fundamentally *ultra vires*.

More fundamentally, the question is not whether OMB possesses authority to issue government-wide administrative requirements. The question is whether Congress delegated authority to use a grants-management framework as a vehicle for imposing substantive requirements involving immigration policy, foreign-policy alignment, ideological restrictions, campus governance, scientific collaboration, and research-content regulation. The preamble does not clearly identify such authority.

### 29.20 Dismantling the "Fiscal Accountability" Deference Claim

**Anticipated Agency Position:** OMB will likely claim that the complete elimination of fixed-amount awards (§ 200.201), the mandatory rollout of Treasury "Do Not Pay" checks, and DHS E-Verify compliance are rational, cost-justified measures to enforce the Payment Integrity Information Act (PIIA) and protect taxpayer funds.

**The Recipient Rebuttal:** Under *Motor Vehicle Manufacturers Ass'n v. State Farm* (1983), an agency action is arbitrary and capricious if the agency fails to examine the relevant data or articulate a satisfactory explanation including a "rational connection between the facts found and the choice made."

- **Lack of Empirical Evidence for Eliminating Fixed-Amount Awards:** In the preamble, OMB states that fixed-amount awards "limit transparency." However, OMB provides no quantitative data, Single Audit trend metrics, or Inspector General findings demonstrating that fixed-amount subawards are systemic vectors for fraud or waste.
- **Ignoring Severe Counter-Effects:** OMB has failed to consider the counter-effects of this prohibition. By forcing community-based organizations, small non-profits,

and rural subrecipients into cost-reimbursement models, the rule creates a substantial risk that smaller entities will find participation in federal programs significantly more difficult or economically infeasible.

- **Unquantified Compliance Burdens:** Mandating that states and universities execute prepayment verifications via the Treasury's Do Not Pay system and implement campus-wide E-Verify protocols for all personnel working under an award (§ 200.303(f)) introduces significant administrative, operational, and compliance burdens. Because OMB failed to balance these severe administrative and financial burdens against any verified fiscal benefit, the proposed UGR fails the core test of reasoned administrative decision-making.

A recurring theme throughout these comments is that OMB may respond that no individual omission identified herein was independently required by statute or regulation. However, the concerns raised do not depend upon any single procedural requirement. Rather, they arise from the cumulative absence of multiple categories of analysis that would ordinarily be expected in support of a rule of this magnitude, including implementation feasibility, workforce impacts, information-quality effects, reliance interests, stakeholder engagement, alternatives analysis, administrative capacity, and long-term governance consequences. Considered individually, OMB may argue that each omission is defensible or legally permissible. Considered collectively, however, they raise broader questions regarding whether the agency has adequately considered important aspects of the problem, developed a sufficiently robust administrative record, and engaged in reasoned decision-making consistent with the Administrative Procedure Act. The significance of these omissions lies not only or solely in any individual deficiency, but in their collective impact on the completeness of the administrative record and the reasonableness of the agency's decision-making process.

### 29.21 Refuting the Claim That the Paperwork Reduction Act Is Inapplicable

OMB’s anticipated counterargument—that the proposed rule merely "streamlines" or consolidates existing grants management practices, thereby rendering the Paperwork Reduction Act (PRA) inapplicable, appears likely to be inconsistent with applicable law. A reduction of burden in one incidental area cannot be used to offset or obscure the creation of independent, highly prescriptive information collections in another. The text of the proposed rule would require non-State recipients to generate new, granular descriptions and written work-justifications for each payment disbursement (§ 200.305). This would require the systemic collection of narrative data that is not required under the current version of 2 CFR Part 200.

The PRA treats any standardized reporting requirement or recordkeeping mandate imposed on ten or more persons as an information collection that triggers mandatory burden-hour and cost-accounting procedures. The regulatory text of the proposal would make these data-generation tasks mandatory, standard, and subject to federal audit.

Because OMB did not provide the public with a calculated burden baseline or an initial regulatory flexibility analysis tied to these specific collections, it has not provided stakeholders with a meaningful opportunity to comment on the operational costs of compliance. This omission of a PRA data analysis cannot be cured post-hoc; it would represent a structural violation of 44 U.S.C. § 3506 that could invalidate the underlying administrative process.

### 29.22 Conclusion

The concerns identified throughout these comments do not depend upon assumptions of bad faith, widespread misuse of authority, or frequent invocation of the proposal's most controversial provisions.

Rather, they arise from:

- the structure of the proposed framework;
- the incentives it creates;
- the institutional changes it embodies;
- the breadth of authority it centralizes;
- the legal and constitutional questions it raises; and
- the limited analysis offered in support of those changes.

Accordingly, OMB should not dismiss these concerns by pointing to the continued existence of peer review, the possibility that certain authorities may be exercised infrequently, the existence of some related authorities under current law, or the difficulty of precisely quantifying long-term impacts. Many of the most significant consequences discussed throughout these comments arise from predictable behavioral responses, altered incentives, and changed institutional relationships rather than from direct enforcement actions.

More fundamentally, the central issue raised by these comments is whether OMB has provided the level of analytical, procedural, and evidentiary support ordinarily expected for a rulemaking of this magnitude.

Throughout these comments, a series of recurring questions remain inadequately answered:

- Where is the baseline analysis?
- Where is the implementation assessment?
- Where are the staffing and resource estimates?
- Where is the uncertainty analysis?

- Where is the evaluation of reliance interests?
- Where is the analysis of indirect and cumulative effects?
- Where is the evidence demonstrating that the proposed mechanisms will effectively address the problems identified by OMB?
- Where is the analysis of foreseeable unintended consequences?
- Where are the technical support documents necessary to evaluate the agency's assumptions and conclusions?
- Where is the comprehensive alternatives analysis contemplated by the principles reflected in OMB Circular A-4?

Similarly, given the breadth of the proposal and its potential effects across research, education, public health, environmental protection, infrastructure, workforce development, and numerous other sectors, it remains unclear why OMB did not undertake a more robust process of pre-proposal engagement with affected stakeholders, subject-matter experts, scientific organizations, state and local governments, tribal governments, professional societies, grants-management professionals, and federal program administrators. Many of the implementation concerns, operational contradictions, workforce impacts, administrative burdens, and unintended consequences discussed throughout these comments are precisely the types of issues that such engagement would ordinarily be expected to identify before publication of a proposed rule.

Thus, the concerns raised here are not limited to disagreement with particular provisions. They also concern the adequacy of the administrative record itself.

The proposed rule seeks to restructure significant aspects of federal financial assistance governance. Yet OMB has not demonstrated that it has developed a record commensurate with the scale, complexity, and significance of the proposed changes. Nor has it demonstrated that it has adequately considered reasonable alternatives, evaluated foreseeable consequences, or obtained the breadth of expert and stakeholder input typically associated with major government-wide regulatory actions.

The result is a proposal that raises substantial questions not only about its substantive provisions, but also about the sufficiency of the analytical, technical, and participatory processes used to develop it. For these reasons, the concerns identified throughout these comments remain unresolved by the most likely counterarguments available to the agency and continue to weigh strongly against finalizing the rule in its current form.

The current record does not demonstrate that OMB has adequately analyzed the consequences of the proposal, nor does it demonstrate that OMB engaged in the level of technical evaluation, alternatives analysis, stakeholder consultation, and record development that would ordinarily be expected for a rulemaking of this magnitude.

The central legal issue is not whether OMB possesses some authority to establish government-wide requirements for federal financial assistance. The central issue is whether Congress has authorized OMB to use that authority to restructure scientific governance, alter longstanding assistance relationships, impose substantive policy restrictions, expand political oversight of merit-based programs, and condition participation in federal assistance upon compliance with requirements extending beyond traditional grants administration. The proposal repeatedly assumes affirmative answers to these questions, but the administrative record does not appear to fully demonstrate them.

# Appendix A. Key Themes, Findings, and Issues Raised in These Comments

### A.1 Purpose of This Appendix

This appendix summarizes the principal observations, findings, concerns, and recommendations discussed throughout these comments.

The purpose is to assist reviewers in identifying the major issues raised regarding the proposed rule and to facilitate consideration of the cumulative effects of the proposal.

The issues summarized below are discussed in greater detail throughout the body of these comments.

### A.2 Overarching Conclusions

These comments conclude that the proposed rule:

- represents a structural transformation of federal financial assistance governance rather than a routine administrative revision;
- centralizes authority within OMB and the Executive Branch;
- shifts federal assistance from prospective governance to retrospective control;
- increases opportunities for political review and political intervention throughout the award lifecycle;
- weakens the practical role of traditional merit-review systems;
- creates conditions that may discourage scientific independence and intellectual risk-taking;
- increases uncertainty throughout the federal assistance ecosystem;
- weakens long-term planning and investment incentives;
- risks reducing U.S. scientific competitiveness and increasing brain drain;
- was developed without an administrative record commensurate with the magnitude of the proposed changes.

### A.3 Principal Governance Findings

These comments conclude that the proposal:

- converts the Uniform Guidance from a coordinating framework into a more prescriptive government-wide regulatory structure;
- reallocates authority away from agencies, peer-review systems, and career experts and toward centralized political review processes;
- alters traditional relationships among Congress, agencies, recipients, and investigators;
- expands opportunities for discretionary intervention in previously awarded projects;

- introduces greater dependence upon evolving Executive Branch priorities.

Key concepts discussed throughout these comments include:

- Structural Transformation of Federal Financial Assistance;
- Centralization of Authority;
- Politicization of Merit Review;
- Shift from Prospective Governance to Retrospective Control.

### A.4 Principal Scientific and Research Findings

These comments conclude that the proposal may:

- weaken scientific independence;
- reduce confidence in merit-based funding systems;
- encourage self-censorship;
- discourage high-risk and high-reward research;
- discourage research involving politically controversial topics;
- reduce collaboration;
- reduce dissemination of scientific findings;
- distort the national research portfolio;
- weaken the future scientific evidence base available to decision makers.

Key concepts discussed throughout these comments include:

- Disruption of the Scientific Production Process;
- Chilling Effects and Self-Censorship;
- Threats to Scientific Integrity;
- Weakening of the Future Evidence Base of Government.

### A.5 Workforce, Competitiveness, and National Capacity Findings

These comments conclude that the proposal may:

- weaken graduate education and research training;
- reduce attractiveness of research careers;
- discourage entry into scientific careers;
- shorten planning horizons for students and early-career researchers;
- reduce recruitment and retention of scientific talent;
- increase risks of migration of talent to other nations;

- diminish long-term national scientific capacity;
- adversely affect economic competitiveness and national security.

Furthermore,

- increased uncertainty may accelerate departures from research careers;
- increased uncertainty may contribute to early retirement of experienced investigators;
- increased uncertainty may encourage movement of scientific talent to competing nations;
- workforce concerns are informed by behavioral responses already observed during recent periods of research-funding instability.

Key concepts discussed throughout these comments include:

- Workforce Development;
- Human Capital Formation;
- Brain Drain;
- International Competitiveness;
- Collapse of Planning Horizons.

### A.6 Information Quality and Decision-Making Findings

These comments conclude that the proposal may:

- degrade future information quality;
- weaken risk assessment;
- weaken environmental decision-making;
- weaken public-health decision-making;
- weaken evidence-generation systems;
- reduce the quality of future administrative records;
- increase uncertainty in future governmental decision-making.

These comments further conclude that:

- Poor research governance can produce poor information.
- Poor information can produce poor decisions.
- Poor decisions can affect public health, environmental protection, infrastructure, economic competitiveness, innovation, and national security.
- many federal statutes depend upon scientific evidence, technical analysis, peer review, and high-quality information;

- OMB has not adequately evaluated whether the proposal is consistent with longstanding federal information-quality principles;
- OMB's Information Quality and Peer Review policies emphasize the importance of scientific credibility, transparency, objectivity, and independent review.

### A.7 Administrative Law Findings

These comments identify concerns regarding:

- Administrative Procedure Act compliance;
- reliance interests;
- arbitrary and capricious decision-making;
- failure to consider important aspects of the problem;
- inadequate analysis of indirect and cumulative impacts;
- inadequate analysis of alternatives;
- inadequate economic analysis;
- inadequate implementation analysis;
- procedural deficiencies;
- vagueness;
- arbitrary enforcement;
- Paperwork Reduction Act concerns;
- failure to consider important aspects of the problem (*State Farm*);
- insufficient consideration of reliance interests (*Regents*, *Fox*, *Encino Motorcars*);
- inadequate consideration of reasonable alternatives;
- inadequate analysis of implementation feasibility and administrative capacity;
- inadequate procedural protections where broad discretionary authority is exercised;
- vagueness, fair-notice, and arbitrary-enforcement concerns;
- potential academic-freedom and viewpoint-discrimination concerns.

These comments further conclude that the proposal raises substantial questions regarding:

- statutory authority;
- congressional design of federal assistance programs;
- separation of powers;
- constitutional limitations;

- the Major Questions Doctrine.

### A.8 Administrative Record Findings

These comments conclude that OMB has not provided an administrative record commensurate with the significance of the proposal.

Specific concerns include:

- lack of technical support documentation;
- lack of implementation analyses;
- lack of staffing analyses;
- lack of operational assessments;
- lack of uncertainty analyses;
- lack of workforce analyses;
- lack of scientific-impact analyses;
- lack of cumulative-impact analyses;
- lack of adequate alternatives analysis;
- lack of evidence demonstrating the effectiveness of proposed interventions;
- The administrative record is insufficiently developed relative to the scope and significance of the proposal when evaluated against principles traditionally applied in judicial review of agency action.

Recurring questions raised throughout these comments include:

- Where is the baseline analysis?
- Where is the implementation analysis?
- Where is the alternatives analysis?
- Where are the staffing estimates?
- Where is the uncertainty analysis?
- Where is the evaluation of reliance interests?
- Where is the assessment of indirect and cumulative effects?
- Where are the supporting technical documents?

### A.9 Public Engagement Findings

These comments conclude that:

- the proposal appears to have been developed with limited pre-proposal public engagement;

- the proposal appears to have been developed with limited stakeholder consultation;
- the proposal appears to have been developed with limited use of external expertise;
- many implementation concerns could likely have been identified through earlier consultation;
- the comment period was unusually short relative to the scope of the proposal.

These comments preserve an objection to the adequacy of the comment period and do not concede that affected parties were afforded a sufficient opportunity for participation.

### A.10 Principal Recommendations

These comments recommend that OMB:

1. Withdraw or substantially revise the proposal.
2. Develop a substantially more complete administrative record.
3. Conduct a comprehensive alternatives analysis.
4. Conduct additional stakeholder engagement.
5. Reevaluate provisions affecting merit review and scientific independence.
6. Reevaluate provisions expanding retrospective control of active awards.
7. Evaluate workforce, competitiveness, and brain-drain impacts.
8. Evaluate effects on scientific integrity, information quality, and future governmental decision-making.
9. Evaluate implementation feasibility and administrative capacity.
10. Reissue a revised proposal supported by substantially stronger analytical documentation.

### A.11 Appendix Summary Statement

The central conclusion of these comments is that the proposed rule is not merely an administrative revision of federal financial assistance requirements. It is a proposed restructuring of federal financial assistance governance with significant implications for scientific independence, merit review, workforce development, information quality, long-term national research capacity, and the future evidentiary foundation of governmental decision-making.

A recurring conclusion throughout these comments is that the proposal repeatedly assumes benefits while largely asserting, rather than demonstrating, the necessity, effectiveness, legality, proportionality, and implementability of the mechanisms selected to achieve its objectives.

OMB has not adequately demonstrated either that the objectives underlying the proposal are justified by sufficient legal and analytical support or that the mechanisms selected represent the most reasonable, effective, and least disruptive means of pursuing those objectives.

Accordingly, the proposal should not be finalized without substantially greater analysis, broader stakeholder engagement, and significant revision.

## Appendix B: Statutory and Precedent-Based Vulnerability Matrix

The following matrix maps sections of the proposed Uniform Grants Regulation (UGR) challenged within these comments against legal and procedural vulnerabilities. To survive judicial review under the Administrative Procedure Act (APA), OMB should address the statutory, constitutional, and administrative-law questions identified. The observations in this appendix are not intended to provide an exhaustive legal analysis, nor do they represent legal advice. Rather, they identify recurring constitutional, statutory, and administrative-law issues that appear throughout the proposed rule and that could become relevant to future agency review, congressional oversight, or judicial evaluation of the rule and its implementation.

The purpose of this appendix is not to predict the outcome of future litigation or to assert that any particular provision is necessarily unlawful. Rather, it is to identify recurring statutory, constitutional, and administrative-law issues that appear throughout the proposal and that reasonably could become subjects of future agency review, congressional oversight, administrative challenge, or judicial evaluation. The significance of these issues is magnified by the government-wide scope of the proposed rule and by the limited analysis presently contained within the administrative record.

| Proposed 2 CFR Section | Proposed Regulatory Action / Focus | Principal Legal Questions and Potential Vulnerabilities| Controlling Legal Authority / Precedent | Mandatory Corrective Action Required |

| :--- | :--- | :--- | :--- | :--- |

**| § 200.112** | Mandatory disclosure of federal employment status for all grant proposal participants. | **Arbitrary & Capricious (*State Farm*):** Fails to establish empirical link between an applicant's prior or current federal employment and actual financial conflicts of interest. | *Motor Vehicle Mfrs. Ass'n v. State Farm* (1983) | **Strike provision;** retain traditional financial conflict-of-interest disclosures focused on material economic interests. |

**| § 200.113** | Mandatory OIG referral of disclosures to USAO for D.C. within 10 days. | ***Ultra Vires* / Encroachment:** OMB lacks the statutory authority to dictate the internal timelines and criminal-referral mechanisms of independent Inspectors General or the DOJ. | CFO Act (31 U.S.C. § 503); Inspector General Act | **Strike the 10-day mandate;** defer to traditional, independent OIG and DOJ investigative discretion and due-process protocols. |

**| § 200.201** | Total elimination of fixed-amount awards and fixed-amount subawards. | **Arbitrary & Capricious (*State Farm*):** absence of single audit metrics or data justifying the systemic lockout of small, community-based, and international subrecipients. | *Motor Vehicle Mfrs. Ass'n v. State Farm* (1983) | **Withdraw the prohibition;** maintain the current tiered thresholds for fixed-amount awards to preserve local execution flexibility. |

| **§ 200.202** | Requirement that all grant programs explicitly align with Administration priorities. | ***Ultra Vires* Subversion of Congress:** Authorizes executive priorities to supersede, rewrite, or override specific statutory program objectives mandated by enabling legislation. | *Loper Bright v. Raimondo* (2024); Separation of Powers | **Amend to clarify** that administration priorities can never override or narrow congressional program text. |

| **§ 200.204** | Exemption of certain grant competitions from public notice; 500-word NOFO caps. | **Procedural Invalidation:** Exempting competitions from notice violates the statutory mandate for open, public coordination of financial assistance instruments. | FGCAA (31 U.S.C. §§ 6301-6308) | **Remove public notice exemptions;** ensure competitive grants remain uniformly accessible on Grants.gov. |

| **§ 200.205** | Mandatory pre-issuance review by political appointees; peer-review declared strictly advisory. | **Subversion of FGCAA:** Erases the legal line between procurement and assistance by treating merit awards as executive patronage vehicles. | FGCAA (31 U.S.C. § 6301); *Pennhurst State School v. Halderman* (1981) | **Strike political-appointee veto review;** restore scientific and technical peer-review panels as the binding merit baseline. |

| **§ 200.206** | Risk reviews based on "questionable practices" and lawful organizational "affiliations". | **First Amendment Violation / Vagueness:** Imposes viewpoint-based penalties on lawful association and creates an unconstitutionally vague standard for "questionable practices." | *Connally v. General Construction Co.* (1926) | **Strike the "affiliations" and "questionable practices" clauses;** limit risk reviews to verified, objective financial metrics. |

| **§ 200.211** | Mandatory incorporation of at-will termination clauses in all award notices. | **Breach of Spending Clause Bilateralism:** Forces recipients to accept predatory, unconstitutional conditions that strip awards of vestigial property rights. | *Pennhurst State School v. Halderman* (1981) | **Strike mandatory inclusion;** link award terms strictly to the standard non-compliance frameworks of Subpart D. |

| **§ 200.218** | Complete ban on using federal funds to promote/support disparate-impact liability theories. | **Unconstitutional Viewpoint Discrimination:** Suppresses objective empirical and scientific methodologies based entirely on ideological opposition. | *Rust v. Sullivan* (1991); *Agency for Int'l Development v. AOSI* (2013) | **Strike provision in its entirety** to protect academic freedom, health equity, and scientific integrity. |

| **§ 200.219** | Imposition of viewpoint-neutrality mandates on campus facilities and event services. | **Unconstitutional Condition (Extraterritoriality):** Leverages narrow grants to regulate non-federally funded campus property and expressive activities. | *Agency for International Development v. AOSI* (2013) | **Strike provision in its entirety;** decouple general institutional campus policies from individual grant compliance. |

| **§ 200.220** | Government-wide prohibition on "covered foreign collaborations" (scaling the Wolf Amendment). | ***Ultra Vires* / Lack of Delegation:** Nationally scales a narrow, agency-

specific congressional restriction across 42 distinct grantmaking agencies without legislative approval. | *Loper Bright v. Raimondo* (2024); CFO Act (31 U.S.C. § 503) | **Remove government-wide mandate;** defer to existing, statutory, agency-specific export control and security protocols. |

| **§ 200.300** | Explicit funding bans on DEI policies, gender ideology, and gender-affirming care transitions. | **Unconstitutional Conditions / Statutory Conflict:** Leverages federal dollars to restrict private institutional speech and actively conflicts with Title IX civil rights protections. | *Agency for Int'l Development v. AOSI* (2013); Title IX of the Education Amendments | **Strike provision in its entirety;** maintain traditional non-discrimination standards that respect statutory compliance boundaries. |

| **§ 200.303(f)** | Mandatory DHS E-Verify participation and Treasury "Do Not Pay" verification for all employees. | ***Ultra Vires* / Unreasoned Burden:** Weaponizes a financial oversight rule to enforce domestic immigration policy while completely ignoring multi-million dollar compliance costs. | *Loper Bright* (2024); *State Farm* (1983); PIIA (31 U.S.C. § 3351) | **Remove mandatory E-Verify extension;** limit Treasury "Do Not Pay" system lookups exclusively to the primary organizational payee entity. |

| **§ 200.340** | Expanded discretionary termination based on "national interest" and 90-day stop-work orders. | **Violation of the FGCAA:** Erases the structural, statutory distinction between procurement contracts and conditional assistance agreements. | FGCAA (31 U.S.C. §§ 6301-6308); *Pennhurst State School v. Halderman* (1981) | **Restore standard "Cause" or "Consent" frameworks;** strike the procurement-style "termination for convenience" authority. |

| **§§ 200.432, 200.454, 200.461** | Disallowance / strict prior-approval limits on conferences, memberships, and publication costs. | **Arbitrary & Capricious (*State Farm*):** sabotages peer-review and statutory dissemination requirements while providing inadequate to no rational financial justification. | *Motor Vehicle Mfrs. Ass'n v. State Farm* (1983); White House (Nelson) Memo (2022) | **Maintain current allowability standards;** explicitly permit standard scholarly dissemination and professional development costs without prior approval. |

| 2 **CFR §§ 200.303(f), 200.305, 200.329, 200.331** | Introduction of mandatory written payment justifications, performance report data-reporting certifications, downstream related-party transaction tracking, and E-Verify recordkeeping mandates. | The Paperwork Reduction Act (44 U.S.C. § 3506); Motor Vehicle Manufacturers Ass'n v. State Farm; 5 U.S.C. § 706(2)(A) | The preamble asserts that the PRA is inapplicable and that the rule contains no new information collections. By bypassing the PRA, OMB elected not to perform cumulative burden-hour calculations, cost-benefit analyses, or empirical evaluations of public compliance costs related to numerous provisions of the proposed rule that would impose information collection burdens. This omission may be a fatal procedural violation that could render the rule arbitrary, capricious, and not in accordance with law. |