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GENERAL MEMORANDUM 26-031

Proposed Revision to Tighten Control of Grant Funds

On May 29, 2026, the Office of Management and Budget (OMB) published a [proposed rule](#) to revise the government-wide rules for federal financial assistance, including grants and cooperative agreements. OMB states that the proposed revisions are intended to improve transparency, accountability, and oversight of federal awards and to ensure that federal funds are used consistent with applicable law, agency priorities, and federal policy.

The proposed rule would make a number of changes to how federal agencies review, award, manage, and potentially terminate federal assistance. The proposed rule would act on [Executive Order 14332](#), which aims to improve oversight of federal grantmaking, by implementing several regulations, the most prominent of which are described below.

- 1. Additional pre-award review.** For discretionary awards, agencies would be required to conduct a new “pre-issuance” review before issuing an award. This review would be led by one or more senior political appointees or their designees and would evaluate whether the proposed award is consistent with the President’s priorities.
- 2. Changes to merit review and award selection.** The rule would clarify that peer review recommendations are advisory and that agencies retain discretion in making final award decisions. It would also direct agencies to consider Administration priorities, benchmarks for measuring success, and, for scientific awards, commitments to “Gold Standard Science.”
- 3. Expanded applicant risk review.** Agencies would be able to consider additional factors when reviewing applicants, including recent performance, capacity to manage large awards, publicly available and verifiable information about questionable practices, certain foreign gift and contract disclosure obligations, and affiliations that raise public safety or national security concerns.
- 4. Elimination of fixed amount awards and subawards.** The proposal would generally prohibit fixed amount awards and fixed amount subawards unless specifically authorized by federal statute. OMB explains that this change is intended to ensure greater oversight of actual costs incurred under federal awards.
- 5. Changes to allowable and unallowable costs.** The proposal would narrow or condition the allowability of certain costs, including publication costs, memberships and subscriptions, and selling or marketing costs. For example, publication costs would generally be unallowable unless specifically required by statute or approved in advance by the federal agency.

6. **New recipient compliance requirements.** Recipients and subrecipients would be required to participate in the Department of Homeland Security's E-Verify program for employees and contractors hired in or performing work in the United States under a federal award.
7. **Broader suspension and termination authority.** The proposal would allow agencies and pass-through entities, to the maximum extent permitted by law, to suspend or terminate an award if they determine the award no longer advances program goals, federal agency priorities, or the national interest. Agencies would be required to include clear termination provisions in the terms and conditions of the award.
8. **Prohibition on "Disparate-Impact Liability."** Agencies and pass-through entities, to the maximum extent permitted by law, will be required to ensure that awards are administered in a manner that does not promote or support theories of disparate-impact liability. OMB defines "disparate-impact liability" as a theory under which a facially neutral policy or practice gives rise to an automatic or near-insurmountable presumption of the existence of unlawful discrimination on the basis of federally protected characteristics where there are any differences or disparities in outcomes among different races, sexes, or similar groups.
9. **Prohibition on "Diversity, equity, and inclusion" (DEI).** Agencies and pass-through entities will be required to ensure that awards are not used to fund, promote, encourage, subsidize, or facilitate DEI that violate applicable Federal anti-discrimination laws. OMB does not define DEI, but states that it includes racial preferences or forms of racial discrimination that violate applicable Federal anti-discrimination laws, including activities where race or intentional proxies for race are used as a selection criterion for employment or program participation.
10. **Potential Self-Determination and Self-Governance Impact.** The Proposed Rule retains 2 C.F.R. Part 200's recognition that the Indian Self-Determination and Education Assistance Act (ISDEAA) governs in the event of a conflict between the ISDEAA and Part 200. However, it removes language permitting other federal regulations to govern in the event of a conflict with Part 200. This could have the unintended consequence of the regulations promulgated to implement the ISDEAA being overruled by Part 200 if the ISDEAA is not specific enough.

Because these rules apply broadly across the federal government, the proposed changes could affect many Tribal Nations and organizations that receive federal grants or cooperative agreements. Depending on how the final rule is implemented, Tribes could face additional administrative requirements, longer or less predictable award review, and less flexibility in how certain federal funds may be used.

OMB notes that Tribal Nations previously raised concerns about how revisions to federal financial assistance rules could affect federal trust and treaty obligations and statutes applicable to Tribes. OMB states that it considered those concerns in developing the proposed rule and will initiate formal Tribal consultation before issuing a final rule.

Comments on the proposed rule are due July 13, 2026. Tribes may wish to consider submitting written comments and participating in Tribal consultation once scheduled.

We will continue to monitor this issue and would be happy to assist in preparing comments or developing talking points for Tribal consultation sessions.

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