July 13, 2026

Submitted via Regulations.gov

Russell Vought
Director
The Office of Management and Budget
725 17th Street NW
Washington, DC 20503

Re: Regulation for Federal Financial Assistance; OMB-2026-0034

Dear Director Vought,

Thank you for the opportunity to comment on the U.S. Office of Management and Budget's (OMB) proposed rule to revise the Guidance for Federal Financial Assistance, as published on May 29, 2026 [hereinafter "the proposal"]. I write to express my strong opposition to this action.

I am the policy director for the Center for Progressive Reform (Center), a nonprofit research and advocacy organization that conducts independent scholarly research and policy analysis, and advocates for effective, collective solutions to our most pressing societal challenges. Guided by a national network of scholars and professional staff with expertise in governance and regulation, the Center convenes policymakers and advocates to shape legislative and agency policy at the state and federal levels and advance the broad interests of today's social movements for the environment, democracy, and racial justice and equity. I have studied questions of administrative law and regulatory design for over 18 years.

The purpose of my comment is to argue that OMB lacks the statutory authority to issue this proposal. The unambiguous terms of the authorities cited in the proposal do not support the far-reaching and transformative requirements it would impose if finalized. Moreover, given the enormous impacts and controversial nature of the proposal, OMB must be able to point to clear statutory authority for the proposal, consistent with the Major Questions Doctrine. Since it cannot, this provides another reason for rejecting the legal basis for this proposal. Given this manifest lack of legal authority, I call upon OMB to abandon this proposal.

Plain Language

In the proposal, OMB refers to several legal authorities, which it suggests provide the basis for the requirements contained in the proposal. All but one can be dismissed out of hand.

First, the proposal refers to smattering of statutes but provides little to no explanation of their relevance. These include the Single Audit Act Amendments of 1996 (Pub. L. 104-156, as amended, codified at 31 U.S.C. 7501-7507); the Federal Funding Accountability and Transparency Act of 2006 (FFATA or the Transparency Act) (Pub. L. 109-282), as amended; the Digital Accountability and Transparency Act of 2014 (DATA Act of 2014) (Pub. L. 113-101), as amended; the Federal Program Information Act (Pub. L. 95-220 and Public Law 98-169, as amended, codified at 31 U.S.C. 6101-6106); the Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 95-224, as amended, codified at 31 U.S.C. 6301-6309); the Office of Federal Procurement Policy Act (codified at 41 U.S.C. 1101-1131); the Budget and Accounting Procedures Act of 1950, as amended (codified at 31 U.S.C. 1101-1126); the Chief Financial Officers Act of 1990 (codified at 31 U.S.C. 503-504); and the Trafficking Victims Protection Act of 2000 (TVPA).

None of these statutes speak directly to the substance of the proposal, however. But, because they tangentially touch upon federal grantmaking, it seems we are to infer that they collectively create some overlapping penumbra within which we might divine a legal authority for the proposal. At best, these statutes can only confirm the obvious: Congress has traditionally recognized *some* role for OMB to play in overseeing agency grantmaking. There is still a massive gap between that recognition and the substantive requirements contained in the proposal. The other cited authorities do not close that gap despite being more directly relevant.

The first is 31 U.S.C. §6307, which merely authorizes the OMB Director to issue "supplementary interpretative guidelines" related to grantmaking. Interpretative guidelines are a form of guidance, which administrative law clearly distinguishes from legislative rules like the proposal. This distinction matters because, unlike legislative rules, guidance by definition do not carry the independent force of law, and thus are treated as having lesser legal significance than legislative rules (*e.g.*, under the Administrative Procedure Act, agencies can adopt guidance without resorting to notice-and-comment procedures). The upshot is that a grant of authority to issue guidance categorically cannot support the issuance of a legislative rule. Consequently, this provision can be rejected as a potential source of legal authority for the proposal.

That leaves 31 U.S.C. §503, which sets forth the "functions" of the Deputy Director of OMB. The operative term in this provision is "financial management," which authorizes the Deputy Director to "perform" various "financial management functions," including "establishing financial management policies and requirements." As Governing for Impact explains in its June 2026 Issue Brief[1], the application of the standard tools of statutory interpretation makes it clear that this term does not authorize the capacious reading that OMB asserts. Instead, the term is used in this section to denote basic accounting practices aimed at promoting efficiency and consistency. The authority it confers is a modest oversight role aimed at promoting those best practices. That this role is assigned to OMB's second-in-command, rather than the agency head, only further reinforces this interpretation.

As such, it would be impossible to read this modest grant of authority as providing OMB with the vast substantive powers the proposal claims. It does not grant OMB to exercise what amounts to unreviewable veto authority over nearly every single grant the government issues. Nor does this language authorize OMB to place new categorical restrictions on which kinds of proposals are eligible for funding or to base funding decisions on whether a proposal would further the president's policy priorities.

These authorities are particularly significant given that the federal government issues tens of thousands of grants worth billions of dollars every year. From a purely economic perspective, this proposal would likely rank as the single greatest claim of executive branch power in U.S. history.

In short, while 31 U.S.C. §503 provides the administration with its strongest claim for legal authority to issue the proposal, even this provision falls well short under plain reading. That this provision is inadequate to provide the legal authority for the proposal is even clearer when it is subjected to the Supreme's current tests for statutory interpretation for evaluating the legal basis for regulations.

Loper Bright and the Major Questions Doctrine

As noted above, no serious ambiguity over the meaning of 31 U.S.C. §503 exists. Instead, the plain meaning of that provision clearly does not authorize the proposal, and thus there is no reason for a reviewing court to resort to the *Loper Bright* framework's *de novo* review to ascertain the single best reading of this term[2]. But, even if a reviewing

[1] Governing for Impact, Rapid Response: The Lack of Statutory Authority in OMB's Proposed Regulation for Federal Financial Assistance (Issue Brief, June 2026), *available at* https://governingforimpact.org/wp-content/uploads/2026/06/Rapid-Response-OMB-Grants-Rule.pdf.

[2] Loper Bright Enterprises v. Raimondo, 603 U.S. 369 (2024).

court did conduct *de novo* review, it would inevitably land on the modest oversight meaning described above. The application of traditional tools of statutory construction confirms that this is the best reading of that section, and not as an authorization for sweeping control of grantmaking decisions that the proposal claims.

Yet, given the economic and political significance of the proposal, it would seem that the better framework for review of this provision would be the Major Questions Doctrine, rather than *Loper Bright*. As first articulated in *West Virginia v. EPA*[3], this doctrine involves a substantive rule of statutory construction that requires agencies to point clear statutory authorization to support regulations that implicate questions of “vast economic and political significance.” In other words, in such cases, it is not enough for an agency to invoke a “plausible textual basis.”

This naturally raises the question of whether the proposal qualifies as a “major question” for the purposes of applying this doctrine. The Court in *West Virginia* explained such cases could be identified by two factors: “the ‘history and the breadth of the authority that [the agency] has asserted,’ and the ‘economic and political significance’ of that assertion.” Both factors apply to the proposal.

Section 503 was adopted through a 1990 law. Both the legislative history of that provision and OMB’s use of that provision confirm that Congress and presidential administrations of both parties across several decades recognized the provision as modest tool for overseeing agency accounting practices. The proposal would mark a massive departure from this shared, consistent understanding. Further supporting this conclusion is the fact that the proposal seems designed to provide an *ex post facto* legal basis for President Donald Trump’s controversial Executive Order 14332, which itself was designed to provide an *ex post facto* legal basis for the administration’s early actions to cancel various grants, which were routinely struck down in the courts.

Under the circumstances, the invocation of Section 503 appears to have been made from a position of necessity. Rather than choose a course of action based on what the law permits, OMB chose a course of action first and then sought to find any plausible legal basis it could to justify it, and Section 503 was the best it could do. In other words, Section 503 has all the hallmarks of the newly “discovered” legal authority that was criticized by the majority in *West Virginia*.

The proposal also has enormous economic and political significance – arguably more so than the Environmental Protection Agency rule at issue in *West Virginia*. As noted above, it purports to give OMB unchecked authority over grants worth billions of dollars every year. Beyond their direct value, the significance of these grants reverberates throughout the entire economy. History has shown how grants for scientific research, for

[3] 597 U.S. 697 (2022).

instance, can help to introduce transformative technologies, produce life-saving medical advances, and even introduce entire new global industries. In other cases, the grants can affect state and local government implementation of social safety net programs, such as Supplemental Nutrition Assistance Program and Medicaid. Finally, this proposal would affect grants to state and local governments to implement critical infrastructure projects, such as highways and mass transit systems. By enabling the safe and effective moment of people and goods, these projects also have profound economic impacts beyond just their immediate capital costs.

The proposal also involves obvious political significance. As noted above, the origins of the proposal trace back to the Trump administration's efforts early this term to rescind several grants and to assume control of scientific grantmaking. All of these efforts attracted litigation, and the administration lost many of these cases prompting President Trump to issue Executive Order 14322, which in turn specifically called on OMB to issue this proposal. Executive Order 13442 is itself the subject of litigation, and no doubt the proposal will be the subject of litigation as soon as it is finalized.

The indicia of the proposal's political significance do not end there, either. The proposal has been the subject of significant bipartisan opposition in Congress.[4] In addition, the proposal has attracted significant media attention and is already the subject of nearly 300,000 public comments.

In light of the forgoing, the proposal easily clears the threshold for being a "major question." In such cases, the doctrine requires a clear statutory authorization on the grounds that "Congress typically does [not] use oblique or elliptical language to empower an agency to make a 'radical or fundamental change' to a statutory scheme." Section 503 falls well short of satisfying that requirement. As noted above, the plain reading of this provision is that it authorizes a limited oversight role for OMB related to basic financial management practices. Even if OMB's preferred reading did raise a colorable case of ambiguity regarding the provision's meaning, that preferred reading would at best be "plausible," and not the "best reading," as *Loper Bright* now requires. Given the manifest political and economic significance of the proposal, however, it is clear that the even more demanding Major Questions Doctrine is appropriate rule for evaluating the legislative basis for the proposal. Applying that rule, Section 503 does not supply the kind of clear statutory authorization that this doctrine requires.

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[4] *See, e.g.*, Nathaniel Weixel, *Collins Calls on OMB to Rescind Parts of Controversial Proposed Grant Rule*, THE HILL, July 7, 2026, https://thehill.com/policy/healthcare/5957967-susan-collins-opposes-proposed-omb-grant-rule/ (last visited July 13, 2026); Arvind Salem, At House Hearing, Russell Vought Grilled on OMB Grants Proposal, CPRBlog, July 2, 2026, https://progressivereform.org/cpr-blog/at-house-hearing-russell-vought-grilled-on-omb-grants-proposal/ (last visited July 13, 2026).

Conclusion

OMB is unable to point to any statutory provisions that authorize the proposal. The provisions it does cite cannot survive scrutiny under even the most forgiving of judicial review standards for agency statutory interpretation. Accordingly, I urge OMB to withdraw this proposal and instead focus on finding ways to empower expert career civil service and members of the public to make grant decisions free of political interference. This approach has served the United States well for decades, and there is no need to abandon it now.

Sincerely,

James Goodwin
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Center for Progressive Reform