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NEW YORK STATE
ASSOCIATION OF COUNTIES

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

Re: Comments on Proposed Rule – Regulation for Federal Financial Assistance; 2 CFR Part 200 (Docket No. OMB-2026-0034)

Dear Director Vought:

On behalf of the New York State Association of Counties (NYSAC), which represents the 57 counties of New York State and the City of New York, I write to submit the following comments in response to the Office of Management and Budget's (OMB) proposed rule rewriting 2 CFR Part 200, the Uniform Guidance, published in the Federal Register on May 29, 2026 (Docket No. OMB-2026-0034).

These comments reflect NYSAC's analysis and priorities as the statewide association representing county government interests before Congress and the Administration. They are intended to complement any comments separately submitted by the State of New York, the National Association of Counties (NACo), and NYSAC's individual member counties, each of which may raise additional concerns specific to their own programs and communities.

New York's 57 counties outside New York City received approximately $3.6 billion in direct and pass-through federal aid in 2024, comprising roughly 10 percent of total county revenues statewide, according to data reported to the state Comptroller's office. More than half of that funding supports social services programs administered locally but funded primarily through the state as pass-through dollars; the remainder funds transportation, public safety, health, economic development, and community services. Because the great majority of federal funding reaches New York counties indirectly—through the state rather than as direct federal awards—predictability and clearly defined standards at the federal level are especially important to how our counties build their budgets, plan, and deliver services.

We also join the position already taken by NACo and a coalition of national state and local government associations in their June 17, 2026 request that OMB extend the comment period by 45 days. A rule that reorganizes the entirety of federal grants administration warrants a comment period longer than 45 days for meaningful review by the governments and taxpayers it will affect.

I. Reclassification of the Uniform Guidance from Guidance to Binding Regulation [§200.110]

The proposed rule would convert 2 CFR Part 200 from OMB guidance into a binding regulation, so that future

OMB amendments take effect government-wide immediately, without separate notice-and-comment rulemaking by individual agencies. Under proposed § 200.110(a), a federal agency may make agency-specific additions, clarifications, or exceptions only where required by federal statute or otherwise approved by OMB. That narrows a practical avenue that New York counties and the State have historically used to seek clarification or flexibility through individual agencies, and it makes OMB—rather than the awarding agency—the effective decision-maker on flexibility.

One of the strengths of the current framework has been its capacity to evolve efficiently in response to changing program needs and lessons learned by both federal agencies and recipients; converting additional provisions into binding regulation risks making future improvements slower to implement, even as it increases the immediate compliance burden on counties with constrained administrative capacity.

- Will OMB commit to maintaining a formal consultation process with state and local government associations before future substantive amendments take effect?
- Under §200.110(a), agency-specific additions, clarifications, and exceptions to the government-wide requirements are permitted only where required by Federal statute or approved by OMB. What standards and timelines will OMB apply in deciding whether to grant that approval, and will state and local governments have any means of asking an agency to seek it?
- Will agencies retain the ability to issue program-specific implementation guidance—manuals, FAQs, and clarifications that counties rely on to apply Uniform Guidance requirements to particular programs—or does the rule foreclose that?

II. Expanded Discretionary Termination, New Stop-Work Suspension, and Specific Conditions Authority [§§ 200.208, 200.340, 200.342, 200.343]

The proposed rule would allow federal agencies to terminate discretionary grants if they no longer "effectuate program goals, Federal agency priorities, or the national interest" as those priorities exist at the time of termination—not at the time the award was made—and would newly authorize agencies to suspend an active award for up to 90 days through a written stop-work order, on a finding only that suspension "is in the interest of the Federal agency or pass-through entity," with no pre-suspension process. Section 200.342 limits the right to object, be heard, and appeal to terminations for noncompliance; neither a discretionary termination under §200.340(a)(2) nor a suspension under §200.340(e) carries any right to object.

Federal awards made under programs where legislation establishes an entitlement to funds—such as block grants, statutory formula awards, and disaster recovery grants—are generally excluded from the discretionary-termination and suspension provisions [§§200.340(b)(2), 200.340(e)(4)]. That exclusion is important but narrow: those same awards remain subject to the new policy conditions, expanded risk factors, and pass-through and subrecipient obligations. Competitive awards for transportation, economic development, and public safety remain fully exposed.

The proposed rule's new Specific Conditions Authority [§200.208] compounds this exposure. Because §200.208(c) permits agencies to adjust specific conditions based in part on the agency's §200.206 risk assessment, the expanded risk factors—including membership and affiliation considerations—could affect award conditions even after an award has been made.

New York counties have already experienced the practical consequences of this kind of instability. In March

2025, more than $12 billion in supplemental pandemic-era funds was clawed back from state and local health departments nationwide with no advance notice. In January 2026, mid-cycle SAMHSA grant cancellations disrupted behavioral health and substance use programs, and an unexpected pause in Public Health Infrastructure Grant funding diverted local health officials from emergency-readiness activities during preparations for a major winter storm.

These are not hypothetical risks. Federal grant funding supports front-line services—disease surveillance, behavioral health treatment, emergency preparedness, and home and community-based care, among others—delivered directly to residents by county departments and their subrecipients. When a grant is terminated or suspended mid-cycle, it is not only a county's budget that absorbs the disruption; it is the residents who lose access to a program, often with little or no notice. A reliable federal funding partnership is not a technical detail—it is a precondition for counties' ability to responsibly plan and sustain the services their communities depend on.

This risk is especially acute for infrastructure and community development projects, which are typically planned over multiple years and require substantial upfront financial commitments. Once a project moves beyond the planning phase, counties have often already entered into contracts with engineering consultants, contractors, and utility providers, and have committed local matching funds, on the reasonable expectation that a federal award will remain available so long as the recipient complies with its terms. Discretionary termination after that point does not simply disrupt a program. Section 200.343 allows only those costs arising from obligations properly incurred before the effective date of termination and conditions even those on the recipient taking all reasonable steps to cancel or mitigate. It offers no assurance for multi-year obligations that continue past the termination date, for local matching funds already committed, or for the sunk cost of an unfinished asset. A county can, therefore, be left holding contractual and financial obligations undertaken in good faith with no federal funding to complete the project.

We urge OMB to limit any expanded termination authority to circumstances involving material noncompliance, fraud, waste, abuse, or other clearly defined statutory conditions, rather than permitting broad discretionary termination of an award after it has been made and implementation is underway.

- What wind-down period and cost-recovery mechanism will apply if a multi-year New York county award is terminated mid-project?
- What standards will govern when a stop-work order may be issued, and what costs incurred during a suspension are reimbursable?
- Will OMB add a pre-termination notice-and-cure process and a defined appeal right for discretionary terminations under §200.340(a)(2) and suspensions under §200.340(e), so that these actions carry the same procedural protections §200.342 currently reserves for terminations for noncompliance?

III. Pre-Issuance Review by Senior Appointees and Expanded, Undefined Risk Factors [§200.205, §200.206]

The proposed rule requires that one or more "senior appointees" designated by the Federal agency head conduct a pre-issuance review of every discretionary award, applying principles that include whether the award "demonstrably advance[s] the President's policy priorities" [§200.205(b)]. The rule does not define "senior appointee." Separately, §200.206(b)(2)(viii) expands pre-award risk evaluation to include, based on "publicly available and verifiable information," an applicant's "membership in or affiliation with organizations engaged in activities that violate Federal law, undermine public safety or national security, or advocate for the overthrow of the United States Government"—none of which the rule defines. New York counties routinely partner with public universities, hospitals, community-based nonprofits, and advocacy organizations to deliver federally funded programs. Without clear definitions, counties cannot know in advance whether a longstanding, lawful partnership could be treated as a disqualifying affiliation.

These additional layers of pre-award review also increase the practical burden of applying for federal funds at exactly the point in the process where rural counties and small municipalities are least equipped to absorb it. Federal grant applications already require substantial staff time and local resources to prepare, often without dedicated grants staff. Additional pre-award documentation, screening, and review requirements risk delaying project initiation, increasing administrative costs, and discouraging otherwise qualified rural applicants from seeking federal assistance at all—with real consequences for communities facing aging infrastructure, housing shortages, and economic development needs. We encourage OMB to continue emphasizing risk-based oversight rather than adding further front-end administrative requirements that slow project delivery without a commensurate public benefit.

We support the direction of §200.202(f), which encourages agencies to design programs allowing multi-year awards with budget periods longer than one year rather than annual notices of funding opportunity, and by §200.329(b), which would bar agencies and pass-through entities from collecting performance reports more frequently than quarterly absent a specific condition. We are also encouraged by the proposed NOFO changes in §200.204, including posting on Grants.gov, the 500-word plain-language executive summary, the 60-day default availability period with a 30-day floor absent exigent circumstances, and pre-application technical assistance. We further believe the proposed changes to §200.503(b), which require agencies to review the Federal Audit Clearinghouse and rely on existing audits before commencing additional ones, will help reduce duplicative audit demands.

However, counties are concerned that the proposed rule relies too heavily on undefined, subjective terms that cannot be applied consistently across federal grant applications under the pre-issuance review process described in §200.205(b). We believe it is essential that OMB limit the use of subjective standards and undefined terms such as "federal agency priorities," "national interest," and "anti-American values," among others, by providing clear and unambiguous definitions and terms so applicants can knowingly accept the terms and not effectively be coerced into accepting a grant that can be terminated at any time, without warning, with little to no due process. The subjective nature of terms and conditions, as proposed, will be amplified as presidential administrations turn over, leaving awardees uncertain whether an approved grant will be allowed to be completed.

- Will OMB publish objective, easily understandable defined criteria for both the merit review and the risk-factor review before this provision takes effect?
- Some of the undefined terms will impose barriers for first-time applicants, including smaller and rural counties that may have managed significant programs or other initiatives but lack a history with federal agencies. We believe it would be important for OMB to provide examples of what it would consider to be acceptable proof of "financial stability" and "financial capacity" for a first-time applicant.
- Does the affiliation factor reach subrecipient relationships, or only the direct applicant? If it extends beyond the direct applicant, can OMB provide a description of the good faith due diligence steps and recordkeeping the direct awardee should undertake and maintain?
- What recourse exists for a county whose otherwise-qualified application is denied or delayed under this

review?

IV. New, Undefined Policy Conditions and Retroactive Cost Disallowance [§§200.300(b), 200.218, 200.339, 200.342]

The proposed rule imposes new government-wide conditions restricting how award funds may be used, including with respect to diversity, equity, and inclusion programming, gender-related policy, and disparate-impact liability. Although the proposal defines or cross-references some terms, several operative standards remain broad or uncertain, including what it means to "promote, encourage, subsidize, or facilitate" prohibited activities and how recipients should identify "intentional proxies for race" used as a selection criterion for employment or program participation. Noncompliance with these undefined conditions could trigger the general remedies in §200.339, including temporary withholding of payments, disallowance of costs under §200.339(a)(2), and suspension or termination of the award. This is a significant concern for counties administering health, workforce, housing, and human services programs—the largest single category of county federal spending in the state—because compliance cannot be assessed in advance when the standard itself is undefined.

This provision raises a specific, unresolved question for New York and other states with civil rights, human rights, or reproductive health statutes that may be in tension with the new federal conditions. Rather than characterize New York's legal posture, we ask OMB directly: does accepting a federal award under this rule require a recipient (and its subrecipients) to certify compliance with the full body of current executive orders on these subjects, including provisions still being litigated? If so, how is that certification intended to interact with existing state law obligations that may differ from federal policy on these same subjects? New York counties need a clear answer to plan for compliance.

- Will OMB provide clear, objective definitions of all operative terms in §200.300(b) sufficient for counties to assess compliance program-by-program?
- Will OMB establish a safe harbor for expenditures made in good faith under state law or existing court orders at the time the cost was incurred?
- Will remedies for noncompliance with § 200.300(b)—including disallowance of costs under § 200.339(a)(2)—apply only prospectively, following an individualized finding of noncompliance, rather than retroactively to prior good-faith spending?

V. Viewpoint-Neutrality Requirements for County-Controlled Facilities and Event Services [§200.219]

The proposed rule would bar a county that receives federal financial assistance from discriminating on the basis of the viewpoint, content, or subject matter of speech when providing services—defined to include security, crowd management, access to facilities, and other logistical or safety support—for any event, meeting, or expressive activity it sponsors, hosts, or permits on property it owns, leases, or otherwise controls [§200.219(a), (c)]. Unlike the parallel obligation on non-public entities in §200.219(b), the obligation on public entities is not limited to activities within the scope of a federal award. It, therefore, reaches county libraries, community centers, parks, and fairgrounds regardless of whether the specific facility or event receives federal support.

- Section 200.219(c)(1) reaches events "sponsored, hosted, or permitted by" the recipient. Does the condition apply to informal, unpermitted use of freely accessible county property—parks, trail systems, and similar resources for which no fee is charged and no permit is required—where the county neither sponsors nor permits the activity? And where a facility has no federal funding nexus, what county action triggers a federal violation: a facility-use or permitting decision by the county, or the conduct of a member of the public using the property?

- How is this condition intended to interact with counties' existing facilities-use policies adopted under state and local law?

VI. Expanded Pass-Through and Subrecipient Obligations [§§ 200.303(f)–(g), 200.305, 200.329, 200.331, 200.332]

The proposal would expand payment-screening and verification obligations across the award chain. Federal agencies would have to review Treasury's Do Not Pay (DNP) system before disbursing any federal payment [§200.305(a)], and states would have to review available data sources to verify payee eligibility before disbursing federal funds, through DNP or an alternative screening process [§200.303(g)]. Separately, all recipients and subrecipients—including counties—would have to participate in E-Verify for every employee and contractor hired in or performing work in the United States under a federal award, report any Final Nonconfirmation notice to the federal agency or pass-through entity, and face possible termination of the award for failing to do so [§200.303(f)].

The proposal would also expand subaward reporting and oversight obligations by requiring recipients to confirm that subawards have been reported in SAM.gov and by making failure to report subawards on SAM.gov a potential ground for termination for noncompliance. Separately, transfers to legally separate related entities—potentially including affiliated county hospitals, housing authorities, water districts, or nonprofit partners depending on their legal structure—would have to be evaluated and treated as subawards or contracts, as appropriate. Because social services make up more than half of New York counties' federal funding, and counties routinely pass funds to a wide range of local providers, these changes would substantially increase monitoring burden and legal exposure without a corresponding mechanism to recover the added cost.

Counties are also concerned about the fiscal and management consequences for smaller applicants and not-for-profits that often assist counties and the state in implementing federal programs at the local level. OMB states that the proposed regulation does not call for new information collection and, therefore, that the Paperwork Reduction Act does not apply. However, proposed §200.305 would require payment requests from recipients and subrecipients other than states to include a brief written justification identifying the activities or aspects of the federal award that correspond to the payment request. That requirement appears to impose a new reporting or recordkeeping obligation across a broad class of recipients and subrecipients, many of which are small entities. Without identifying the information to be collected, explaining how it will be collected, estimating the burden, and allowing meaningful comment on that burden, OMB has not provided stakeholders with the information needed to evaluate the true cost of compliance.

Additionally, we share the concern raised by the Office of the New York State Comptroller that OMB's small entity analysis does not appear to fully account for the practical impact of these changes on small municipalities, not-for-profit providers, school districts, special districts, and other smaller recipients and subrecipients that often operate with limited administrative staff, limited compliance infrastructure, and narrow financial margins.

OMB's analysis fails to adequately address the professional skills required for compliance. Compliance with the proposed rule may require expertise in grants management, financial management, legal review, human resources administration, and procurement, as well as familiarity with federal payment, reporting, verification, and eligibility systems. Many small municipalities and not-for-profit providers do not have dedicated grants offices, compliance officers, in-house counsel, or sophisticated accounting systems. As a result, the rule may impose costs that are materially different for small entities than for larger recipients.

- Will there be a defined cure period to correct SAM.gov reporting errors before termination consequences apply?
- How will "reputational harm" be defined, and will consequences be limited to the specific subaward at issue rather than a recipient's entire federal award? Could subrecipients' actions jeopardize future awards/applications for the prime recipient?
- What transition period will counties have to reclassify existing internal transfers to related entities as subawards?
- Will OMB supplement its Regulatory Flexibility Act and Paperwork Reduction Act analysis to estimate the cumulative reporting, recordkeeping, payment justification, E-Verify, and subrecipient monitoring burdens on small entities before finalizing the rule?
- OMB should further define new reporting requirements under § 200.305 to ensure all applicants, regardless of size, can determine the true cost of compliance and not be shut out of the process.
- Counties encourage OMB to drop the proposed changes under §§ 200.331(c), 200.332(h) and allow counties and other local governments to maintain existing reporting standards for internal transfers to local government or county-affiliated entities, such as county hospitals, nursing homes, water districts, and similar enterprise entities under the umbrella of the local government's operations and management.

VII. Elimination of Fixed-Amount Awards and Subawards; Conference and Membership Cost Restrictions [§§ 200.201(b), 200.333, 200.401(c), 200.432, 200.454]

The proposed rule would eliminate fixed-amount awards unless a federal statute authorizes them [§200.201(b)], prohibit fixed-amount subawards [§200.333], and narrow the § 200.401(c) exemption for certain nonprofit organizations. At the same time, OMB states that it is not proposing updates to the indirect cost rate negotiation system in this rulemaking and does not intend to consider or respond to comments on that topic in the final rule. New York counties and their subrecipients would therefore absorb new SAM.gov reporting [§200.332(g)], payment-justification [§200.305(c)], and E-Verify [§200.303(f)] compliance costs with no mechanism to recover the added administrative overhead through revised indirect rates.

The proposed rule's new restrictions on conference, professional-activity, and membership costs raise a related concern for counties acting as subrecipients of grants. Under proposed § 200.432, costs for attending conferences would be allowable only if participation is expressly approved by the federal agency and included in the terms and conditions of the award. Under proposed § 200.454, membership in professional, civic, business, and technical organizations would be allowable only if necessary to fulfill award requirements and approved in advance by the federal agency. Subrecipients are frequently not brought into the award relationship until after the recipient's application has already been approved, leaving them no practical opportunity to seek that approval in advance. In practice, this could disallow ordinary inter-jurisdictional convening, professional development, and best-practice-sharing activities that local governments rely on to coordinate consistent and efficient service delivery across county lines.

Actions proposed in this rule would dramatically increase compliance costs for applicants as dozens of additional reporting requirements and steps are being added, which runs counter to one of OMB's expressed goals in the preamble to open the federal grant application process to a broader applicant pool. Staffing levels may need to be increased, and information and accounting systems will need to be updated to accommodate the expanded reporting and monitoring proposed under the rule with virtually no time allowed to make such adjustments with a proposed effective date of October 1, 2026. Higher compliance costs will also likely reduce the applicant pool, especially for smaller rural counties and other local governments, as well as not-for-profits with tighter staffing and budget limitations. We believe OMB should put forth proposals to reduce the compliance cost increases proposed in the rule, rather than making it more expensive and restrictive for smaller counties and new applicants to apply.

- Will OMB consider a small-program exemption preserving fixed-amount awards where they meaningfully reduce administrative burden for smaller subrecipients?
- Outside this docket, what is OMB's timeline for revisiting indirect cost rates in light of the new compliance burdens this rule creates?
- How will subrecipients who are not parties to the original award application obtain prior approval for convening costs, and will OMB provide a streamlined path for that approval?

VIII. Effective Date and Retroactivity

The proposed rule would be effective by October 1, 2026, with OMB indicating that the date is intended to ensure uniform requirements for Federal awards made and amended during FY 2027. New York counties need clarity on how this applies to grants already in progress, particularly multi-year infrastructure, public health, and social services awards that span the effective date, and how the new subaward and affiliate-transfer requirements would apply to existing internal transfer arrangements that predate the rule.

- Does October 1 apply only to Federal awards made or amended during FY 2027, or does it also reach non-competitive continuations of existing multi-year awards?
- Will OMB provide a transition period for counties to bring existing subrecipient agreements and internal transfer arrangements into compliance?

Conclusion

New York counties have a strong record of responsible federal grants administration. However, many counties operate with limited grants staff and constrained financial resources and are far less able than larger jurisdictions to absorb new compliance burden without diverting resources from project implementation and public service delivery. We ask that OMB calibrate the final rule to reflect that reality, provide the clear definitions and safe harbors identified above, and extend the comment period to allow the full scope of this rule to be properly understood before it is finalized.

Respectfully submitted,

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