

Proposed changes to 2 CFR Part 200

Overview

- This is a proposed rewrite of 2 CFR Part 200, also known as the Uniform Guidance.
 - It is the government-wide rulebook for federal grants and cooperative agreements.
 - It affects universities, nonprofits, states, counties, Tribes, hospitals, researchers, and other recipients of federal financial assistance.
- The rule was published at the end of May, comments are due in July, and OMB is aiming for an October 1 effective date.
- The key point: this is not just a technical grants-management update.
 - It changes how programs are designed, applicants are reviewed, award conditions are set, costs are approved, recipients are monitored, and grants are suspended or terminated.
- My shorthand is: this rule would make federal grants more binding, more centralized, more political, and much riskier for recipients.

Bucket 1: Makes 2 CFR more clearly binding and government-wide

- OMB is trying to move the Uniform Guidance from “guidance” toward a more clearly binding government-wide regulation.
 - In plain English: this gives 2 CFR more force of law.
 - It also makes OMB’s rules apply more directly and uniformly across agencies.
- Why this matters:
 - Agencies would have less room to soften or customize the rules for their own programs.
 - Future OMB changes could flow through the grants system more quickly.
 - Recipients would face a more uniform compliance regime.
- This matters because the rule embeds new substantive policy restrictions into the government-wide grants framework.
 - Those restrictions could then show up in award terms, monitoring, repayment demands, suspension, or termination.

Bucket 2: Expands political control over grantmaking

- This may be the biggest structural change.
 - Senior political appointees would have a larger role in reviewing discretionary grants before they are awarded.

- Peer review can still happen, but the rule says peer-review recommendations are advisory and should not simply be ratified or routinely deferred to.
- That matters especially for science agencies.
 - Historically, NIH, NSF, DOE, NASA, and others rely heavily on expert peer review.
 - This shifts more authority from career staff and outside experts to political leadership.
- The rule also requires grant programs and awards to align with administration policies and priorities.
 - Funding opportunities would have to be designed with those priorities in mind.
 - Awards would need to advance the President’s policy priorities where applicable.
- Applicant screening would also expand.
 - Agencies could consider an applicant’s affiliations with organizations engaged in activities that violate federal law, undermine public safety or national security, or advocate overthrow of the U.S. government.
- On its face, that sounds narrow.
 - But in context, it could become a broader screening tool for organizations connected to immigration advocacy, racial justice work, campus activism, LGBTQI advocacy, protest activity, environmental justice, or other disfavored work.
- Bottom line:
 - Grant review becomes less insulated from politics.
 - Applicants may be judged not only on their proposal, but on their identity, affiliations, past work, or perceived alignment with administration priorities.

Bucket 3: Builds administration policy priorities into award conditions

- The rule embeds several substantive policy restrictions directly into the federal grants framework.

DEI, race, and “proxies for race”

- Proposed § 200.300 would prohibit federal funds from being used to fund, promote, encourage, subsidize, or facilitate:
 - DEI programs or policies OMB characterizes as unlawful;
 - preferences explicitly based on race or ethnicity;
 - use of race as a selection criterion; and
 - use of “intentional proxies for race” as selection criteria.
- The “proxy for race” language is especially important.

- It could create risk for programs that use geography, poverty, environmental burden, social vulnerability, underserved-community status, neighborhood disadvantage, or other measures designed to reach communities facing racial or ethnic inequities.
- So even if a program does not explicitly use race, agencies may scrutinize whether another criterion is being used as a stand-in for race.
- In another section, they also restrict use of funds for language access – basically prohibiting use of funds for translation

Disparate impact

- The rule would prohibit federal awards from being used to support disparate-impact theories.
 - This includes disparate-impact studies, litigation, award terms, guidance, and standards.
- I would phrase this carefully:
 - The rule does not simply say “you can never look at disparities.”
 - But it creates serious risk around using federal funds to study, enforce, or operationalize disparate-impact standards.
- Practical concern:
 - This could chill civil-rights work focused on unequal outcomes.
 - It could make grantees nervous about documenting disparities or designing interventions around disparities, even when that work is central to program effectiveness.

“Gender ideology” and transition-related care

- The rule would prohibit federal funds from being used to fund, promote, encourage, subsidize, or facilitate what it calls “gender ideology.”
 - It relies on language from the administration’s anti-trans executive order.
 - It rejects recognition of gender identity in ways that could affect research, training, curricula, service delivery, and program materials.
- It also restricts federal funds from supporting transition-related care for minors.
 - In many programs, this may not be a major change in direct payment practice.
 - But it expands the compliance framework and increases risk for organizations whose work recognizes transgender people or gender identity.
- Practical concern:
 - Grantees may worry not only about federally funded activities, but about whether their broader institutional work makes them look risky.
 - This could affect LGBTQI-serving organizations, health providers, universities, researchers, and programs using gender-inclusive language.

Abortion and religion

- Proposed § 200.477 would make abortion-related costs unallowable under federal awards except where expressly authorized by federal law.
 - Some of this overlaps with existing restrictions, but putting it into the government-wide cost principles gives agencies another compliance hook.
- The rule also adds stronger protections for religious and faith-based organizations.
 - This is part of a broader shift away from the prior civil-rights framing and toward religious liberty, conscience protections, and equal treatment of faith-based providers.
- Bottom line:
 - Federal awards become vehicles for enforcing administration positions on race, civil rights, LGBTQI issues, abortion, and religion.
 - Recipients may need to separate federal and non-federal work much more carefully.

Bucket 4: Creates much greater financial and operational risk for recipients

Termination authority

- The rule expands agency authority to terminate awards.
 - Agencies could terminate grants if they decide the award no longer advances program goals, agency priorities, or the national interest.
- This is a major change in risk.
 - A grantee could be fully complying with the original award terms and still face termination because agency priorities changed.
- That is especially destabilizing for multi-year grants.
 - Organizations hire staff, sign contracts, enter into subawards, recruit participants, and build programs around the expectation that the award will continue.

Wind-down costs

- The rule also gives agencies discretion over termination and wind-down costs.
 - Some pre-termination costs may be allowable.
 - But recipients may not be guaranteed payment for all work, commitments, or closeout costs.
- Practical concern:
 - Organizations could be left with sunk costs or unreimbursed obligations.
 - For large grants, that could mean millions of dollars in exposure.

E-Verify

- The rule would require recipients and subrecipients to use E-Verify for employees and contractors working under federal awards.
 - This adds administrative burden and creates another compliance risk point.
 - It could be especially complicated for universities, research institutions, large nonprofits, and pass-through entities with many subrecipients.

Do Not Pay and payment integrity

- Agencies would be required to use Treasury's Do Not Pay system before making federal payments.
 - States would also need to use Do Not Pay or a similar verification system before disbursing federal funds.
- These are framed as fraud prevention and payment integrity provisions.
 - But they could also create delays, false matches, denials, or extra burdens for recipients and beneficiaries.
- Bottom line:
 - There would be more ways for payments to be delayed or questioned.
 - Grantees may have to front more costs without certainty of reimbursement.
 - Organizations would face more compliance infrastructure and more financial exposure.

Bucket 5: Restricts research, communication, collaboration, and advocacy infrastructure

- I would cover this quickly, but not skip it.
 - Some of the most important changes look like boring cost-principle changes.
- Conference attendance would be allowable only if expressly approved by the agency and included in the award terms.
- Professional memberships would require prior written approval and would need to be necessary to the award.
- Subscriptions to professional, academic, and technical journals would be unallowable.
- Publication costs, including open-access fees and article processing charges, would generally be unallowable unless required by statute or approved in advance.
- Practical concern:
 - These costs are part of how researchers and grantees stay current, present findings, get peer critique, publish work, and participate in professional communities.
 - Restricting them could make federally funded work harder to complete and harder to share.
- The rule also sharply limits public relations costs and restricts issue advocacy, voter registration, and attempts to influence state executive branch action on matters unrelated to the federal award.

- Nonprofits and researchers may need much stricter separation between federally funded work and advocacy or public education.
- Finally, the rule creates new restrictions on international collaboration and a domestic-first framework for R&D.

Closing

- OMB describes this as transparency, accountability, oversight, and burden reduction.
- But the practical effect is much bigger.
- The proposed rule would:
 - centralize more authority in OMB and political appointees;
 - make grants more conditional on administration priorities;
 - increase compliance, payment, and termination risk for recipients;
 - restrict work related to race, civil rights, LGBTQI issues, abortion, and disparate impact;
 - make research and public communication harder; and
 - create new tools to monitor, delay, condition, or terminate federal funding.
- The bigger question is: how would this change the relationship between the federal government and every organization that depends on federal funding?