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July 13, 2025

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

RE: Regulation for Federal Financial Assistance (Docket OMB-2026-0034)

Dear Director Vought:

Inclusiv, Inc., a national 501(c)(3) organization and Community Development Financial Institution (CDFI) , respectfully submits the following comments in response to the Office of Management and Budget's (OMB) proposed rule, "Regulation for Financial Assistance." We appreciate this invitation to provide input on the federal grantmaking process and help promote impactful and effective oversight of financial assistance, as we appreciate OMB's consideration of the below detailed concerns. Generally, the proposed changes would exceed OMB's statutory authority, complicate long-term planning for grantees by creating uncertainty about future funding continuity and erode objectivity in the grantmaking process.

About Inclusiv

Inclusiv is the leading network of credit unions with a primary mission of promoting community development and financial inclusion. The Inclusiv network represents more than 450 credit unions serving nearly 20 million people in predominantly low-income urban, rural, and reservation-based communities across the United States, including Puerto Rico, Guam, and the U.S. Virgin Islands. Inclusiv channels capital to and builds the capacity of community development credit unions dedicated to serving low-income people and disinvested communities that mainstream financial institutions fail to serve.

Inclusiv advises against the adoption of the proposed rule, based on the legal issues it presents as well as the ways it would impair the integrity and effectiveness of the grantmaking process. The proposed changes would affect not only nonprofits like Inclusiv but also regulated, member-owned credit unions advancing economic opportunity in every state across the country.

1. **The OMB lacks statutory authority to enforce the Uniform Guidance as regulation, and the proposal undermines agencies' discretion to exercise subject matter expertise and objectivity.**

The Uniform Guidance was issued to provide guidance on the implementation of 31 U.S.C. § 503 and is therefore subject to its authority and parameters. OMB's role, under law, is limited to coordinating and providing inter agency guidance, and there is no lawful basis for OMB to establish a mandatory, all-agency-encompassing, regulatory framework that also potentially challenges or overrides Congressional directives. The Executive Branch does not have the authority to add across-the-board terms and conditions to federal grants beyond those that Congress has authorized. This proposal attempts to force 41 federal agencies to shift from a framework built on appropriate delegation to agencies based on their expertise and experience into a mandatory, government-wide "Uniform Grants Regulation" (UGR), creating a centralized policy control within the administration that bypasses independent agency discretion.

Grantmaking authority has historically resided with agencies because Congress has recognized that effective grantmaking requires specialized technical and programmatic knowledge, and program outcomes are stronger when award decisions are not subject to shifting partisan considerations. By mandating that senior political appointees pre-review and approve all discretionary awards based on shifting political platforms, OMB's proposed framework replaces specialized agency expertise, accumulated over years of service, with politically motivated decision making.

In addition, by forcing the 41 agencies to adopt a binding uniform regulation, the OMB proposal would be bypassing the agency-by-agency rulemakings and rendering the joint rulemaking pretextual. At best, this would reduce the efficiency and effectiveness of federal grant making and programming. At worst, it would place the public in harm's way at the hands of politically motivated, under or uniformed second guessing and of the appropriate agency's delegated authority and experience. The proposal also inappropriately borrows termination authority from procurement *contracts* in its attempt to change the burden of justification for terminating *grants*. The Federal Grant and Cooperative Agreement Act of 1977 draws a deliberate statutory line between procurement contracts and grant and cooperative agreements, recognizing that grants lack the commercial quid pro quo that justifies unreviewable procurement control.[1] The minimal notice requirement for termination and lack of pre-termination opportunity to respond or appeal raises due process concerns. If OMB proceeds with changing the discretionary termination provision, we urge at a minimum that OMB incorporate a basic due process opportunity for grantees to appeal upon receiving a purported termination notice.

Finally, this proposal also stands in clear conflict with the Administrative Procedure Act (APA)'s arbitrary and capricious standard because the proposal departs from longstanding grant administration practices without adequately addressing important considerations. OMB's proposal provides little explanation as to why existing agency-specific implementation of the Uniform Guidance is inadequate and, moreover, fails to analyze and explain why less restrictive alternatives would not accomplish the same objectives. Without further rational, OMB's justification for the proposed rulemaking is likely insufficient to satisfy the APA's requirement of reasoned decision-making under the arbitrary and capricious standard.

2. Uncertainty regarding the reliability of federal financial assistance impedes long-term planning and weakens program effectiveness.

Even if OMB had legal authority to implement the proposed rule, which for the reasons detailed above it does not, its changes would create significant adverse impacts without advancing the intended objective

[1] https://uscode.house.gov/view.xhtml?path=%2Fprelim%40title31%2Fsubtitle5%2Fchapter63&edition=prelim

of preventing wasteful spending or misuse of federal funds. The proposal provides that agencies would be permitted to terminate or suspend discretionary awards and change award terms and conditions mid-performance simply because, in the subjective view of the agency, the award is determined to no longer effectuate program goals or agency priorities, and without any legally required additional findings.

The risk that terms could be modified or funding withdrawn at any time based on shifting agency priorities would destabilize capital planning and create impediments to attracting private co-investment, preventing CDFI credit unions from utilizing grant resources to their fullest potential. CDFI credit unions often incorporate CDFI awards in multi-year lending strategies and use them to make long-term investments in staffing, technology upgrades, or growing their financial products and services, which could be jeopardized by uncertainty in funding continuity. In practice, this uncertainty would lead CDFIs to reduce lending, impacting affordable homeownership, small businesses, rural communities, veterans, and other underserved populations. Disruptions in service delivery that may result from an award termination also risk eroding member trust, which is critical to credit unions as community-based institutions built on long-term relationships.

3. Ambiguous language increases liability risk and compliance burden, which may deter well-qualified applicants.

Terms like “diversity, equity, inclusion, and accessibility” (DEIA), “questionable practices,” and “affiliation” are used in the proposal to describe factors for agencies to consider in grant decisions, despite being vague and not clearly defined. Many strong applicants may decide it is not worth the financial and legal risk to apply for federal grants under such uncertain requirements, resulting in missed opportunities for impact and unrealized community benefits. This chills and undermines the effectiveness of federal programs for the communities they are meant to serve.

There is vast demand for federal funding for CDFIs, and CDFIs are effective stewards of federal funds, leveraging at least $8 in private investment for every $1 in public funding received. In FY 24, the CDFI Fund awarded just 24% of the total amount of Financial Assistance (FA) awards requested, demonstrating a clear gap in program demand and available funding.[2] CDFI credit unions put these awards to work to increase access to capital in communities where mainstream financial services are limited.

It is widely accepted, across administrations and political affiliations, that CDFI credit unions are experts at strategically deploying federal funds to drive local economic impact. Whether they are building a downpayment assistance program for first-time homebuyers or expanding an agricultural lending program for rural farm owners, it is clear that communities benefit when mission-driven lenders participate in federal programs. We need more, not fewer, CDFI credit unions deploying federal funds to promote affordable homeownership, small business growth, and long-term financial independence and wealth-building opportunities for Americans.

[2] https://www.cdfifund.gov/system/files/2024-11/CDFI_Program_FY_2024_Award_Book_Final.pdf

However, the proposed revisions would certainly chill participation in this vital economic development program, particularly for credit unions that may see the Uniform Guidance as ambiguous or potentially in conflict with other federal laws. For example, the Federal Credit Union Act legally requires that credit union members have a shared connection(s), such as working for the same employer, living in a specific community, or belonging to an association or faith-based institution.[3] While membership is open to anyone who meets the criteria set forth in a credit union's charter, those criteria necessarily limit membership to a defined field rather than the general public. If qualifying program participants—for example, low-income people in the case of the CDFI Fund—are disproportionately members of a single race or ethnicity in a credit union's field of membership, fear of creating the appearance of implicit segregation may deter applicants, limiting access to economic opportunity.

A similar issue could arise with the National Credit Union Administration's (NCUA) Community Development Revolving Loan Fund (CDRLF), which provides grants to support the activities of low-income designated credit unions, including outreach to unbanked or underbanked communities. A credit union might use their grant to increase rural access to financial services by expanding their branch network into rural areas or introducing mobile banking. However, under the proposed language, it is unclear whether adopting a focus on rural access could be construed as promoting DEIA, since that standard is not based in existing binding law and even in that context still vague and subjective at best, and thereby prohibited.

Even among the undeterred organizations that continue to seek grants, many may need to spend scare resources to consult with attorneys just to understand what is expected of them. Introducing poorly defined requirements imposes a significant cost and time burden and jeopardizes access to the critical services credit unions and other not-for-profit organizations provide. For regulated financial institutions like credit unions and the non-profit organizations that support them, training and compliance with federal and state discrimination laws is already embedded into operations, and imposing unnecessary additional compliance costs would divert resources away from the mission-driven lending that federal funds are intended to amplify.

4. Consultation of tribes and additional stakeholders is needed.

Finally, we are concerned that the proposal has moved forward without sufficient opportunity for input from the wide range of stakeholders that would be affected. The proposed revisions would reshape how financial assistance is administered across virtually every federal agency, impacting thousands of organizations including CDFIs, other community development organizations, affordable housing providers, Tribal governments, local governments, educational institutions, healthcare providers, and other mission-driven entities. Given the scale of these changes and their potential consequences, additional engagement is warranted.

We are particularly concerned that the proposal has overlooked the United States' longstanding obligation to engage in government-to-government tribal consultation. Federal financial assistance is a key part of the United States' trust and treaty obligations to Tribal Nations, therefore any significant

[3] https://utahscreditunions.org/field-of-membership-and-common-bond/

changes to the grantmaking process should be developed in consultation with Tribal governments to ensure that potential impacts to Tribal communities are understood and appropriately addressed.

Native CDFIs play a critical role in expanding access to capital in underbanked Tribal communities and supporting Native homeownership, small businesses, and economic development. Given their role in promoting economic opportunity and sovereignty for Tribal Nations, their perspective is critical to inform any changes in the management of federal financial assistance.

We urge OMB and participating agencies to conduct robust Tribal consultation prior to finalizing the rule and to ensure that Native CDFIs and Tribal stakeholders have sufficient opportunity to evaluate and comment on potential impacts.

Additionally, given the breadth of the proposal and its potential consequences for federal funding recipients and the communities they serve, we respectfully request that OMB extend the public comment period to allow for more meaningful stakeholder engagement, Tribal consultation, and evaluation of the proposal's financial, industry-wide, and community impacts.

Thank you for the opportunity to comment. For any questions regarding these comments, please contact Alexis Iwanisziw, SVP Policy & Communications, Inclusiv (aiwanisziw@inclusiv.org).

Sincerely,

Cathleen A. Mahon
President/CEO
Inclusiv, Inc.