July 13, 2026

Office of Management and Budget
Attn: Office of Federal Financial Management
725 17th Street NW
Washington, DC 20503

Submitted electronically via regulations.gov

Re: Proposed Revisions to the OMB Guidance for Federal Financial Assistance 2 C.F.R. Part 200; Docket Number: OMB-2026-0034

[This comment references 2 CFR §§ 200.202, 200.205, 200.206, 200.211, 200.218, 200.220, 200.303, 200.305, 200.329, 200.339, 200.340, 200.341, 200.342, 200.343, & 200.432]

We write on behalf of our client, Heru Urban Farming & Garden (HUFG). We submit this comment in response to the Office of Management and Budget (OMB)'s proposed revisions to the OMB Guidance for Federal Financial Assistance (GFFA) standards, including new policy language concerning compliance with executive orders that undermine equity and violate federal funding recipients' legal rights. HUFG strongly opposes the proposed revisions because the foreseeable burdens do not justify the alleged benefits and the proposed rule changes are likely unlawful.

I. Background

HUFG, a nonprofit organization based in St. Louis, Missouri, was founded by Tyrean Lewis in 2017. HUFG provides fresh, healthy food to many communities, including low-income communities that reside in food deserts with limited access to grocery stores or farmers. Many of those communities consist of racial minorities and other historically underserved Americans. Additionally, HUFG employs individuals from underserved communities, trains minority farmers, and provides educational resources, including an agricultural curriculum for primary and secondary students in the St. Louis area.

In 2023, HUFG received a grant through the Increasing Land, Capital, and Market Access Program (ILCMA) from the U.S. Department of Agriculture (USDA) in the amount of $2.5 million. ILCMA, which awarded $300 million to 50 organizations, was funded by the American Rescue Plan Act of 2021 to address land access issues for historically underserved agricultural producers including Black, indigenous, immigrant, veteran, and other underrepresented farmers.[1] HUFG had planned to use its grant to fund the St. Louis Urban Farmers Collective, which focuses on increased access to land and resources for novice food producers to sustain profitable farming operations. Yet in 2025, HUFG was denied access to its legally obtained funds due to an executive order, which HUFG challenged and continues to

[1] *See* U.S. Dep't of Agric., Farm Serv. Agency, *Increasing Land, Capital, and Market Access Program,* https://www.fsa.usda.gov/programs-and-services/increasing-land-access.

litigate in federal court, and has suffered irreparable harm as a result. Notably, on June 30, 2026, a federal court agreed with HUFG and preliminarily enjoined the USDA from terminating the grants on the basis of diversity, equity, inclusion, and accessibility viewpoints.[2] HUFG and the other plaintiffs "demonstrated that the terminations of their individual grants were likely contrary to statute, that they will suffer irreparable harm in the absence of relief, and that the balance of equities and public interest favor preliminary injunctive relief."[3]

We believe OMB's proposed rule is similarly flawed, in that it places irregular and unlawful conditions on federal funding. On May 29, 2026, OMB issued a notice and comment request for proposed revisions to the GFFA, as codified in title 2 of the Code of Federal Regulations, subtitles A and B, under OMB Docket No. 2026-0034-0001. Thus, we write to you on behalf of our client to express concerns on these revisions, which are extensive and far-ranging.

According to the notice, the revisions target the "'woke' policy agenda" from the prior presidential administration, including funding for undefined "diversity, equity, and inclusion (DEI) policies and preferences across the country."[4] The revisions would also convert the GFFA standards into strict statutory regulations.[5] Furthermore, OMB's proposed changes are designed to align with President Trump's embattled "Ending Illegal Discrimination and Restoring Merit-Based Opportunity" executive order (E.O. 14173), "Restoring Equality of Opportunity and Meritocracy" executive order (E.O. 14281), "Ending Radical and Wasteful Government DEI Programs and Preferencing executive order (E.O. 14151), and the U.S. Department of Justice's 2025 guidance on applying federal antidiscrimination law to efforts by any federal funding recipient that advances DEI or diversity, equity, and inclusion, and accessibility (DEIA), among other policy announcements. These revisions are not unlike a prior proposed regulation on federal grant application processes, to which HUFG also submitted public comment in opposition.[6]

Under this proposed rule, OMB would revise the following GFFA standards to better target and decrease funding to HUFG and other recipients:

General Provisions

- Parts 25, 170, 175, 180, 182, 183, & 200 — removing text that implies any policies in the regulatory text "is guidance not regulation" so that "a recipient will have no basis to claim that it was unaware that, for example, DEI practices that violate Federal

[2] Press Release, Earth Justice, *Court Restores $127M in Illegally Canceled Grants from USDA's Increasing Land, Capital, and Market Access Program* (July 1, 2026), https://earthjustice.org/press/2026/court-restores-127m-in-illegally-canceled-grants-from-usdas-increasing-land-capital-and-market-access-program.

[3] *Id.* (internal citations omitted).

[4] *Regulation for Federal Financial Assistance*, 91 Fed. Reg. 32189 (proposed May 29, 2026), https://www.regulations.gov/document/OMB-2026-0034-0001.

[5] *Id.*

[6] *See Information Collection; System for Award Management Registration Requirements for Financial Assistance Recipients*, 91 Fed. Reg. 3726 (Jan. 28, 2026), https://www.federalregister.gov/documents/2026/01/28/2026-01676/information-collection-system-for-award-management-registration-requirements-for-financial.

anti-discrimination laws, such as disparate treatment on the basis of race or sex, would jeopardize its Federal funding;" change Part 200's common name from "Uniform Grants Guidance" to "Uniform Grants Regulation"

Pre-Federal Award Requirements

- § 200.202 — requiring a federal program's goals and objectives align with administration policies and priorities; permit agencies to "restrict [funding] eligibility among different types of nonprofit organizations"
- § 200.205 — requiring review and approval of every discretionary grant by a senior appointee for compliance with "specific principles when evaluating proposals" like "advance[ing] the President's policy priorities"
- § 200.206 — expanding pre-award risk assessment factors to include an applicant's affiliation with organizations engaged in activities that violate federal law or "advocate the overthrow of the United States Government" as well as an applicant's "history of questionable practices based on publicly available and verifiable information."
- § 200.218 — limiting federal funding for any initiatives that would address disparate impact to groups based on race, age, or sex and prohibit federal funding recipients from any work addressing disparate impact liabilities.
- § 200.220 / §200.202(e) — restricting foreign collaborations with certain countries.

Post-Federal Award Requirements

- § 200.300 — prohibiting use of any federal funds to promote, encourage, subsidize, or facilitate programming tied to DEI/DEIA.
- § 200.303(f) — compelling participation in the Department of Homeland Security's E-verify program
- § 200.305 — requiring payment requests from recipients and subrecipients to include justifications describing the purpose of the payment and the specific award-related work it supports.
- § 200.329 — requiring reports to SAM.gov about all subawards issued
- § 200.339 — adding a new provision to allow federal agencies to cooperate with third parties pursuing private causes of action against grant recipients for noncompliance, enabling outside enforcement of perceived violations
- §§ 200.211, 200.340, 200.341, 200.342, & 200.343 — enshrining notice and authority for federal agencies to terminate or suspend federal funding awards at an agency's discretion, to support "agency priorities," and in deference to the Administration's changing political priorities; also revises recipient's procedural due process rights
- § 200.432 — limiting use of federal funds for conference attendance and publishing costs, subject to approval by federal agency

Comments on the proposed revisions are due on July 13, 2026. HUFG submits this comment in accordance with that deadline.

II. The Proposed Revisions Should Be Rejected Because They Cause Harm to Federal Grant Recipients and Provide No Benefit to Them or the Public.

OMB's proposed changes to the GFFA increase inefficiencies in the disbursement processes for funding recipients, conveying no demonstrable benefits to federal administrators or beneficiaries, just more hurdles to clear. The changes impose two new primary compliance burdens that are both substantive and expansive—(1) anti-DEI enforcement and (2) anti-gender enforcement. These compliance burdens, in practice, will likely infringe upon First Amendment rights—without real evidence of their necessity. Furthermore, HUFG would incur unnecessary costs and administrative uncertainties, draining critical resources needed for an already capital-intensive start-up business that aims to serve urban U.S. communities.[7]

A. The Proposed Revisions Do Not Reduce Fraud or Abuse.

OMB's proposal purports to list examples of wasteful federal financial assistance. But the proposed rule's executive summary does not identify actual fraud, waste, or financial abuse, only disagreement with prior federal financial assistance decisions.[8] For instance, at no point does OMB's voluminous proposal detail any criminal convictions or civil settlements to redress the purported fraud, waste, or financial abuse. The absence of any concrete need for the proposed GFFA revisions strongly suggests these changes seek to complicate federal funding, not streamline it, for recipients like HUFG.

OMB's proposed rulemaking is not responsive to any financial abuse by federal funding recipients, including HUFG. In fact, the notice's executive summary painstakingly evinces the goal is to undo and terminate any financial assistance to politically disfavored recipients; those labeled "woke," "DEI," or "DEIA."

At their core, the proposed GFFA revisions seek to further this Administration's campaign to eradicate DEI/DEIA programs. In recent months, the USDA abruptly rescinded the ILCMA grant for seemingly unsubstantiated "wasteful spending" to make the USDA "free from fraud, abuse, and duplication" that various officials allege arise with DEI initiatives.[9] HUFG was one of the grant awardees affected by this abrupt suspension of funds. Throughout the application process and selection for the ILCMA grant, HUFG maintained extensive communication and was responsive to all information requests from the USDA's Farm Service Agency. In all that time, the Farm Service Agency neither reported alleged abuse nor initiated investigations. Nevertheless, on March 23, 2026, the USDA rescinded HUFG's grant award. It

[7] *Economics of Urban Ag*, Produce Grower (September 2018), https://www.producegrower.com/article/economics-urban-ag-agriculture-series-rutgers-university.

[8] For instance, OMB boldly alleges "far-left activists" gained control of the U.S. President's Emergency Plan for AIDS Relief (PEPFAR) and wastefully spent aid funds "to promote abortion and gender ideology" without citing a single agency audit, Congressional hearing report, federal investigation, academic study, or even news report. *See Regulation for Federal Financial Assistance*, 91 Fed. Reg. 32189, 32200 (proposed May 29, 2026), https://www.regulations.gov/document/OMB-2026-0034-0001

[9] Marcia Brown, *USDA Cancels $300 Million Program to Help Farmers Buy Land Amid Anti-DEI Push*, POLITICO (Mar. 24, 2026), https://www.politico.com/news/2026/03/24/usda-cancels-program-help-farmers-buy-land-00841948.

required court intervention to reinstate the Congressionally mandated funds.[10] What HUFG experienced a few months ago is what other federal funding recipients should expect under the OMB's proposed rulemaking.

B. The Proposed Revisions Impose Excessive Administrative Burdens.

Contrary to OMB's assertions, the compliance costs for these changes will likely be disproportionate to any alleged benefit. For HUFG's business alone, it would need to spend weeks consulting attorneys, accountants, human resource personnel, and other parties for clarity and guidance on the undefined evolving political restrictions at least twice a year. These professionals would:

- Review all programs, policies, and practices implicated by the new GFFA changes;
- Determine what modifications are warranted in light of the President's shifting political priorities, even though the proposed rules are ill-defined;
- Create and keep new records of having conducted good-faith compliance audits based on financial and political concerns;
- Include qualifying language in all future federal financial assistance reports and applications; and
- Assess legal exposure pursuant to the Administration's expansive interpretations of the Administrative False Claims Act, 31 USC § 3801 et seq. and executive orders, even if multiple court decisions should contradict the Administration's statutory interpretations.
- Constantly assess and triage resource allocation in case a federal agency terminates or suspends federal funding pursuant to its political discretion.

The foreseeable legal assessments alone warrant recurring days of document review, personnel interviews, and legal research—all to avoid unclear liabilities for staggering civil and criminal penalties. Thus, the administrative burden far outstrips annual reporting inconvenience the OMB envisions and would likely force small business funding recipients like HUFG to pay substantial fees for these professional services.[11]

C. The Proposed GFFA Revisions Target Organizations That Serve Disadvantaged U.S. Communities.

OMB seemingly designed its proposed rule to starve and defund programs serving women, citizens of color, LGBTQAI+ citizens, immigrants, and citizens with disabilities—American communities that depend heavily on non-profit services funded by federal grants. The United States has a long, documented history of underserving select American businesses and communities.[12] In fact, the ILCMA was an attempt to "address land

[10] Aaliyah Wright, *Black Farmers Win Court Case That Restores $127 Million in Federal Grants*, Capital B News (July 2, 2026), https://capitalbnews.org/black-farmers-grant-lawsuit-victory.
[11] *Regulation for Federal Financial Assistance*, 91 Fed. Reg. 32198 (proposed May 29, 2026), https://www.regulations.gov/document/OMB-2026-0034-0001.
[12] *See* e.g. *One Million Black Families in the South Have Lost Their Farms*, Equal Justice Initiative (Oct. 11, 2019), https://eji.org/news/one-million-black-families-have-lost-their-farms/; *Black Farmers Lost at Least $326*

access issues facing Black farmers, immigrant farmers, Indigenous farmers, veterans and other underrepresented groups," caused in no small part by the USDA's historically discriminatory practices.[13] Now the USDA unsuccessfully tried revoking the very funds Congress appropriated to right these historic harms.[14] Rather than redress chronic discrimination and acknowledge longstanding law, OMB's proposed changes to GFFA would likely expose future grant recipients, including HUFG, to civil and criminal penalties for promoting DEI/DEIA—the very kinds of programs Congress intended the ILCMA to fund. These seemingly insidious, and likely unlawful, restrictions that potentially infringe upon HUFG's First Amendment rights, compound the discriminatory harm Congress intended federal funds to alleviate. These proposed changes to GFFA standards would likely force other comparable federal funding recipients into either abandoning their critical work or securing funding at the partisan and ideological pleasure of the federal government, presaged in proposed revisions §§ 200.202, 200.205, 200.206, 200.305, 200.339.[15] This is a Faustian bargain no matter the choice.

III. The OMB's Proposed Rule is Lawfully Unsound.

A. OMB Lacks Authority to Make Expansive Changes and the Proposed Revisions Go Beyond What Congress Has Authorized for Specific Grant Programs.

Under the Administrative Procedures Act (APA), a court may set aside an agency action that exceeds its statutory authority.[16] OMB lacks the statutory authority to make the sweeping proposed revisions to the GFFA. No existing statute authorizes OMB to make federal funds conditioned upon an applicant's attestation that is not promoting DEI/DEIA. These expansive new conditions apply across-the-board to *all* recipients of federal funding, whether direct or downstream beneficiaries. No law authorizes OMB to impose such expansive conditions. Even

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Billion During 20th Century, Sacramento Observer (May 5, 2022), https://sacobserver.com/2022/05/black-farmers-lost-at-least-326-billion-during-20th-century; U.S. Comm'n on C.R., *The Decline of Black Farming in America* (Feb. 1982), https://www.usccr.gov/files/historical/1982/82-018.pdf; U.S. Dep't of Agric., Rural Bus.–Coop. Serv., *Black Farmers in America, 1865–2000: The Pursuit of Independent Farming and the Role of Cooperatives*, RBS Rsch. Rep. No. 194 (Oct. 2002), https://www.rd.usda.gov/files/RR194.pdf.

[13] Brown, *supra* note 2; *see also* Ximena Bustillo, *In 2022, Black Farmers Were Persistently Left Behind from the USDA's Loan System*, NPR (Feb. 19, 2023), https://www.npr.org/2023/02/19/1156851675/in-2022-black-farmers-were-persistently-left-behind-from-the-usdas-loan-system; Matthew Wills, *The USDA Versus Black Farmers*, JSTOR Daily (Mar. 11, 2022), https://daily.jstor.org/the-usda-versus-black-farmers; Kali Holloway, *How Thousands of Black Farmers Were Forced Off Their Land,* The Nation (Nov. 2021), https://www.thenation.com/article/society/black-farmers-pigford-debt.

[14] *See* Aaliyah Wright, *Black Farmers Win Court Case That Restores $127 Million in Federal Grants*, Capital B News (July 2, 2026), https://capitalbnews.org/black-farmers-grant-lawsuit-victory/; Ximena Bustillo, *USDA Issues Payments to Address Discrimination Against Black Farmers*, S.C. Pub. Radio (Aug. 2, 2024), https://www.southcarolinapublicradio.org/2024-08-02/usda-issues-payments-to-address-discrimination-against-black-farmers; Scott McFetridge, *Black Farmers Sue Government for Promised Federal Aid*, PBS NewsHour (Dec. 6, 2022), https://www.pbs.org/newshour/politics/black-farmers-sue-government-for-promised-federal-aid.

[15] *See Regulation for Federal Financial Assistance*, 91 Fed. Reg. 32198 (proposed May 29, 2026), https://www.regulations.gov/document/OMB-2026-0034-0001.

[16] 5 U.S.C. § 706(2)(C).

when a statute authorizes an agency to place conditions on federal funding, those conditions must have a nexus with the congressionally mandated purpose of the implicated funds.

Here, OMB seeks to add new substantive requirements before a recipient can receive or continue receiving federal funds. But the statutes cited—Title VI and VII of the Civil Rights Act of 1964—do not provide this authority. If anything, Title VI and VII stand in direct conflict with prohibition of programs or initiatives that promote DEI or DEIA. Further, Congress designed many federally funded grant programs specifically to benefit underserved populations, including the ILCMA funds awarded to HUFG. Funds to which HUFG is entitled. OMB cannot lawfully condition the receipt of all federal funds on a recipient's program or initiative abandoning communities that Congress expressly intended to help.

Nor is OMB statutorily authorized to transform the GFFA standards from guidelines into regulations. The Federal Grants and Cooperative Agreements Act of 1977 authorizes OMB to provide government-wide *guidelines* "to promote consistent and efficient use" of grants and cooperative agreements authorized at law—not strict regulations.[17] OMB even concedes its authority extends solely to overall direction and leadership through guidelines and policies.[18]

OMB also cannot rely upon "relevant executive orders" or the regulations governing federal financial assistance to provide the authority to amend existing law. Executive orders that lack a statutory grant of authority are not legally binding. Further, an agency regulation cannot create statutory authority; only Congress can. Nothing within the federal financial assistance regulations authorizes OMB to impose anti-DEI/DEIA on federal funding in such a manner. As such, the conditions are unlawful and should be set aside under the APA.

B. The OMB's Proposed Rule Likely Violates the U.S. Constitution.

OMB's proposed revisions to the GFFA likely violate the U.S. Constitution and as such would be impermissible under the Administrative Procedures Act (APA). The APA mandates that courts "shall . . . hold unlawful and set aside agency action . . . found to be . . . contrary to constitutional right, power, privilege, or immunity."[19]

First, HUFG has already suffered unlawful First Amendment harms to its mission and speech and will likely continue to be harmed should OMB's proposed rule go into effect. HUFG has been forced to revise its public-facing materials in deference to this Administration's likely unlawful policies. The First Amendment of the U.S. Constitution protects speech from abusive government regulation.[20] In this instance, HUFG must remove potentially DEI-associated speech like "disadvantage," "Black," and "minority" from its company website in direct response to E.O. 14173 and enforcement by agencies like the USDA. Now under OMB's proposed GFFA revisions like §§ 200.202, 200.205, 200.206, 200.218, 200.300, 200.305, and 200.339, the

[17] 31 U.S.C. § 6304, 6305, and 6307.
[18] "The Director of OMB is authorized under 31 U.S.C. 6307 to 'issue supplementary interpretative guidelines to promote consistent and efficient use of … grant agreements … and cooperative grants.'" *See Regulation for Federal Financial Assistance*, 91 Fed. Reg. 32189, 32201 (proposed May 29, 2026), https://www.regulations.gov/document/OMB-2026-0034-0001 (Section II Background & Regulatory History).
[19] 5 U.S.C. § 706(2)(B).
[20] *See Central Hudson Gas & Elec. Corp. v. Public Service Comm'n*, 447 U.S. 557 (1980).

Administration, USDA, and third parties could jointly pursue civil and criminal punishments against HUFG should terms deemed offensive remain on marketing materials or inform HUFG's business decisions.

Further, the government cannot "leverage its power to award subsidies on the basis of subjective criteria into a penalty on disfavored viewpoints" or "aim at the suppression of dangerous ideas" in the provision of subsidies.[21] OMB's proposed GFFA revisions, which require *all* applicants regardless of the federal assistance program at issue to affirm that their program or initiative will not promote DEI or DEIA, will result in OMB not funding grants because they promote a particular viewpoint. DEI and DEIA are not viewpoint neutral topics but inherently convey the viewpoint that the exclusion of historically disadvantaged groups is undesirable.[22] OMB's anti-DEI/DEIA condition will likely suppress speech that views DEI/DEIA favorably, which also likely constitutes a violation of the First Amendment.

Second, to the extent that Congress appropriates federal funding and mandates that it be spent according to its intended goals, OMB likely lacks the statutory authority to impose conditions that would prevent such funding from being spent in accordance with Congress's intent without violating the separation of powers doctrine. Congress's power to spend is directly linked to its power to legislate, and the spending power contemplates the imposition of conditions to further Congressional policy objectives.[23] This power belongs solely to Congress and ensures that public funds will be spent according to Congressional judgment as to what is in the common good, not what is in the individual favor of executive agents.[24] Accordingly, OMB's proposed rule would also likely violate the Separation of Powers doctrine and the Spending Clause.

Third, OMB's proposed revisions threaten to violate the Appropriations Clause. The U.S. Constitution vests Congress, not the President, with authority over public spending and restricts interference with Congressional appropriations.[25] Congress appropriated funds like those in the ILCMA to redress longstanding discrimination, intentionally using its constitutional appropriations to "help move underserved producers from surviving to thriving."[26] OMB's proposed GFFA revisions would impermissibly frustrate Congressional appropriations by (1) deterring funding recipients like HUFG from applying for federal grants, (2) terminating Congressional grants awarded or earmarked for purposes that conflict with the President's anti-DEI/DEIA measures, or (3) punishing grant recipients who used appropriated funds for

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[21] *Nat'l Endowment for the Arts v. Finley*, 524 U.S. 569, 587 (1998) (internal citation omitted); *see also Rosenberger v. Rector and Visitors of University of Virginia*, 515 U.S. 819, 843 (1995) (holding a State university's denial of funding to a student newspaper because it contained religious editorial viewpoints constitutes prohibited viewpoint discrimination); *Lamb's Chapel v. Center Moriches Union Free School Dist.*, 508 U.S. 384, 393 (1993) (holding that permitting school property to be used for the presentation of all views on an issue except those dealing with it from a religious standpoint constitutes prohibited viewpoint discrimination).

[22] *Diversity, Equity and Inclusion*, Merriam-Webster, https://perma.cc/84ZW-7JSR; *Diversity, Equity and Inclusion*, Cambridge English Dictionary, https://perma.cc/M2GS-L4UT.

[23] *See* U.S. Const., Art. 1, § 8.

[24] *Office of Pers. Mgmt. v. Richmond*, 496 U.S. 414, 427-28 (1990).

[25] *See* U.S. Const., Art. 1, § 9, cl. 7.

[26] *U.S. Dep't of Agric., Farm Serv. Agency, Increasing Land, Capital, and Market Access Program*, https://dts.fsa.usda.gov/programs-and-services/increasing-land-access/index.

Congressionally-approved purposes. This is likely an unconstitutional attempt by the executive branch to withhold and redirect appropriations for other purposes.

C. The Proposed Revisions Are Vague and Overbroad.

OMB's proposed GFFA revisions, even if enacted, rely on ill-defined and overly broad language, to the detriment of all federal funding recipients. A federal regulation or policy violates the Fifth Amendment's Due Process Clause when it employs impermissibly vague requirements that fail to (1) give a "person of ordinary intelligence a reasonable opportunity to know what is prohibited" or (2) "provide explicit standards for those who apply" the requirement, thereby encouraging "arbitrary and discriminatory application."[27] Thus, it is essential that OMB clearly define key terms in its proposed revisions to the SAM certification.[28]

The proposed revisions require applicants and funding recipients to attest that their programs or initiatives will not involve discriminatory practices, including those labeled as DEI/DEIA programs.[29] Additionally, these same recipients would need to conform and acquiesce to the "agency priorities," political goals, and vagaries of the Administration.[30] Neither OMB nor the various executive orders like E.O. 14173, nor the revised DOJ guidelines define these key terms or how they are regularly implemented in trainings, hiring practices, facility access, resource allocation, and application protocols. Furthermore, they also fail to identify limitations on these terms, as a broad ban on equity and inclusion could conflict with statutorily mandated funding, programming, and employment activities and the individual rights guaranteed by these federal laws.[31]

The proposed revisions also invite problematic immigration enforcement restrictions via use of the fault-ridden E-Verify program.[32] The federally funded employee background verification system is regularly criticized for having an error-riddled database, incentivizing identity theft, suffering outages & shutdowns, and encouraging discriminatory hiring practices by besieged employers. This potential for harmful application of immigration laws in conjunction with receiving federal funds threatens HUFG and other producers, as the U.S.

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[27] *Grayned v. City of Rockford*, 408 U.S. 104, 108-09 (1972).

[28] *See generally FCC v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012) ("[C]larity in regulation is essential to the protections provided by the Due Process Clause of the Fifth Amendment.").

[29] *See Regulation of Federal Financial Assistance*, 91 Fed. Reg. 32189 (proposed May 29, 2026), https://www.regulations.gov/document/OMB-2026-0034-0001 (§§200.202, 200.205, 200.218, 200.300, 200.303(f), 200.305, 200.339).

[30] *See Id.* (§§ 200.202, 200.205, 200.206 200.305, 200.309).

[31] *E.g.*, Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101–12213; Civil Rights Act of 1964, 42 U.S.C. §§ 2000a–2000h; Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. §§ 20301–20311; Rehabilitation Act of 1973, 29 U.S.C. §§ 701–796l; Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ 15001–15115; Ticket to Work and Work Incentive Improvement Act of 1999, Pub. L. No. 106-170, 113 Stat. 1860; Children's Health Act of 2000, Pub. L. No. 106-310, 114 Stat. 1101.

[32] *See* Michaela McConnell, et. al., E-Verify: Widening Use, Lingering Challenges, Amer. Imm. Council (Apr. 15, 2026), https://www.americanimmigrationcouncil.org/blog/everify-states-use-lingering-challenges/; Andy Rose, E-Verify was supposed to make hiring easy for companies to follow immigration law. Now even the feds say it can't be trusted," CNN (Aug. 27, 2025), https://www.cnn.com/2025/08/27/us/e-verify-immigration-law; Alex Nowrasteh, Serious Problems with E-Verify, CATO at Liberty (Nov. 3, 2019), https://www.cato.org/blog/serious-problems-e-verify.

agriculture industry significantly relies on migrant and immigrant labor, and vetting foreign-born workers' eligibility requires financial and administrative resources.[33]

Consequently, OMB's proposed rule should not be approved and enforced as it relies heavily on overly broad, vague, and ill-defined terms that leave federal funding recipients confused about the limitations and applicable standards for the revisions' enforcement.

D. The Proposed Revisions Are Arbitrary & Capricious.

The APA also bars agency actions that are "arbitrary, capricious, [or] an abuse of discretion . . . ."[34] Agencies must therefore engage in reasoned decision-making before promulgating a rule, which requires examining relevant information and articulating a rational connection between the rule's requirements and its objectives.[35] The standard is more exacting when an agency changes positions or "is not writing on a blank slate."[36] "[L]ongstanding policies may have 'engendered serious reliance interests that must be taken into account.'"[37] When changing its position, which it seems OMB has done here with its:

- Gambit to unilaterally convert the GFFA standards from guidelines to strict regulations after decades of continuity;
- Radical reframing of longstanding anti-discrimination laws and the intent to enforce these new, extreme interpretations absent significant judicial interpretation;
- Robust endorsement of hyper partisan viewpoints on race, ethnicity, origin, sex, gender, physical ability, and other social markers that contravene more than half a century of Congressional intent and findings;[38] and

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[33] Alexandra Hill & Francisco Scott, *Some Segments of the Agricultural Economy Are Particularly Sensitive to Changes in the Foreign-Born Farm Labor Supply*, Fed. Rsrv. Bank of Kan. City, Econ. Bulletin (June 30, 2025), https://www.kansascityfed.org/research/economic-bulletin/some-segments-of-the-agricultural-economy-are-particularly-sensitive-to-changes-in-the-foreign-born-farm-labor-supply; Akash Pillai et al., *Potential Implications of Immigration Restrictions on the U.S. Agricultural Workforce*, KFF (Apr. 25, 2025), https://www.kff.org/racial-equity-and-health-policy/potential-implications-of-immigration-restrictions-on-the-u-s-agricultural-workforce; Marcelo Castillo, *Legal Status of Hired Crop Farmworkers, Fiscal 1991–2022*, U.S. Dep't of Agric., Econ. Research Serv. (Sept. 12, 2025), https://www.ers.usda.gov/data-products/chart-gallery/chart-detail?chartId=63466.

[34] 5 U.S.C. § 706(2)(A).

[35] *See Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

[36] *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1915 (2020) (citation omitted).

[37] *Id.* (quoting Encino Motorcars, LLC v. Navarro, 579 U.S. 211, 212, (2016) (internal citation omitted)).

[38] Partisan terms like *far-left*, *left-wing*, *radical*, and *radicalism* appear no less than 15 times in text justifying the proposed GFFA revisions. For example "prior to this administration, **far-left activists** hijacked the critical work done by the U.S. President's Emergency Plan for AIDS Relief (PEPFAR), … PEPFAR became a **left-wing** foreign aid entitlement that attempted to promote abortion and gender ideology…over a quarter of new grants made by NSF (27 percent) directed funding to DEI initiatives and other **far-left** perspectives" *See Rule: Regulation for Federal Financial Assistance*, 91 Fed. Reg. 32189, 3220 (proposed May 29, 2026), https://www.regulations.gov/document/OMB-2026-0034-0001 (emphasis added); "[t]hese and other burdensome policies and requirements imposed through Federal award programs diverted substantial amounts of taxpayer funding … to instead support favored identity groups and **left-wing activists.**" *Id.* at 32202 (emphasis added); *and* "taxpayer dollars must be used to support essential public purposes authorized by law—not wasted to promote divisive doctrines of the **far left**." *Id.* at 32203 (emphasis added).

- Enforcing the political surveillance and persecution of federal financial assistance recipients and beneficiaries for simply exercising Constitutional and statutory rights;

an agency must first "assess whether there [are] reliance interests, determine whether they [are] significant, and weigh any such interests against competing policy concerns,"[39] OMB's proposed GFFA revisions are likely to fail the APA's standard. OMB offers grasping and poorly reasoned explanations for the new requirements, neglects consideration of material facts, and ignores longstanding reliance interests.

Federal financial assistance recipients and their beneficiaries are already required to comply with federal anti-discrimination laws, including Title VI of the Civil Rights Act, Title IX of the Education Amendments Act of 1972, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act. Recipients even certify current and future compliance when applying for financial assistance through the System for Award Management (SAM) application portal. OMB provides no explanation for why those existing certifications and ongoing compliance are inadequate, or why this change in position is necessary. Beyond this, OMB's proposed rule's vague terms will render federally supported organizations unable to determine if they are complying with the revised, as well as new, GFFA standards. Under threat of not only civil and criminal enforcement, but political persecution as well, these proposed revisions will likely deter eligible and existing grantees like HUFG from applying for federal grants.

Organizations like HUFG also have significant reliance interests in continued access to federal funding. HUFG's federal grants enable it to support underserved and food insecure communities, train young farmers from minoritized communities on urban agriculture practices, and enter land management agreements with local farms. HUFG structures these programs around existing federal anti-discrimination frameworks. It would need to allocate additional staff time and enlist legal support to ensure compliance with OMB's proposed rule—particularly, because HUFG's federal grant funds have already been subject to politicized funding freezes. HUFG has contracts and relationships with public schools and farms in the St. Louis area; HUFG anticipates delaying these engagements to guarantee compliance with the proposed GFFA revisions, which will damage these longstanding partnerships. OMB does not even acknowledge these enduring reliance interests, which will implicate organizations beyond HUFG, and fails to explain why the necessity of new standards like discretionary funding suspensions and terminations outweighs the significant costs associated with compliance. In practice, the OMB's proposed GFFA revisions would expose federal financial assistance recipients who lawfully advance DEIA, support immigrants, or engage in advocacy of which the Trump Administration disapproves to arbitrary and capricious enforcement actions. This implicates recipients' ability to design programming in accordance with their missions and maintain productive relationships.

Courts are already skeptical of the Trump Administration's attempts to force anti-DEI measures on U.S. institutions and service providers.[40] Adding severability clauses to the

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[39] *Id.*

[40] Several district courts have preliminarily enjoined E.O. 14173. *See, e.g.*, *King Cnty. v. Turner*, 785 F. Supp. 3d 863, 875, 887–89, 894 (W.D. Wash. 2025), *appeal docketed*, No. 25-3664 (9th Cir. June 10, 2025); *Seattle v. Trump*, No. 2:25-cv-01435, 2025 WL 3041905, at *5–9 (W.D. Wash. Oct. 31, 2025), *appeal docketed*, No. 25-8096 (9th Cir. Dec. 29, 2025); *RICADV v. Kennedy*, 2025 WL 2988705, at *12–15 (D.R.I. Oct. 23, 2025), *appeal docketed*, No.

proposed revisions of the GFFA standards or acknowledging that all injunctions issued by courts will be adhered to, does not overcome the apparent illegality of OMB's proposed changes.[41]

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We ask OMB to reject the proposed revisions to its GFFA standards. Doing so is not only legally required, but also necessary for the public's interests.

Sincerely,

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25-2229 (1st Cir. Dec. 23, 2025). However, the Fourth Circuit recently rejected a facial challenge to the certification requirement in E.O. 14173. *Nat'l Ass'n of Diversity Offs. v. Trump*, No. 25-1189, 2026 WL 321433, at *7–11 (4th Cir. Feb. 6, 2026).

[41] *See Regulation for Federal Financial Assistance*, 91 Fed. Reg. 32189 (proposed May 29, 2026), https://www.regulations.gov/document/OMB-2026-0034-0001 (§§200.202, 200.205, 200.218, 200.300, 200.303(f), 200.305, 200.339).