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July 13, 2026

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

RE: Comment in Favor of "Regulation for Federal Financial Assistance"
Docket ID: OMB-2026-0034

Dear Director Vought,

Independent Women's Law Center (IWLC) writes in support of the Office of Management and Budget's proposed rule, "Regulation for Federal Financial Assistance," because we believe it's a crucial step towards reintroducing the constitutional principle that, in order to maintain any legitimacy, executive agencies must 1) be exercising power within the lines of clearly defined statutory limits and 2) remain accountable to the elected head of the executive branch, the president. These basic constitutional requirements are especially important when they're writing checks with taxpayer money.

In the absence of these two limitations—as they have been for many decades, until now—the power agencies wield is both anti-democratic and unconstitutional, making "law" without the elected legislature and exercising executive power without the executive. This rule takes a step towards curbing what has been the out-of-control power of unelected bureaucrats over the lives of Americans.

The proposed rule rewrites the rules surrounding federal grants, cooperative agreements, and other streams of federal funding, most importantly to require senior political appointees to review them, or terminate them, before they are issued to recipients, ensuring that the money that flows out of a given administration is consistent with both statutory requirements from Congress and the administration's own priorities. It also places "expert" advice in its appropriate role, making expert peer review panels truly advisory rather than functionally binding. Finally, it gives agencies clear guidance that certain types of grants are nonstarters, such as those that contradict civil rights laws and/or the Constitution (like some types of DEI activity), as well as those that involve certain foreign collaborations.

These steps will make our federal funding streams more aligned with the Constitution, Congress' legislative instructions, and the will of the voters. They place decision-making authority back with the only legitimate sources of power in a constitutional republic: those elected by the people of the United States.

For these reasons, in addition to more pragmatic concerns such as increased transparency and safeguards against fraud, IWLC supports the proposed rule.

“Apolitical” vs. Politicized?

Opponents of the proposed rule have characterized it as “politicizing” the grant process. For example, a letter from Senate Democrats states, in a way meant to be critical, “The proposed rule would also require and empower political appointees to decide which grants do and do not get funded.” The mistake made by such critiques, in our opinion, is first, that they assume that the status quo represents an “apolitical” process, and second, that political authority wielded over that process is inherently illegitimate. Instead, the goal of this proposed rule is to restore *appropriate* political authority over a process that has been anything but politically neutral, and in which the political decisions being made have no line of accountability to the American people.

The federal bureaucracy is neither self-disinterested nor apolitical, but most importantly, it does not have constitutional legitimacy to exercise either lawmaking or executive authority in itself.

President Woodrow Wilson famously thought the executive agencies he was building out at the turn of the century would maintain a kind of technocratic political neutrality; the people vote to set the course for the ship of state, and the bureaucracy makes the technical moves necessary to effectuate it. This was never true (bureaucrats, contrary to popular opinion, are human and have political opinions of their own), and is certainly not true today.

For the past several decades, the federal bureaucracy has operated as a soft arm of the Democratic Party, insulated from the consequences of exercising their independent and illegitimate political judgment by vastly inflated civil service protections and the fact that they never have to stand before voters.

The overwhelming **majority** of federal employee political donations have gone to Democrats. In 2024, for example, at the Department of Labor, the Democratic skew was 95%. At the Department of the Interior, it was 92%. At the Department of Education, *zero* donations were made to Republicans. This pattern is not the result of recent cuts to the federal workforce. In 2016, before President Trump took office for his first term, the skew was about the same: 95% of federal worker donations went to Hillary Clinton.

Three-quarters of those federal employees who voted for Kamala Harris in 2024—given the above numbers, we can assume that’s the vast majority—said in a **poll** that they would refuse to carry out a lawful order from the current president if they, in their personal judgment, consider it bad policy. A mere 16% of federal employees in that same survey said they would follow all the lawful orders of the current president in office. Fewer than one in six federal employees say they take direction, in grantmaking or anything else, from the only person in the Executive Branch with legitimate authority granted by the voters.

No wonder Republican transition staff speak of "landing teams," as though governing the executive branch were akin to landing at Normandy.

This might sound all very well if you're a Democrat, but it has the effect of delegitimizing elections and dampening faith in democracy. The legitimacy problem is not limited to Republican presidents. The Executive Branch and the many millions in federal spending it doles out should be under the control of the person elected to head it, not left to unelected bureaucrats to render their own political judgment on the political direction of the country, whether the people choose a Democrat or Republican that election year.

The Problem of Congress' Vague Lawmaking

It is certainly true that the Executive Branch must ensure that the grantmaking process comports with the law as passed by Congress, governing which monies are to be spent for what purposes. The problem is that for decades, Congress has gotten vaguer and vaguer in its delegations, and the details—very substantive details on major questions of governance—have been left to the federal bureaucracy. It is *that* illegitimate exercise of political authority that this proposed rule seeks to curtail.

In its reasoning for the proposed rule, OMB **states**: "Federal financial assistance programs, and the activities performed under Federal awards, have not always remained properly aligned with core purposes authorized by law, nor served the needs of the American public as intended." This can only be described as the most delicate way of putting the status quo.

Many enabling statutes can fairly be described, with only slight hyperbole, as a long list of abstract-level meaningless clauses beginning with "the agency shall."

As a **policy white paper** from Independent Women stated back in 2025:

> Phrases like "the Department shall," and "the Secretary will promulgate" litter federal law, granting vast and vague powers to unelected bureaucrats to fill in increasingly large blanks while members of Congress grandstand for or against the ultimate consequences as best suits their reelection chances, an offloading of political responsibility onto actors who don't share in any political accountability ...
>
> Members of Congress stand before voters every two or six years, but write only gauzy statements difficult to disagree with into law, where they are kicked over to bureaucrats who cannot be fired by the president to interpret into hard and fast realities that govern the lives and fortunes of Americans. This

avoidance of political accountability from either Congress or the executive may be convenient for Washington operators, but it is contrary in letter and spirit to the design of our three branches of government.

All of these problems are, oftentimes, even worse when it comes to grantmaking. One of the last remaining constitutional responsibilities actually carried out by Congress in our sclerotic age is passing the budget. While some items in the budget remain specific, others have become so vague so as to functionally pass lawmaking and grantmaking power nearly wholly to the bureaucrats at the agency tasked with executing them.

USAID, which was in the spotlight last year because of the efforts of DOGE, provides a representative example of the kind of illegitimate governance in operation for decades. The enabling legislation for the existence of USAID is the **Foreign Assistance Act of 1961**. But the language of the Act is broad, and has left enormous discretion to federal bureaucrats staffing the agency to choose recipients for Congress' pot of money for this purpose. The funds must be used to "promote the foreign policy, security, and general welfare of the United States by assisting peoples of the world in their efforts toward economic development and internal and external security, and for other purposes." Because of the context of the 1960s, one of the few restrictions on the use of the money is that it not go towards Communist countries unless it's being used to help them to free themselves of that system, but otherwise, most of the details are left to federal bureaucrats. That congressional language was translated by unelected bureaucrats into the **following** (nonexhaustive):

- $1.5 million to advance DEI in Serbian businesses
- $2.5 million for electric vehicles in Vietnam
- $2 million for medical procedures related to sex "transition" and "LGBT activism" in Guatemala
- $47,000 for a "transgender opera" in Colombia, and $32,000 for a "transgender comic book" in Peru
- At least $100,000 for meals for al-Qaeda-affiliated soldiers in Syria
- Hundreds of millions of dollars for farming support for poppy and heroin production in Afghanistan under the supervision of the Taliban

USAID is not unique. A report cited by the administration found **27% of grants** made by the National Science Foundation went to activities related to DEI and other pet political causes, for example, and similar grants were being made all over the federal government.

But still, many will claim that their opposition to this rule rests on concerns over grants to projects with near-universal political backing, like cancer research.

Opponents hide behind these popular grants because a public accounting of what American taxpayer dollars have been spent on would cause an uproar among voters.

But even this is not the worst of the problem. Instead, it's that if voters wanted to hold the government responsible for the content of these grants, *they could not do so via elections*. These grants were not written into the congressional budget, nor were they directed by the elected president. They were created and issued by people who never have to stand for election, are difficult to remove, and have operated largely without oversight from their political appointee bosses. That's what this rule attempts to change.

SCOTUS Jurisprudence is Heading Towards Full Recognition of the President's Constitutional Authority Over the Executive Branch

Compounding the problem of a politicized federal workforce is that until recent actions taken by the second Trump administration, the protections against removal essentially sidelined the elected president when it came to the political direction *of his own branch of government*.

In overturning *Humphrey's Executor*, the Court in ***Trump v. Slaughter*** emphasized that the executive power remains vested in the elected head of the executive branch, and that subordinates claiming to exercise that power must remain sufficiently accountable (in *Slaughter*, through the power of removal) to the president.

"But [Article II] establish[es] a hierarchy—a 'Chief Magistrate' with whom the buck stops, and below him various 'assistants or deputies' who 'derive their offices from his appointment' and remain 'subject to his superintendence.'" It follows that independent agencies, and even more so those agencies that have not even been granted that level of independence in statute, are not independent sources of policymaking—or grantmaking—authority.

The idea that those the president has chosen to carry out his will in the Executive Branch should have closer supervision of grants is exactly the sort of "superintendence" the Court has in mind. While they were writing about the removal power, the principles laid out in *Slaughter* make failure to closely supervise agency grantmaking practically a dereliction of duty. In order to "superintend", the president must have some control over how his branch carries out its executive functions, including grantmaking.

In asserting political—and therefore constitutionally legitimate—control over the grantmaking process, the proposed rule is effectuating the Supreme Court's recent jurisprudence about what the structure of the Constitution requires.

Other Practical Effects

The proposed rule also has more pragmatic benefits to the functioning, streamlining, and oversight of grants. It would also increase transparency, help with oversight against fraud, and enable administrations to hold high standards for grant recipients without burdening them with endless compliance hurdles. Furthermore, a single government-wide, uniform framework will help grant recipients fulfill legal requirements—clarifying the process for everyone involved, whether inside or outside of the government. Finally, this rule places some long overdue restraints on the gravy train paying for recipients' conference attendance, publications, professional memberships, subscriptions, and other administrative expenses that have often been the source of padding grantees' bottom lines or travel schedules, on the taxpayer dime.

Conclusion

The proposed rule represents an effort to restore accountability, and therefore legitimacy, to the way federal taxpayer money is spent. The crucial question is not only how much money flows from our coffers, but who makes the decision as to where it is spent. In our constitutional system, there is only one appropriate answer: the elected President, head of Article II's Executive Branch. This proposed rule brings a federal bureaucracy long illegitimately empowered to make political decisions through regulation and grantmaking back to heel. The rule makes it more likely that the employees of the federal bureaucracy will act in accordance with the law written by the representatives of those elected to Congress, and the wishes of the person the American people hire to run it.

For these reasons, Independent Women's Law Center supports the proposed rule.

Respectfully,

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