Earthjustice * Adelphoi * Agrarian Policy Center, LLC * Alabama State Association of Cooperatives * Alabama Sustainable Agriculture Network (ASAN) * Alianza Nacional de Campesinas * American Indian Mothers, Inc. * Awaken Pittsburgh * Campaign for Family Farms and the Environment * Centro de Servicios Comunitarios y Agrícolas de Utuado, Inc. * Certified Naturally Grown, Inc. * Civically, Inc. * Conservation Law Foundation * Environmental Law & Policy Center * FairShare CSA Coalition * Farm Aid * Farm Commons * FarmSTAND * Farmworker Association of Florida * Food and Fiber Law * Food & Water Watch * Food Animal Concerns Trust (FACT) * Food Systems Leadership Network * Fork Legal Design, PLLC * A Greener World * HEAL Food Alliance * Institute for Agriculture and Trade Policy * Kansas Black Farmers Association * Kansas Rural Center * Land For Good * Land Stewardship Project * League of Conservation Voters * Louisiana Food Policy Council * MAZON: A Jewish Response to Hunger * Michael Fields Agricultural Institute * Mississippi Association of Cooperatives * National Center for Frontier Communities * National Young Farmers Coalition * Native Agriculture Financial Services * Natural Resources Defense Council * Northeast Organic Farming Association of New Hampshire (NOFA-NH) * Northeast Organic Farming Association of New Jersey (NOFA-NJ) * Northeast Organic Farming Association of New York (NOFA-NY) * NSI Food Pantry * Ohio Farmers Market Network * One Mississippi * One.Two.Five Benefit Corporation * Rater Farms * Rural Advancement Fund of the National Sharecroppers Fund * Rural Coalition * San Diego Food System Alliance * Sierra Club Food and Agriculture Team * Soul Fire Farm * Southern Environmental Law Center * Sustainable Iowa Land Trust * Virgin Islands Good Food Coalition, Inc. * Virginia Association for Biological Farming * World Farmers

July 13, 2026

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

Submitted electronically via www.regulations.gov

Re: Comments in Opposition to Proposed Rule, *Guidance for Grants and Agreements*, 91 Fed. Reg. 32198 (May 29, 2026), Docket No. OMB-2026-0034, RIN 0505–AA20

Dear Sir or Madam:

Over fifty-five (55) organizations -- representing sustainable farming, farmer, and farmworker communities; environmental, health, and healthy food concerns; and land and rural community interests -- collectively representing millions of supporters and members, submit these comments on the Office of Management and Budget's (OMB's) proposed rule, *Regulation for Federal Financial Assistance*, 91 Fed. Reg. 32198 (May 29, 2026) ("Proposed Rule"), which governs federal awards, grants, and cooperative agreements and is set forth at 2 C.F.R. Part 200.

These comments focus on the impact these changes will have on individuals and organizations that receive funding through the U.S. Department of Agriculture (USDA), even though the Proposed Rule will affect the terms and conditions governing *all* federal funding. The undersigned organizations, dedicated to sustainable agriculture, healthy food systems, rural communities, and food justice, have a direct interest in the integrity, stability, and fairness of USDA's administration of its federal awards, and are gravely concerned about the vague, substantive, and politicized requirements the Proposed Rule imposes.

INTRODUCTION

OMB's Proposed Rule imposes new terms and conditions on over $1.1 trillion of federal funding each year, including over 100 billion dollars per year in USDA funding that goes towards critical food and agriculture programs, including food and nutrition assistance, conservation services, agricultural research, and forest management and wildfire mitigation. The new terms and conditions in the Proposed Rule include several provisions that would impose vague and unprecedented substantive and politically charged requirements on grantees—including USDA grantees—mandating that they follow the Administration's positions on substantial issues of social policy. This includes, for example, complying with ambiguous policies related to race and diversity, gender identity, and immigration, regardless of whether the mandates are consistent with existing law and statutory mandates, and in some cases, regardless of whether the activities relate to federal funded programs.

The Proposed Rule also contains a termination provision that allows USDA to cancel an award—including an award to a farmer, university, or nonprofit—mid-project for no reason beyond a vague and unspecified shift in "agency priorities" after performance has begun. And the Proposed Rule transforms what has always served as Uniform *Guidance* into a binding regulatory regime.

Under this vague and expansive regime, individuals and organizations will be faced with an impossible choice—either agree to unclear and unlawful terms regardless of their ambiguities and the ways they are contrary to law and then altering otherwise lawful activities in an effort to meet the administration's vague policy preferences to avoid substantial risks of liability, or entirely forego much needed federal funding for programs that Congress has instructed agencies to support—programs critical to organizations' and government entities' missions and their ability to serve their communities. For USDA grantees, this includes programs that support essential food, agriculture, forestry, nutrition, and research programs.

This is not a hypothetical concern. USDA has already implemented substantially similar terms and conditions governing the Department's awards, effective December 31, 2025, and a coalition of State Attorneys General successfully challenged those terms as unlawful.[1] Specifically, the States argued that the terms were ambiguous and coercive in violation of the Spending Clause, and arbitrary and capricious and contrary to law in violation of the Administrative Procedures Act. On June 24, 2026, the district court granted a preliminary injunction for the States, preventing these vague and politically motivated terms and conditions from taking effect in any grants with Plaintiff States. Likewise, a district court in a different case recently enjoined USDA's termination of grant agreements as likely contrary to law, noting that USDA "flout[s] Congress's mandates when [it] terminate[s] grants for the very reason that the grants further the aims Congress explicitly instructed [them] to pursue."[2] OMB should not now write the same defects into a government-wide, legally binding regulation that will apply to every federal grant-making agency and every category of federal financial assistance.

We urge OMB to withdraw the proposed rule. At minimum, OMB should not transform what has always been *guidance* into binding regulation enforceable through civil and criminal liability. And if finalized, OMB should remove the vague and politically charged conditions identified below, conditions that serve only to centralize partisan political control over and increase bias and unfairness in individual grant decisions, causing grave harm, disruption, and paralysis throughout the federal financial assistance process.

SUMMARY OF THE COMMENTS

While numerous sections of the Proposed Rule raise serious concerns over the politicization of federal financial assistance through the creation of vague and substantive requirements, we highlight here some of the most problematic provisions:

- **Politicizing Federal Financial Assistance –** The Proposed Rule politicizes federal financial assistance in four primary ways. *First*, the Proposed Rule requires that senior political appointees in the Executive Branch sign off on every discretionary award, while peer review by independent experts is demoted to advisory status only.[3] Through this review process, these political appointees "must, where applicable," ensure that discretionary awards "demonstrably advance the President's policy priorities,"[4] including, for example, by denying funding that could be used to "fund, promote, encourage, subsidize, or facilitate" "racial preferences," the "denial … of the sex binary in humans or the notion that sex is a chosen or mutable characteristic," involvement with "illegal immigration," or "any other initiatives that compromise public safety or promote anti-American values."[5] These "pre-issuance review" requirements insert factors that

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[1] *Commonwealth of Massachusetts v. USDA,* No. 1:26-cv-11396 (Mass. Dist. Ct. Mar. 23, 2026), https://www.courtlistener.com/docket/72530790/commonwealth-of-massachusetts-v-us-department-of-agriculture/.
[2] Memorandum Opinion, *Urb. Sustainability Dirs. Network v. USDA*, No. 1:25-cv-01775, Dkt No. 81 (June 30, 2026) (citation modified).
[3] 91 Fed. Reg. at 32249 (Proposed 2 C.F.R. § 200.205(b)).
[4] *Id.* (Proposed 2 C.F.R. § 200.205(b)(1)).
[5] *Id*. (Proposed 2 C.F.R. § 200.205(b)(2)).

have nothing to do with the statutory criteria for many programs, and in many cases politicize congressionally mandated programs meant to be neutral and fact-based. And the requirements in this provision are unworkably vague, using undefined terms such as "anti-American values" and "demonstrably advance the President's policy priorities."

Second, the Proposed Rule requires agencies to ensure that program funds are "not used to promote, subsidize, or support political activities or initiatives unrelated to authorized public purposes," and directs agencies to design programs "to avoid even the appearance of supporting such prohibited activities."[6] Neither "political activities" nor "even the appearance" of supporting them is defined, leaving recipients in the dark about what conduct is prohibited. It also requires public recipients of federal funding to provide identical event-support services "regardless of … political, ideological, or religious affiliation or perspective" of the speech involved, on pain of losing federal funding.[7] This provision seemingly applies to all program activities, whether or not they are federally funded. Applied to land-grant extension services and county fairgrounds that host a wide range of community and agricultural events, this converts routine facility-use decisions into federally regulated speech determinations.

Third, the Proposed Rule requires agencies to "establish and maintain policies and procedures for conducting a risk assessment to evaluate the risks posed by applicants" before they can issue Federal awards.[8] As part of scoring an applicant's risk before award, agencies must evaluate an applicant's record of various activities, including its "engaging in activities or initiatives that are inconsistent with Federal civil rights laws" or with "religious liberty laws," "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," or publishing "discredited or non-replicable studies."[9] This turns a financial risk assessment into an ideological and associational screening tool applied before a single dollar is awarded, and is vague and subject to political manipulation.

Fourth, the Proposed Rule authorizes agencies to cancel any discretionary award, in whole or in part, midstream whenever the agency determines that the termination "is in the interest of the Federal agency," including where the award "does not effectuate program goals, Federal agency priorities, or the national interest as they exist at the time of the termination."[10] Under this proposed provision, a compliant award recipient performing exactly as promised can lose funding mid-project based solely on a change in

[6] *Id*. at 32247 (Proposed 2 C.F.R. § 200.202(c)).
[7] *Id*. at 32252 (Proposed 2 CFR § 200.219(a)–(c)).
[8] *Id*. at 32249 (Proposed 2 C.F.R. § 200.206(b)).
[9] *Id*. at 32250 (Proposed 2 C.F.R. § 200.206(b)(2)(vii)–(ix)).
[10] *Id*. at 32258 (Proposed 2 C.F.R. § 200.340(a)(2)).

political leadership or policy emphasis. And the Proposed Rule removes any right to a hearing for discretionary terminations.[11]

- **Codifying Viewpoint Discrimination in Violation of the First Amendment and Fourteenth Amendment –** The Proposed Rule conditions Federal financial assistance on a recipient's non-engagement in a sweeping and ill-defined category of activities that the Trump Administration disagrees with. This includes, for example, requiring agencies and recipients to "eliminate the use of disparate-impact liability in all contexts relevant to Federal awards" and bars recipients from using award funds for "disparate-impact studies, disparate-impact litigation, or other related activities."[12] The Proposed Rule also prohibits the use of any federal award to "fund, promote, encourage, subsidize, or facilitate" Diversity, Equity, or Inclusion (DEI), or Diversity, Equity, Inclusion, or Accessibility (DEIA) "policies, principles, or practices," "gender ideology," defined to include any position that does not affirm "the biological reality of sex or the sex binary," or the "so-called 'transition' of a child."[13] Agency officials could try to deploy these vague terms to reach any program content, curriculum, or extension material a reviewing official characterizes as reflecting a disfavored "ideology."

- **Prohibiting Foreign Collaborations –** The Proposed Rule contains provisions barring the use of federal funds to support collaboration with a "covered foreign country" or "covered foreign entity," terms defined by reference to open-ended, agency-specific lists and determinations "designated by statute, Executive order, or other Federal law."[14] Agricultural research routinely involves international data-sharing, germplasm exchange, and pest and disease surveillance; this provision gives recipients no reliable way to determine, at the time an international element is planned, whether it will later be deemed prohibited.

If the Proposed Rule is finalized, each of these provisions would be incorporated, directly or by reference, into every federal agency discretionary grant and cooperative agreement—including USDA's—and also into the sub-award agreements. This will impose huge compliance burdens on the farmers, farmer-serving organizations, food banks, conservation districts, state and local governments, and rural communities who until now have benefited from USDA financial assistance.

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[11] *Id*. at 32260 (Proposed 2 C.F.R. § 200.342).
[12] *Id*. at 32252 (Proposed 2 CFR § 200.218(a)–(b)).
[13] *Id*. at 32253 (Proposed 2 CFR § 200.300(b)).
[14] *Id*. (Proposed 2 CFR § 200.220(a), (d)).

DISCUSSION

I. The Proposed Conditions are Unlawful.

A. The Proposed Rule's Conditions are Unconstitutionally Vague and Coercive, in Violation of the Spending Clause.

It is a hallmark principle of Constitutional law that any conditions placed on federal funding must be unambiguous, giving recipients clear, definite notice of what is required of them. *Pennhurst State Sch. & Hosp. v. Halderman*, 451 U.S. 1, 17 (1981). Recipient of federal funds deciding whether to apply for and accept federal funding must be able to "exercise their choice knowingly, cognizant of the consequences of their participation." *South Dakota v. Dole*, 483 U.S. 203, 207 (1987); *see also Nat'l Fed'n of Indep. Bus. v. Sebelius*, 567 U.S. 519 (2012) (plurality opinion). Thus, Congress—and, by extension, an agency exercising delegated authority—must speak with a "clear voice" when imposing conditions on the receipt of federal funds, so that a recipient can "exercise its choice knowingly, cognizant of the consequences of its participation." *Pennhurst*, 451 U.S. at 17.

The Proposed Rule cannot survive this standard. Multiple provisions contain vague and undefined terms, leaving recipients of federal financial assistance forced to guess at their compliance obligations. For example, terms such as "anti-American values," "DEI or DEIA policies, principles or practices," "gender ideology," the requirement that awards "demonstrably advance the President's policy priorities," and the instruction to avoid "even the appearance" of supporting undefined "political activities" are wholly subjective and provide no workable standard for potential recipients. Moreover, the Proposed Rule leaves these terms subject to the whims of political appointees untethered from any required review by objective and independent experts or other constraints on political discretion.

Moreover, the vagueness of the Proposed Rule creates an unconstitutional coercive effect, unduly influencing performance. *See Nat'l Fed'n of Indep. Bus.*, 567 U.S. at 577 (plurality opinion) (explaining that a condition is coercive if it exerts a "power akin to undue influence" and turns pressure "into compulsion"). Because it allows termination "for convenience" based on the agency's undefined and shifting sense of its own "priorities,"—including priorities that differ from those in place at the time of award—a recipient cannot know, at the time it accepts an award and begins performance, what continued compliance will actually require. An awardee of financial assistance that could comply with the terms as understood on the date of award may nonetheless find itself terminated mid-performance because a new political appointee reads "agency priorities" differently. Indeed, that is precisely what has happened to hundreds of USDA grantees under the Trump Administration, which terminated their federal awards because they allegedly "no longer effectuat[ed] … agency priorities."[15]

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[15] *See Urb. Sustainability Dirs. Network v. USDA*, No. 25-cv-1775, 2025 WL 2374528 at *6 (D.D.C. Aug. 14, 2025).

The practical burden of these ambiguities and coercion falls hardest on sub-recipients of USDA awards. USDA most often funds a state agency, university, or nonprofit pass-through entity, which in turn must impose these same undefined conditions on hundreds or thousands of local sub-awardees. Because the pass-through entity cannot itself define "anti-American values" "DEI or DEIA related policies," "gender ideology," or any of the other vague and undefined terms where OMB has failed to do so, it is left to either over-enforce—demanding certifications and monitoring far beyond what any individual sub-award justifies—or under-enforce and risk its own funding. Either choice damages the trust-based relationships that make community-level program delivery work, placing the funding in an adversarial posture toward the very community the programs are meant to serve.

For these reasons, the Proposed Rule lacks constitutional clarity and is impermissibly coercive. It thus violates the Spending Clause of the Constitution.

B. The Proposed Rule is Arbitrary and Capricious in Violation of the Administrative Procedure Act (APA).

OMB's Proposed Rule also runs afoul of the APA, which prohibits "arbitrary and capricious" agency actions—actions that are not "reasonable and reasonably explained." *Ohio v. Env't Prot. Agency*, 603 U.S. 279, 292 (2024) (internal quotation marks omitted). An agency must "examine the relevant data and articulate a satisfactory explanation for its action," including a rational connection between the facts found and the choice made. *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). The agency must also consider important aspects of the problem, including reasonable alternatives that are apparent from the record or inherent in the agency's stated objectives. *Id.* at 43, 51; *DHS v. Regents of the Univ. of Cal.*, 591 U.S. 1, 33 (2020). And when an agency changes position, it must acknowledge the change, explain the reasons for it, and consider serious reliance interests created by the prior policy. *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515–16 (2009); *Regents*, 591 U.S. at 30–33; *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–24 (2016). The Proposed Rule fails each of these requirements.

The Proposed Rule rests entirely on OMB's assertion that sweeping government-wide changes are necessary to address waste, misuse, inadequate oversight, ideological grantmaking, and misalignment between federal awards and statutory purposes.[16] But nowhere in the preamble to the Proposed Rule does it identify any reliable record evidence demonstrating a systemic problem with federal financial assistance programs that would justify the proposed response. Nor would most provisions of the Proposed Rule fix such problems if they in fact existed. Instead, the Proposed Rule relies largely on generalized assertions, selected anecdotes, and politicized administration statements or Executive Orders—a far cry from a reasoned evidentiary basis for converting uniform guidance into a binding substantive politicized regulation governing all federal financial assistance. It does not explain why existing tools for audits, monitoring, risk review, specific conditions, suspension, termination, civil-rights enforcement, inspector-general review, or fraud enforcement are inadequate, nor does it analyze whether any documented

[16] 91 Fed. Reg. at 32199–200.

problems are program-specific rather than occurring across the government. And it does not explain how these broad and sweeping new provisions are sufficiently tailored to address the asserted concerns.

Moreover, the Proposed Rule fails to recognize or explain its change in position, why it is converting non-binding guidance into a government-wide mandated regulatory regime that imposes politicized substantive requirements on award recipients, political pre-issuance review, and vague award conditions, while allowing for termination at the whim of the administration. OMB does not acknowledge its change in position or the significant reliance interests that will be affected by this about-face, or to adequately explain why these new conditions are necessary, thereby failing to justify its changed position, as required by law. *See Fox Television Stations*, 556 U.S. at 515.

For these reasons too, OMB should not finalize this arbitrary, capricious, unreasoned, and thus unlawful Proposed Rule.

C. The Proposed Rule is Contrary to Law.

Congress structured USDA's major grant and benefit programs around objective, statutorily defined criteria precisely so that an applicant's eligibility would not turn on political affiliation of either the applicant or the administration in office. For example:

- Supplemental Nutrition Assistance Program (SNAP), the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and The Emergency Food Assistance Program (TEFAP) eligibility depend on income and nutritional risk.
- Environmental Quality Incentive Program and Conservation Stewardship Program grants are awarded and administered based on conservation practice standards and environmental benefit indices.
- The National Institute of Food and Agriculture (NIFA) funds grants and other awards based on statutory population and agricultural-output formulas under the Hatch Act, 7 U.S.C. §§ 361a–361i, and the Smith-Lever Act, 7 U.S.C. §§ 341–349.

This design reflects a considered congressional judgment that agricultural and nutrition policy should be administered on the merits, not as an instrument of partisan reward or punishment.

The Proposed Rule upends this structure, injecting partisan politics into what should be politically neutral congressionally mandated programs. For example, section 200.205(b)(1) requires that discretionary awards "demonstrably advance the President's policy priorities" as a condition of funding—not simply that they satisfy the statutory program criteria Congress enacted. Section 200.340(a)(2) then backstops that political litmus test by granting agencies authority to terminate an award mid-performance if the agency later decides the award no longer serves "Federal agency priorities … as they exist at the time of the termination." Read together with other vague and sweeping conditions described above, these provisions convert programs Congress built to be neutral and durable into instruments that can be recalibrated, award by award, to track the policy preferences of whichever administration is currently in office.

By injecting vague policy preferences and politicizing the terms and conditions of federal financial assistance, the Proposed Rule is contrary to law and in violation of the APA. As the D.C District Court recently explained, USDA "flout[s] Congress's mandates when [it] terminate[s] grants for the very reason that the grants further the aims Congress explicitly instructed [them] to pursue."[17]

Moreover, by removing any appeal rights after a termination for convenience, the Proposed Rule is contrary to statutory requirements that provide for an informal hearing and other review of adverse decisions by the National Appeals Division. *See* 7 U.S.C. § 6991 et seq. For example, pursuant to 7 U.S.C. § 6996, a recipient of USDA financial assistance "*shall* have the right to appeal an adverse decision to the Division for an evidentiary hearing by a hearing officer," consistent with the terms of the statute (emphasis added). By eliminating recipients' right to appeal, Proposed section 200.342 is directly contrary to law and cannot survive scrutiny.

Notably, this politicization of USDA grants is not only contrary to law, but also practically unsound. Scientific and technical USDA programs — plant and animal disease surveillance, food safety research, soil and water conservation science — depend on public and international confidence that USDA-funded findings reflect the underlying science, not the administration's policy preferences. A rule that conditions funding on avoiding "initiatives that … promote anti-American values" or on affirmatively avoiding "gender ideology" as broadly defined invites exactly the kind of political interference with fact-finding that erodes that confidence, both domestically and among the international research partners and trading counterparts on whom U.S. agricultural science depends.

II. The Proposed Rule Adversely Affects Countless USDA Programs that Address Hunger, Nutrition, Conservation, Forestry, and Research.

The scale of USDA funding subject to the terms and conditions in the Proposed Rule is enormous. The Proposed Rule will affect programs built by Congress around statutory, largely non-discretionary, eligibility criteria—not conditions based on agency discretion or political preference. Four categories of USDA programs are at particular risk under the Proposed Rule.

A. Nutrition Programs

USDA's nutrition programs are the largest category of USDA spending potentially affected by the Proposed Rule. SNAP alone provided benefits to approximately 40 million people per month in recent pre-2025 years, with federal benefit costs running roughly $100 billion annually; WIC and TEFAP add several billion dollars more—WIC's program costs alone typically run in the range of $6 to $7 billion a year—much of it distributed through state agencies

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[17] Memorandum Opinion *supra* note 2.

and local nonprofit and community partners as sub-recipients.[18] These programs are authorized under the Food and Nutrition Act of 2008 and related statutes on the basis of objective, income- and nutrition-risk-based eligibility criteria.

We support OMB's indication that the political pre-issuance review in § 200.205(b) and the termination for alignment with "agency priorities" in § 200.340(a)(2) apply only to "discretionary awards" as defined in § 200.1, and § 200.340(b)(2) expressly excludes from that termination ground any award "made under programs where legislation establishes an entitlement to the funds on the part of the recipient . . . [or] those awarded based on a statutory formula."[19] Accordingly, these provisions should not apply to SNAP, which is a statutory entitlement, and WIC and EFAP, both allocated to states by formula. We urge OMB to further clarify that exclusion and expand it to cover additional USDA programs.

Other provisions, however, are not limited to discretionary awards and thus appear to apply to SNAP, WIC, and TEFAP, and thus to the state agencies and local nonprofit and community partners that administer them. For example, the political-activities restriction in § 200.202(c), the disparate-impact prohibition in § 200.218, the event-services viewpoint mandate in § 200.219, and the DEI/gender-ideology prohibitions in § 200.300(b) are each written to apply to "Federal awards," "Federal program funds," or "recipients of Federal financial assistance" generally, with no discretionary-award or other identifiable qualifier that would shield SNAP, WIC, and TEFAP beneficiaries from these provisions.

B. Farm and Conservation Programs

USDA's Natural Resources Conservation Service (NRCS) administers the Environmental Quality Incentives Program (EQIP), the Conservation Stewardship Program (CSP), the Agricultural Conservation Easement Program (ACEP), and the Regional Conservation Partnership Program (RCPP), which in recent years have collectively directed on the order of $3 to $4 billion each year to farmers and ranchers for conservation practices, including cover cropping, nutrient management, waste storage structures, wetland and grassland easements, undertaken pursuant to multi-year awards.[20] These are individual farmer-level awards, often the product of years of planning and capital investment, and are especially vulnerable both to the vague eligibility screening conditions in § 200.205(b) and to discretionary termination under § 200.340(a)(2). The pervasive ambiguities in the Proposed Rules thus create instability: farmers

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[18] USDA Econ. Rsch. Serv., *WIC Program*, https://www.ers.usda.gov/topics/food-nutrition-assistance/wic-program (last updated July 22, 2025); USDA Econ. Rsch. Serv., *The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Background, Trends, and Economic Issues, 2024 Edition* (Feb. 2024), https://www.ers.usda.gov/media/9086/eib-267.pdf?v=14870.
[19] 91 Fed. Reg. 32258 (Proposed 2 C.F.R. § 200.340(b)(2)).
[20] EQIP, CSP, ACEP, and RCPP funding levels are approximate general-knowledge estimates and vary by fiscal year and Farm Bill cycle; figures should be verified against current NRCS obligations data before citation in a filed comment.

and conservation districts cannot know today how their awards will be affected by future policies and preferences.

C. Forestry Programs

The U.S. Forest Service administers a multi-billion-dollar annual budget—in recent years on the order of $6 to $9 billion, driven substantially by wildland fire suppression costs—for wildfire management, State and Private Forestry cost-share programs, and cooperative agreements with state forestry agencies, tribes, and conservation nonprofits for hazardous fuels reduction and forest health work.[21] Much of this work is performed through multi-year cooperative agreements with local and regional partners—exactly the kind of award most exposed to mid-course termination under § 200.340(a)(2) if wildfire and forest-health priorities are later recharacterized as inconsistent with a given administration's stated priorities.

D. Agricultural Research and Extension

The National Institute of Food and Agriculture (NIFA) distributes on the order of $1.5 to $2 billion each year in competitive research grants (including the Agriculture and Food Research Initiative) and statutory formula funds to land-grant universities and their extension services.[22] Formula funds in particular are distributed according to statutory formulas tied to state agricultural and rural population data, a structure Congress adopted precisely to keep basic agricultural research and extension work insulated from case-by-case political control. NIFA programs reach nearly every farm, county extension office, conservation district, and food bank in the country. The Proposed Rule's injection of vague, ideologically inflected conditions and discretionary termination authority threatens researchers continued and reliable access to federal financial assistance.

III. The Rule Will Impose Substantial Hardship on Farmers and Rural Communities.

Beyond its legal defects, the proposed rule would impose real and grave hardship on the farmers, ranchers, and rural institutions who rely on USDA funding to plan multi-year operations. This is not a speculative concern. Since January 2025, farmers and farmer-serving organizations have already experienced funding freezes, abrupt grant terminations, and full program cancellations under USDA's existing discretionary-termination authority—including the denial of more than $2 billion in payments owed to roughly 30,000 farmers, termination of the Partnerships for Climate-Smart Commodities program, and cancellation of programs

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[21] Forest Service budget figures are approximate general-knowledge estimates spanning recent fiscal years and have not been independently verified; the applicable fiscal year's USDA budget justification and appropriations act should be checked directly before citation in a filed comment.
[22] NIFA funding figures are approximate general-knowledge estimates and should be verified against current NIFA and USDA budget documents before citation in a filed comment. The Hatch Act and Smith-Lever Act U.S. Code citations reflect Commenters' best current understanding and should likewise be confirmed against the U.S. Code before filing.

supporting the next generation of farmers and ranchers—compounded by significant USDA staffing losses that leave the agency less able to administer its own programs.[23] The proposed rule would not rein in that authority; it would expand and codify it as a binding, government-wide regulation.

A. Sunk Investment in Multi-Year Projects with Long Development Timelines

Many USDA partnership programs are inherently multi-year: five-year Regional Conservation Partnership Program (RCPP) projects, three-year Beginning Farmer and Rancher Development Program (BFRDP) grants, and multi-year Sustainable Agriculture Research and Education (SARE) research on practices like cover cropping, and grants supporting meat-processing capacity expansion, to name a few.[24] This is an unavoidable part of agriculture, that often requires several years for new practices or crops to take hold and show results. Just starting one of these projects can take years of application preparation and negotiation. EQIP, CSP, and ACEP contracts likewise typically run several years and require farmers to make upfront capital investments—waste storage structures, irrigation upgrades, fencing, cover-crop seed and equipment—all in reliance on the government's cost-share commitment and all that pay back only over many years. Under § 200.340(a)(2) of the Proposed Rule, USDA may terminate any of these awards at any time after award, including years after the beginning of performance, based on nothing more than its own after-the-fact view of "agency priorities" or the "national interest," with no requirement that it first attempt to modify the project or work with the recipient toward compliance.

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[23] *Broken Promises: Over 30,000 Farmers Denied Funds*, National Sustainable Agriculture Coalition (Feb. 26, 2025), https://sustainableagriculture.net/blog/trump-denies-over-2-billion-in-payments-owed-to-30000-farmers/; *Farmers Speak Out on the Devastating Impact of USDA Funding Freeze*, National Sustainable Agriculture Coalition (Mar. 20, 2025), https://sustainableagriculture.net/blog/farmers-speak-out-on-the-devastating-impact-of-usda-funding-freeze/; Press Release, National Sustainable Agriculture Coalition, Release: NSAC Responds to USDA Announcement on Partnerships for Climate-Smart Commodities Program (Apr. 14, 2025), https://sustainableagriculture.net/blog/release-nsac-responds-to-usda-announcement-on-partnerships-for-climate-smart-commodities-program/; Press Release, National Sustainable Agriculture Coalition, Comment: NSAC Condemns USDA's Withdrawal of Support for Next Generation Farmers (Apr. 1, 2026), https://sustainableagriculture.net/blog/comment-nsac-condemns-usdas-withdrawal-of-support-for-next-generation-farmers/; *USDA Staffing Crisis: Nationwide Losses*, National Sustainable Agriculture Coalition (June 11, 2026), https://sustainableagriculture.net/blog/usda-staffing-crisis-nationwide-losses/; *see also Proposed Grant Rules Increase Uncertainty, Risk for Farmers*, National Sustainable Agriculture Coalition (July 2, 2026), https://sustainableagriculture.net/blog/proposed-grant-rules-increase-uncertainty/ [hereinafter *Proposed Grant Rules Increase Uncertainty*].

[24] *Proposed Grant Rules Increase Uncertainty*, *supra* note 23.

B. No Right to Appeal Termination and No Guarantee of Compensation for Sunk Costs

The Proposed Rule compounds this instability by eliminating the practical right to challenge a discretionary termination. Under proposed § 200.342, the Proposed Rule states that "the Federal agency is not required to allow for objections, hearings, and appeals related to any reasons for termination except termination for noncompliance"[25]—meaning a farmer or organization terminated because of, for example, supposed inconsistency with agency priorities under § 200.340(a)(2) has no administrative avenue to explain how the project in fact aligns with the agency's current priorities, or to propose changes that would bring it into alignment. Nor is compensation for costs already incurred assured: The Proposed Rule leaves the decision whether to reimburse a recipient for reasonable costs incurred after a discretionary termination "to the reasonable discretion of the Federal agency," which "may weigh payment of additional termination costs against competing policy concerns."[26] Thus, a farmer who has already invested significant time and expense in performing his award obligations in reliance on an executed agreement has no guarantee that USDA will cover that cost if the award is later terminated for convenience.

C. New Administrative and Compliance Burdens on Grantees and Subawardees

The Proposed Rule also layers new administrative and financial burdens onto grantees, particularly those administering multi-partner or subawarded projects. It prohibits fixed amount awards and subawards, eliminating a tool that has been used to deliver simple, low-overhead micro-grants to farmers and guaranteed minimum payments to producers enrolling in conservation programs such as CSP,[27] stating that "fixed amount awards are not permitted unless otherwise authorized by Federal statute" and "fixed amount subawards are not permitted."[28]

The Proposed Rule also lets an agency impose a specific condition "[r]equiring payments as reimbursements rather than advance payments" at any point in the award,[29] and separately authorizes the agency to add or remove specific conditions throughout the period of performance based on risk factors that need not be spelled out at the time of award.[30] For programs like EQIP, where advance payment is explicitly authorized by statute, and for the many farmers and small organizations that budget years in advance around an expected payment schedule, a mid-project

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[25] 91 Fed. Reg. 32260 (Proposed 2 C.F.R. § 200.342). A recipient terminated supposed inconsistency with agency priorities under § 200.340(a)(2) may submit a written statement of termination costs under § 200.341(c)(3) but has no right to object to or appeal the termination decision itself.
[26] 91 Fed. Reg. 32261 (Proposed 2 C.F.R § 200.343(b)(1)–(2)).
[27] *Proposed Grant Rules Increase Uncertainty*, *supra* note 23.
[28] 91 Fed. Reg. at 32211, 32225, 32246, 32257 (Proposed 2 C.F.R. §§ 200.201(b), 200.333).
[29] 91 Fed. Reg. 32250 (Proposed 2 C.F.R. § 200.208(d)(1)).
[30] 91 Fed. Reg. 32198 (Proposed 2 C.F.R. § 200.208(b)–(c)).

shift to reimbursement-only can create a budgetary shortfall the recipient has no practical way to absorb.[31]

D. Recipients' Obligations to Police Subrecipients

The Proposed Rule also makes recipients of federal financial assistance responsible for their subrecipients' compliance with vague and ambiguous terms that are impossible to apply with any consistency. A pass-through entity must "ensure that each subrecipient … does not take actions that could significantly damage the reputation of the pass-through entity, the Federal agency making the award, or the Federal Government," and if the agency "determines that such significant reputational harm has occurred, it may either direct the pass-through entity to terminate the subaward or terminate the Federal award to the pass-through entity."[32] Nothing in the rule defines what conduct "significantly" damages the government's reputation, or how a lead grantee—often a state agency, university, or nonprofit with no visibility into a farmer sub-awardee's day-to-day activities — is supposed to monitor for it. That uncertainty pushes pass-through entities toward over-policing their farmer and community partners, straining the local relationships that make partnership-based delivery of USDA programs work.

E. Compliance Burden Disproportionate to Award Size and Threatened False Claims Act Exposure

Many USDA award recipients are small operations—individual farms, single-county conservation districts, small and local nonprofit organizations, volunteer-run food pantries—without in-house legal counsel to interpret undefined terms like "anti-American values" or "significant reputational harm," or to assess whether a given practice risks running afoul of the disparate-impact or DEI prohibitions in sections 200.218 and 200.300(b). Because the certifications required under this rule are broad and undefined, they also create new avenues for False Claims Act liability for recipients who sign them in good faith but are later found, under a differently applied standard, to be out of compliance. Small farm operations and rural nonprofits are especially poorly positioned to bear that compliance burden and litigation risk.

F. Reduced Bankability of Federally Supported Projects

Lenders underwriting farm operating loans and rural infrastructure projects often treat multi-year federal grant or cost-share commitments as a stable revenue stream. A broad and ambiguous termination-for-convenience standard, paired with any appeal rights, undermines that stability, making federally supported projects harder to finance and potentially raising borrowing costs for farmers and rural businesses even when their own performance is not in question.

G. Chilling Effect on Program Participation

The cumulative effect of vague conditions, political pre-issuance review, unreviewable termination authority, new administrative burdens, and threatened civil and criminal liability for

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[31] *Proposed Grant Rules Increase Uncertainty*, *supra* note 23.
[32] 91 Fed. Reg. at 32257 (Proposed 2 C.F.R. § 200.332 (i)).

noncompliance is likely to be a chilling effect on farmers and rural organizations applying for or renewing federal financial assistance awards. This includes a reduction in conservation, research, and nutrition-adjacent grants that serve rural communities, not because individuals and organizations are ineligible under the statutory criteria Congress enacted, but because the risk of losing funding mid-project, for reasons unrelated to performance and with no right to be heard, outweighs the benefit of applying. That outcome undermines the conservation, food-security, and rural-development goals Congress funded these programs to achieve.

CONCLUSION

For the reasons above, we respectfully urge OMB to withdraw the Proposed Rule. If OMB proceeds with rulemaking, it should clarify that most provisions do not apply to USDA nutrition programs and other formula-based programs, remove or substantially narrow and define the vague, ambiguous, and overly broad provisions discussed above, and maintain these provisions and guidance rather than a binding legislative rule. OMB should heed USDA's recent experience—implementing substantially similar terms at the agency level, only to have them enjoined as likely contrary to law—as a warning before extending the same approach, on a binding and government-wide basis, to every federal grant-making agency.

Thank you for your consideration. Please contact the undersigned with any questions.

Respectfully submitted,

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Farm Commons

FarmSTAND

Farmworker Association of Florida

Food and Fiber Law

Food & Water Watch

Food Animal Concerns Trust (FACT)

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Land For Good

Land Stewardship Project

League of Conservation Voters

Louisiana Food Policy Council

MAZON: A Jewish Response to Hunger

Michael Fields Agricultural Institute

Mississippi Association of Cooperatives

National Center for Frontier Communities

National Young Farmers Coalition

Native Agriculture Financial Services

Natural Resources Defense Council

Northeast Organic Farming Association of New Hampshire (NOFA-NH)

Northeast Organic Farming Association of New Jersey (NOFA-NJ)

Northeast Organic Farming Association of New York (NOFA-NY)

NSI Food Pantry

Ohio Farmers Market Network

One Mississippi

One.Two.Five Benefit Corporation

Rater Farms

Rural Advancement Fund of the National Sharecroppers Fund

Rural Coalition

San Diego Food System Alliance

Sierra Club Food and Agriculture Team

Soul Fire Farm

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Virgin Islands Good Food Coalition, Inc.

Virginia Association for Biological Farming

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