National Consumer Law Center

NATIONAL HEADQUARTERS
7 Winthrop Square, Boston, MA 02110
(617) 542-8010

WASHINGTON OFFICE
Spanogle Institute for Consumer Advocacy
1001 Connecticut Avenue, NW, Suite 510
Washington, DC 20036
(202) 452-6252

NCLC.ORG

July 13, 2026

Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Submitted via www.regulations.gov

Re: Docket OMB-2026-0034, Office of Management and Budget (OMB) Regulation for Federal Financial Assistance

To the Office of Management and Budget:

The National Consumer Law Center® (NCLC®) works for consumer justice and economic security for low-income and other disadvantaged people in the U.S. through its expertise in policy analysis and advocacy, publications, litigation, expert witness services, and training. Our comments focus on the severe harm to our low-income clients and their communities from the proposed changes to the OMB Guidance for Federal Financial Assistance.

Introduction:
The Office of Management and Budget's (OMB's) proposed revisions to the Guidance for Federal Assistance[1] are alarming in the uncertainty created for grant recipients and intended beneficiaries of Congressionally appropriated program funds. We urge the OMB to reject the proposed revisions in their entirety due to errors in procedure[2] and harms to the Congressionally appropriated programs and their intended beneficiaries. The uncertainty and instability of federal funding resulting from this proposal would undermine the effectiveness of federal programs.

In particular, NCLC has direct knowledge of and experience with several programs that support the well-being of low-income people and communities, including:

---

[1] Proposed revisions to Title 2 CFR in Docket OMB-2026-0034. Published in 91 Federal Register 32198 et seq (May 29, 2026).

[2] NCLC joins in support of the arguments raised in opposition to these rules contained in the July 13, 2026 comments by the Legal Defense Fund, LatinoJustice PRLDEF and civil rights and racial justice organizations including but not limited to provisions in the rule that attempt to unconstitutionally prohibit organizations from lawfully advancing diversity, equity, inclusion, and accessibility and addressing discriminatory disparate impacts.

- the U.S. Health and Human Service's Low Income Home Energy Assistance Program;
- the Department of Energy's low-income Weatherization Program.[3]

NCLC also works on a range of programs that help low-income households recover from natural disasters over which they have no control. NCLC has direct experience with past federal programs, created by Congress, to provide emergency low-income water assistance,[4] rental assistance,[5] housing assistance[6] and broadband assistance.[7] NCLC worked on the recently enacted 21st Century ROAD to Housing and its provisions authorizing funding to help advance and sustain affordable homeownership, including assistance to homeowners recovering from a natural disaster.[8] NCLC is also concerned that the proposal could impact the ability of legal services offices across the country, including ones located in rural areas, to meet the needs of the low-income communities they serve. All of these programs, the communities they were meant to serve, and the Congressional intent behind the enactment of these programs will be harmed should OMB adopt the proposal, in whole or in part.

These comments will focus on the specific harms to the LIHEAP program and the people and communities that program was designed to serve from the proposed revisions to the Guidance for Federal Assistance. The revisions would effectively limit the reach of this life-saving assistance from certain high need households and introduce financial instability and additional paperwork for the grantees and subgrantees who administer the program in the states. The proposed changes create a high risk that the executive branch will sideline and curtail Congress's statutory objectives and power of the purse in arbitrary and shifting funding determinations.

Summary of the Federal Low Income Energy Assistance Program

The US Health and Human Services' Low Income Home Energy Assistance Program (LIHEAP)[9] is a long-standing federal program that receives an annual appropriation from Congress to address low-income household energy affordability. Per the federal LIHEAP webpage: *LIHEAP is designed "to assist low-income households, particularly those with the lowest incomes, that pay a high proportion of household income for home energy, primarily in meeting their immediate home energy needs." This assistance targets the costs of heating and cooling in residential dwellings.*[10] This is a quote from the LIHEAP statute directing how grantees are to conduct outreach and grant assistance. The LIHEAP funds received by the states, territories and Tribes each year are targeted to protect the health and safety of those with very

---

[3] See NCLC's LIHEAP and Weatherization work at https://www.nclc.org/topic/low-income-home-energy-assistance-program-liheap/.
[4] See e.g., https://www.nclc.org/wp-content/uploads/2022/08/FY2023_LIHWAP_testimony_house-1.pdf.
[5] See e.g., https://www.nclc.org/wp-content/uploads/2022/08/Dec-14-Letter-to-CFPB-Director-Chopra-re-Rental-Debt-Survey.pdf.
[6] See e.g., https://www.nclc.org/resources/using-the-homeowner-assistance-fund-to-prevent-reverse-mortgage-foreclosures-what-treasury-and-the-states-can-do/.
[7] See e.g., https://www.nclc.org/resources/consumer-protections-in-the-affordable-connectivity-program/.
[8] H.R. 6644, 21st Century ROAD to Housing Act (passed into law July 11, 2026; P.L. number not yet assigned).
[9] 42 U.S.C. §§ 8621-8630.
[10] See https://acf.gov/ocs/fact-sheet/liheap citing the LIHEAP statutory requirement regarding the use of funds to conduct outreach and provide assistance at 42 U.S.C. §8624(b)(1).

low incomes, seniors, individuals with disabilities and households with young children in the frigid winters and sweltering summers.[11] The majority of state LIHEAP programs rely on community action agencies to administer the LIHEAP benefits in their communities with the remainder relying on other community-based nonprofits or local agencies.[12] In over half the states, the same agency that administers LIHEAP administers the Department of Energy's low-income Weatherization program (WAP).[13] The LIHEAP statute permits states to direct 15% of the annual block grant funding to low-cost weatherization (up to 25% with a waiver).[14] A disruption of federal grants for either LIHEAP or WAP to grantees or subgrantees risks disruption of program delivery to low-income households for both programs.

LIHEAP is designed to mitigate health and safety harms from the lack of heat in the winter and cooling in the summer.[15] People of color and people living below the federal poverty level are more likely to live in urban heat islands where they experience higher heat intensity due to historical structural and codified segregation.[16] One analysis of heatwaves in four different cities found that air conditioning usage was twice as high for white residents than Black residents, likely due to poverty and an inability to afford the extra electricity usage. The Black mortality rate was also significantly higher than other racial groups across all four cities.[17] Federal data report nearly twice the rate of energy insecurity for Black and Hispanic households when compared to all US households.[18] OMB's proposed rules would hamper the ability of LIHEAP to address this uneven energy insecurity landscape.

---

[11] 42 U.S.C. § 8622 (4)(definition of "highest home energy needs" means "the home energy requirements of a household determined by taking into account both the energy burden of such household and the unique situation of such household that results from having members of vulnerable populations, including very young children, individuals with disabilities, and frail older individuals.")

[12] See the LIHEAP Clearinghouse, State and Local Administering Agencies at https://liheapch.acf.gov/admin/admintro.htm.

[13] 42 U.S.C. §§6861-6873.

[14] 42 U.S.C. §8624(k).

[15] 42 U.S.C. §8622(6) (LIHEAP relief is targeted to indoor heating and cooling affordability and the LIHEAP statute defines home energy as a source of heating or cooling in residential dwellings). See also National Consumer Law Center and Center for Energy Poverty and Climate, *Update: Protecting Access to Essential Utility Service During Extreme Heat and Climate Change* (Updated July 6, 2026) at 9-13 (The Unequal Impact of Extreme Heat on Communities of Color).

[16] See National Consumer Law Center and Center for Energy Poverty and Climate, *Update: Protecting Access to Essential Utility Service During Extreme Heat and Climate Change* (Updated July 6, 2026) at 9-13 (The Unequal Impact of Extreme Heat on Communities of Color).

[17] Id.

[18] Id. As defined by the Center on Global Energy Policy Energy, energy insecurity is the inability to adequately meet household energy needs and, energy insecurity has three dimensions: economic (where a disproportionate share of household income goes to paying utility expenses); physical (where the housing quality affects temperature, harmful environmental exposure and/or increased energy costs), and coping (households use strategies to deal with the physical and economic hardships of energy insecurity). See https://www.energypolicy.columbia.edu/publications/energy-insecurity-in-the-united-states/.

Specific Proposed Revisions to the Uniform Guidance that Pose Particular Harm to Low-Income Consumers and the Entities that Administer the LIHEAP program (§ 200.202(a)(1)); and (§ 200.300)

OMB proposes to amend **§ 200.202(a)(1)** as follows (in these comments, new language is underlined and deleted language is indicated by strikethroughs)**:**

> **§ 200.202 Program planning and design.**
> (a) *Elements of program design*. The Federal agency must design a Federal program and create an Assistance Listing before announcing the Notice of Funding Opportunity. A Federal program must be designed:
> (1) With clear goals and objectives that ~~provide meaningful results and be consistent with the Federal authorizing legislation of the program;~~:
> (i) Aim to achieve meaningful results;
> (ii) Are consistent with the public purpose of the program as authorized by law; and
> (iii) Align with administration policies and priorities;

OMB also proposed to add new limits on the authorized use of federal funds in its revisions to **§200.300** that would apply to the grantee and all subawards. In particular, the revision strikes the Equal Protection guarantee for government action and instead prohibits diversity, equity, and inclusion and accessibility policies principles or practices.

> **§ 200.300 Statutory and national policy requirements.**
> (b) Limitations on authorized use of Federal award funds . . . .
>
> Federal awards and subawards are not used to fund, promote, encourage, subsidize, or facilitate:
> (1) "Diversity, equity, and inclusion" (DEI) or "diversity, equity, inclusion, and accessibility" (DEIA) policies, principles, or practices that violate any applicable Federal anti-discrimination laws. This includes racial preferences or other forms of racial discrimination used by the recipient or subrecipient that violate any applicable Federal anti-discrimination laws, including activities where race or intentional proxies for race will be used as a selection criterion for employment or program participation. See also § 200.218;
> . . . .
> (c) ~~In administering awards in accordance with the U.S. Constitution, the Federal agency must take account of the heightened constitutional scrutiny that may apply under the Constitution's Equal Protection guarantee for government action that provides differential treatment based on protected characteristics.~~

OMB's proposed revision, substituting "public purpose" for "the Federal authorizing law" and the addition of language prioritizing the administration's policy goals, introduces subjectivity and uncertainty into program administration, increasing costs and potentially permitting violation of Federal law in grant administration. HHS, the federal agency administering LIHEAP, should be prioritizing the authorizing statute in the design of the LIHEAP program, not administration policies and priorities. The LIHEAP statute directs grantees to target households with the highest home energy needs and explicitly lists "individuals with disabilities" in the definition,[19] as well as those with very low incomes, seniors, and households with young children. These are populations particularly susceptible to heat or cold stress and are less able to afford essential utility service. The administration's priorities could conceivably lead to skipping over the very populations targeted by Congress. For example, the proposed prohibition on DEIA is in direct violation of the LIHEAP statute's[20] mandate to target assistance to individuals with disabilities. Similarly, targeting assistance to the communities most in need should result in targeted outreach to Black and Hispanic households given the higher rates of energy insecurity among these households than white households. Grantees and subgrantees administering the LIHEAP program acting in accordance with the revised guidance will likely be forced to violate the Federal statute. At best, the OMB guidance is confusing; at worst, it runs afoul of Federal law.

The Proposed New Pre-Issuance Review Risks Program Delays and Limited Reach of Relief to Low-Income Households (§200.205 (a)-(c) Federal Agency Review of Merit of Proposals)

The OMB proposed revision of this section adds a new "pre-issuance" review process by a senior appointee for all discretionary awards. Such a "pre-issuance" review would subject grant applicants to a prolonged grant determination process and arbitrary denials not based on the applicant's fitness to administer programs per the authorizing statute. The additional provisions to **§200.205 (a)-(c)** create an environment where a political appointee can deny a proposal based on vague undefined criteria such as the promotion of "Anti-American values".

> **§ 200.205 Federal agency merit review of ~~merit of~~ proposals.**
> (a) *In general*. Unless prohibited by Federal statute, the Federal agency must design and execute a merit review process of applications for all discretionary ~~Federal~~ awards. . . .
> The pre-issuance review described in paragraph (b) may form the basis of a decision not to select an applicant to receive a Federal award. . . .
> (b) *Pre-issuance review.* As part of the merit review process, Federal agencies must perform pre-issuance reviews to ensure that Federal award proposals selected for funding are consistent with applicable law, Federal agency priorities, and the national interest. In doing so, Federal agencies heads must designate one or more senior appointees to conduct a pre-issuance review of all discretionary awards. As part of this pre-issuance review for discretionary awards, senior appointees (or their designee) must, as relevant and to the extent consistent with applicable law, apply the following principles when reviewing Federal award proposals:
> (1) Discretionary awards must, where applicable, demonstrably advance the President's policy priorities.
> (2) Discretionary awards must not be used to fund, promote, encourage, subsidize, or facilitate:

[19] 42 U.S.C.§8622(4).
[20] 42 U.S.C. §8624(b)(5) and 42 U.S.C. §8622(4).

(i) Racial preferences or other forms of racial discrimination by the recipient, including activities where race or intentional proxies for race will be used as a selection criterion for employment or program participation;
(ii) Denial by the recipient of the sex binary in humans or the notion that sex is a chosen or mutable characteristic;
(iii) Illegal immigration; or
(iv) Any other initiatives that compromise public safety or promote anti-American values.
. . .
(c) *Procedure for pre-issuance review.* When conducting a pre-issuance review, senior
appointees (or their designee) must not ministerially ratify or routinely defer to the
recommendations of others, but must instead use their independent judgment when evaluating Federal award proposals.

This new layer of review risks a dramatic bottleneck in the processing of all discretionary grant applications and it risks arbitrary denials of awards based on the President's policies instead of focusing on the ability to deliver results based on the Federal authorizing language for the program. Programs like LIHEAP are time sensitive. States rely on the ability to prepare winter heating assistance grants at the start of the new fiscal year on October 1. Adding processes that slow down the processing of state, territory, and Tribal LIHEAP program year applications has a ripple effect down through the local administering agencies, which are often Community Action Agencies that operate on very tight budgets. This affects the ability to hire workers to process applications and it ultimately affects the ability of low-income families to receive LIHEAP assistance which can ensure access to heat in the winter months and access to life-saving cooling assistance in the summer. Delays in LIHEAP funding reaching the states have a profound impact on the health and safety of low-income households that can lead to illness, hospitalizations and death.

The proposed revisions also require the political appointee, who likely lacks familiarity with LIHEAP programs, Community Action Agencies, or even state subgranting processes, to determine independently whether the final subgrantee uses race or an intentional proxy for race in program design. Distinguishing between using an intentional proxy for race and complying with a statutory mandate to reach low-income households, families with young children, individuals with disabilities, and households with a high energy burden, all of which are disproportionately composed of Black and Hispanic people, is far from simple for a political appointee sitting in DC, unfamiliar with either the LIHEAP program or conditions of energy insecurity across the 50 states, 5 territories, and over 100 tribes that receive LIHEAP funding. Similarly, whether a recipient allows employees and clients to identify their own sex identity or use sex neutral bathrooms hardly seems relevant to a decision about administering LIHEAP funds, even if the appointee expended the time and energy to ascertain that information for every subgrantee of every grantee. Both of these provisions seem likely to have a chilling effect on how states conduct LIHEAP outreach and targeted assistance to energy-burdened households. They could even result in eligible households failing to apply. This proposal risks harming the health and safety of the Black and Brown families and individuals with disabilities who are at the greatest risk of energy insecurity and serious, even fatal, health complications from the lack of heating and cooling.

The Proposed Changes Create a Serious Risk of Financial Instability for Program Administrators (Federal Agency Review of Risk Posed by Applicants (§ 200.206); Ability to Terminate or Suspend Funds (§ 200.340, § 200.341); New Terms and Conditions (§ 200.208))

Applicants and grantees that administer programs like LIHEAP will face funding uncertainty throughout the life cycle of the grant – from application to performance. The proposed revisions to the risk review in **§ 200.206** add vague criteria that allow for the arbitrary and potentially discriminatory exercise of discretion on the part of political appointees.

> **§ 200.206 Federal agency review of risk posed by applicants.**
> (b) (*Risk assessment)* (2) *Items for consideration.* In evaluating risks posed by applicants, the Federal agency should consider the following items:
> . . .
> (vii) *History of questionable practices.* Based on publicly available and verifiable information, the applicant's record of:
> . . .
> (C) Engaging in activities or initiatives that are inconsistent with Federal civil rights laws, including the equal protection principles of the U.S. Constitution and prohibitions against unlawful discrimination; or
> (D) Engaging in activities or initiatives that are inconsistent with religious liberty laws.
> (viii) *Memberships and affiliations.* Based on publicly available and verifiable information, the applicant's 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; . . .

Other proposed modifications make it very easy to modify the terms and conditions of an award throughout the period of performance **(§ 200.208)** and very easy for an award to be terminated in whole or in part at the discretion of the Federal agency or pass-through entity based on vague criteria such as "national interest" or changed Agency priorities **(§ 200.340).**

> **§ 200.208 Specific conditions.**
> (b) *Adjustment of specific conditions.* (1) To the extent permitted by law, based on consideration of the factors listed in paragraph (c) of this section, the Federal agency may:
> (i) Add specific conditions when a Federal award is made; and,
> (ii) Add or remove specific conditions throughout the period of performance.

> **§ 200.340 Termination and suspension.**

(a) *Termination provisions.* The Federal award may be terminated in part or its entirety as follows:

. . .

(2) *At the discretion of the Federal agency or pass-through entity.* The Federal agency or pass-through entity, to the extent permitted by law, may terminate a Federal award in part or its entirety if the Federal agency or pass-through entity determines that a termination is in the interest of the Federal agency or pass-through entity, including if a Federal award does not effectuate program goals, Federal agency priorities, or the national interest as they exist at the time of the termination. See also § 200.341;

. . .

~~(4) By the Federal agency or pass-through entity pursuant to the terms and conditions of the Federal award, including, to the extent authorized by law, if an award no longer effectuates the program goals or agency priorities.~~

(5) *Pursuant to additional terms and conditions.* The Federal agency or pass-through entity, to the extent permitted by law, may terminate a Federal award in part or its entirety pursuant to any additional termination provisions included in the terms and conditions of the Federal award.

This creates an environment of great financial instability and has a chilling effect for the states, territories and Tribes and local community action agencies and non-profits that administer crucial health and safety programs like LIHEAP. It may make these programs very difficult to administer, leaving millions of families across the country without the heat and cooling they need to survive.

The proposed revisions also create an environment of uncertainty for the beneficiaries of programs like LIHEAP. Proposed revisions to the Notice of Termination in **§ 200.341(c)(4)(iii)** regarding discretionary terminations require the grantee to provide information on whether the commitments are cancelable, and if not, to provide a written explanation of why the commitments were not structured to allow for cancellation and whether they could have been. It is devastating and dangerous to cancel a heating assistance benefit in the middle of winter or a cooling benefit that can keep life-saving air conditioning on in the middle of summer. Worse, this will harm the reputation and public trust in programs like LIHEAP.

§ 200.341 Notification of termination requirement.
Added language in § 200.341(c)(4)(iii)

(c) *Notifications of discretionary termination.* In the case of a discretionary termination under § 200.340(a)(2), the notice must provide:

. . .

(4) (iii) Information regarding whether commitments are cancelable, the terms for cancelling those commitments, and any penalties or costs of cancellation. If commitments are not cancellable, the written statement should explain why the commitments were not structured to allow cancellation, and whether they could have been.

Proposed revisions remove the ability to appeal the discretionary termination of grants (§ 200.342)

The proposed revisions would leave applicants and grantees without a process to object, have a hearing and appeal, if the denial is based on a subjective factor. The proposed revisions to **§ 200.342** limit the remedies to situations concerning noncompliance. There is additional language added that "The Federal agency is not required to allow for objections, hearings, and appeals related to any reasons for termination except termination for noncompliance." This essentially gives the federal agencies and the senior appointees the unfettered ability to deny, modify and/or terminate federal grant awards. This framework would leave grantees and subgrantees in a state of constant uncertainty with no relief in sight.

> **§ 200.342 Opportunities to object, hearings, and appeals.**
> The Federal agency must maintain written procedures for processing objections, hearings, and appeals <u>related to remedies for noncompliance</u>. Upon initiating a remedy for noncompliance (for example, disallowed costs, a corrective action plan, or termination <u>for noncompliance</u>), the Federal agency must provide the recipient with an opportunity to object and provide information challenging the action. The Federal agency or pass-through entity must comply with any requirements for hearings, appeals, or other administrative proceedings to which the recipient or subrecipient is entitled under any statute or regulation applicable to the action involved. <u>The Federal agency is not required to allow for objections, hearings, and appeals related to any reasons for termination except termination for noncompliance.</u>

This proposed revision suffers from flaws in process and a lack of clear authority

The proposal affects over $1 trillion in annual Federal grants and cooperative agreements, but OMB has failed to quantify the impacts on the States, Tribes, territories, community action agencies and the other nonprofits involved in administering federal programs for the 41 federal agencies purportedly covered by this sweeping rule. Parties were only given 45 days to comment, an inadequate amount of time to analyze the full impact of this voluminous proposed rule.

OMB cites 31 USC §503(a)(2) as conferring authority to promulgate this unusual regulation. However, this provision concerns the ability of the Deputy Director Manager to "provide overall direction and leadership to the executive branch on financial management matters by establishing financial management policies and requirements, and by monitoring the establishment and operation of Federal Government financial management systems." However, as highlighted by the impact on the federal low-income energy assistance program, LIHEAP, the proposed regulations go much further than financial management matters and veer into reshaping the Congressionally created and funded programs to fit the President's agenda and priorities. The citation provided for the authority to promulgate 2 C.F.R. 200 (currently uniform administrative guidance for federal awards) as standalone regulation, 31 U.S.C. § 6307 actually authorizes OMB to "issue supplementary interpretive guidelines to promote consistent and efficient use of . . . grant agreements . . . and cooperative agreements." The problems highlighted in these comments (unfettered discretion to modify and terminate grants based on vague criteria and highly subjective determinations by senior appointees along with the inability to appeal these decisions) are likely violations of the Administrative Procedures Act's requirements for reasoned decision making.[21]

Conclusion

This proposed revision to OMB's uniform Guidance for Federal Awards pushes aside the role of Congress and appropriators in establishing and funding important federal programs and inserts unfettered power in the hands of the executive branch to divert programs away from their statutory mission. The proposed rules will create an environment where federal grants will come with a cloud of uncertainty that they could be terminated or modified at any time. This makes it hard for administrators and agencies to run the programs responsibly and well. The proposed rules will also create a bottleneck that will slow down the release of funds because a senior appointee will have to review all of the applications for discretionary funds. This is simply unworkable and will harm everyday people, such as the low-income families that rely on LIHEAP to keep heat on in the winter and life-saving air conditioning on in the summer.

Respectfully Submitted,

Olivia Wein, Senior Attorney
National Consumer Law Center

---

[21] See Motor Vehicles Mfrs. Ass'n of the U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 53 (1983) (to be valid under the APA, federal regulation must be the product of "reasoned decisionmaking") and FCC v. Fox Television Stations, 556 U.S. 502, 515-16 (2009)(when an agency substantially alters an existing regulation it must provide a "more detailed justification" for the change in policy).