COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

July 13, 2026

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

Re: Comments on Proposed Rule – Regulation for Federal Financial Assistance; 2 CFR Part 200 (Docket OMB-2026-0034)

Dear Director Vought:

On behalf of Erie County, New York, I respectfully submit these comments in response to the Office of Management and Budget's (OMB) proposed rule rewriting 2 CFR Part 200 — commonly known as the Uniform Guidance — published in the Federal Register on May 29, 2026 (Docket OMB-2026-0034).

Erie County administers federal grant funds across more than 60 individual award programs spanning 13 federal departments and agencies. These funds totaled $353,998,372 in expenditures for the year ending on December 31, 2024, alone. These funds support critical services including public safety, housing and community development, public health, social services (including SNAP and Medicaid administration), senior services, and emergency management. These services and the funds paying for them are delivered directly to residents and, in significant part, passed through to the dozens of municipalities in our Community Development Block Grant (CDBG) Consortium, HOME Investment Partnerships Consortium, and numerous community-based human service providers. The proposed rule has the potential to substantially affect almost every aspect of how we apply for, administer and account for those funds.

We appreciate, and share OMB's stated objectives of improving transparency, accountability and oversight of federal financial assistance. Erie County maintains robust internal control, that compares budgeted estimates to fully accrued actual data at the account level on a monthly basis. In our most recent Single Audit, for the year ended December 31, 2024, our independent auditor issued unmodified ("clean") opinions on both our financial statements and our compliance with federal program requirements, identified no material weaknesses or significant deficiencies in internal control over financial reporting or over compliance, reported zero audit findings and zero questioned costs for the second consecutive year, and determined that Erie County qualified as a low-risk auditee under the Uniform Guidance's own criteria at 2 CFR 200.520. We submit these comments to ensure the final rule reflects the operational realities of our county and preserves our ability to effectively deliver federally funded services to our communities.

Concerns Regarding Pass-Through Entity Responsibilities — §§ 200.305(c), 200.329(b), 200.329(h), 200.331(c), 200.332(g)–(l), 200.333

Erie County serves as a pass-through entity across a substantial share of the federal grants we administer, most visibly through our Department of Environment & Planning's role as lead entity for the CDBG Consortium (34 member municipalities) and the HOME Investment Partnerships Consortium (37 member municipalities), and through our Continuum of Care Program, which passed through its full $6.5 million in FY2024 funding to subrecipients. In total, $11.5 million of our federal expenditures were passed through to subrecipients in FY2024. The proposed rule would expand pass-through entity oversight obligations in several areas, including subaward reporting to SAM.gov, subrecipient monitoring, and compliance with new policy conditions.

The proposed requirement that pass-through entities ensure subrecipients do not take actions that "could significantly damage the reputation" of the pass-through entity, the awarding agency, or the Federal Government is unworkable as written and poses unacceptable legal and financial risk to county governments. The consequence of a federal agency's determination that reputational harm has occurred is termination of the county's entire federal award, regardless of the county's own compliance record. This provision would effectively require Erie County to surveil the public conduct of every one of our Consortium member municipalities and community-based subrecipients on an ongoing basis as a condition of receiving federal funds — a standard no county has the capacity to meet and one that creates significant due process concerns.

These expanded obligations — stacked on existing pass-through requirements our Consortium has met for decades without a single audit finding — will require additional staff capacity and system investment at a time when our Department of Environment & Planning and Department of Social Services are also absorbing new administrative burdens tied to the One Big Beautiful Bill Act's changes to SNAP administration. New York is one of only ten states in which counties, rather than the state, administer SNAP directly, and Erie County — like other New York counties — bears the entire 50 percent non-federal share of SNAP administrative costs, with no state cost-sharing cushion available in several other counties-administer-SNAP states. In FY2024 alone, the federal share of Erie County's SNAP administrative costs totaled $15,162,233, a figure Erie County matches dollar-for-dollar from local funds under the current 50 percent non-federal share requirement. Any additional pass-through or subrecipient-monitoring burden imposed by this rule compounds directly on top of that existing, disproportionate New York county obligation, and OMB's burden estimates for this rule do not appear to account for it.

Erie County urges OMB, in particular, to streamline how the new subaward and subrecipient-determination requirements apply to established, multi-jurisdictional consortia like ours. A rule that requires member-by-member re-documentation of subrecipient status for all 34 CDBG Consortium municipalities and all 37 HOME Consortium municipalities — relationships that in many cases have operated continuously for decades under existing Uniform Guidance subrecipient-determination standards — would consume disproportionate staff time relative to any compliance benefit. We ask that OMB instead permit pass-through entities with an established, audited consortium structure to certify their existing subrecipient determinations as a class, updating only where the underlying relationship has materially changed.

We urge OMB to:

- Provide implementation guidance and technical assistance before new pass-through requirements take effect
- Allow adequate transition time — at least 12 months from the final rule's effective date — for counties to update subaward agreements, monitoring procedures and reporting systems for established, multi-jurisdictional consortia like ours
- Clarify and streamline subaward and subrecipient-determination requirements for established, multi-jurisdictional consortia, allowing class certification of existing subrecipient relationships rather than requiring member-by-member re-documentation
- Clarify that pass-through entity liability does not extend to subrecipient activities beyond the scope of the federal award
- Define or remove "significantly damage the reputation" with objective, measurable criteria and limit any consequences to the specific subaward at issue rather than the county's entire federal award
- Account for the disproportionate administrative burden this rule places on the ten states — including New York — where counties administer SNAP directly, particularly where, as in New York, counties alone fund the non-federal administrative match

Concerns Regarding Implementation Timeline, Systems Readiness, and Transition Rules — § 200.305; Effective Date Provisions

Erie County joins the National Association of Counties and other national organizations representing local government in requesting that OMB extend the current 45-day comment period by an additional 45 days, and, separately, push the rule's effective date past October 1, 2026. The scale of this rulemaking — the broadest revision to the Uniform Guidance since 2013 — does not fit within the runway currently proposed. Counties will need to update subaward agreements, payment and disbursement workflows, and monitoring procedures across dozens of federal programs simultaneously, and an October 1 effective date leaves little practical time between any final rule and the start of the fiscal year those requirements would govern.

Two specific new requirements deserve a phased or delayed compliance date independent of the rule's general effective date: the proposed integration of the U.S. Department of the Treasury's "Do Not Pay" system into payment processing under § 200.305, and the extension of E-Verify obligations from federal contractors to grant recipients and subrecipients. Both require system and process changes on our end — for Erie County, work touching our SAP-based financial and disbursement systems, which process federal drawdowns across all 60-plus of our award programs — that cannot reasonably be completed on the same timeline as administrative or policy-language provisions. We urge OMB to establish a separate, longer compliance window for these two system-dependent requirements, decoupled from the rule's general effective date.

Finally, we ask OMB to state explicitly in the final rule that existing fixed-amount awards issued before the effective date — including Erie County's Coronavirus State and Local Fiscal Recovery Funds award, are not inadvertently pulled into the new framework through routine amendments, no-cost extensions, or annual allocations under otherwise-continuing formula programs. Without that clarification, pass-through entities and recipients cannot reliably determine which of their active awards remain governed by the current Uniform Guidance and which fall under the new rule, undermining the very transition certainty a delayed effective date is meant to provide.

We urge OMB to:

- Extend the current comment period by at least an additional 45 days

- Push the rule's effective date past October 1, 2026, to allow adequate systems and documentation lead time
- Establish a separate, phased compliance date for Treasury Do Not Pay integration and E-Verify expansion, decoupled from the rule's general effective date
- Confirm in the final rule text that existing fixed-amount awards — including active ARPA/SLFRF awards — are not pulled into the new framework through routine amendments, no-cost extensions, or continuing annual allocations

Concerns Regarding Expanded Federal Termination Authority — § 200.211; § 200.339; § 200.340; § 200.341; § 200.403

The proposed rule would grant federal agencies broad new discretionary authority to terminate grant awards, including authority subject to senior political appointee approval, where an agency determines an award "no longer effectuates program goals, Federal agency priorities, or the national interest as they exist at the time of the termination." While we understand the administration's interest in ensuring awards align with current policy priorities, this provision creates severe fiscal uncertainty for county governments.

County budgets are adopted months before the fiscal year begins. Revenue projections and service commitments — including staffing, contracts and capital investments — are made based on anticipated federal funding. The prospect of award termination at any point based on shifting federal policy priorities, with only a brief written rationale required and no meaningful appeal right outside noncompliance-based terminations, creates an untenable level of fiscal risk.

Moreover, this concern is even more pressing where there is no stated process or defined period as to whether programs once deemed in compliance, and now facing termination, are to modify or alter programs, or otherwise work with Federal partners, to ensure continued funding. This is particularly relevant where Federal Agency priorities may shift and return, in accordance with multiple factors, and there is no stated delay period or option for modification or amendment to ensure that programs facing possible termination actually "no longer effectuate[] Federal Agency priorities".

Erie County departments hold multi-year discretionary federal awards supporting front-line staff positions and public safety, public health, and emergency preparedness programs. In FY2024 alone, Erie County expended $3.8 million in discretionary U.S. Department of Justice awards — including Crime Victim Assistance, DNA Backlog Reduction, Criminal and Juvenile Justice Mental Health Collaboration, and Treatment Court Discretionary Grant funding — and $4.1 million in discretionary U.S. Department of Homeland Security awards, including our Homeland Security Grant Program and Emergency Management Performance Grants. These awards fund front-line public safety, emergency management, and victim-services positions and equipment for which the County has no readily available alternative funding source. A mid-year termination of any of these awards under the proposed "national interest" standard would require immediate service reductions. While formula and entitlement programs such as CDBG and HOME are intended to remain outside this discretionary termination standard, the County urges OMB to confirm that carve-out explicitly in the final rule text, and to extend equivalent predictability to the discretionary public safety, health, and emergency management awards counties rely on.

This standard is not fixed at the time of an award. OMB's own preamble explains that the revised termination provision is meant to "further ensure that Federal agencies retain ongoing programmatic discretion after an award is made" to terminate an award that "is no longer in the Federal Government's interest" — and the operative language evaluates program goals, agency priorities, and the national interest "as they exist at the time of the termination," not as they existed when the award was made or when the funded activity occurred. In practical terms, a program fully compliant with every applicable requirement, executive order, and stated federal priority at the time it was carried out could become a basis for termination — and, because § 200.403 converts noncompliance into an unallowable cost, a basis for claw-back of funds already spent — solely because governmental policy changed in the interim.

The proposed § 200.211 would compound this by requiring these termination provisions to be included, expressly or by reference, in every award, meaning this exposure is not limited to a subset of grants but attaches to Erie County's entire federal portfolio. The County has no mechanism to insure against a compliance standard that can shift after the fact, and no pre-award certification, however thorough, can offer lasting assurance under this framework.

We urge OMB to:

- Limit termination authority to existing bases in law and the current Uniform Guidance
- Establish clear, published criteria and a notice-and-cure process before any termination
- Ensure adequate wind-down periods that allow counties to responsibly transition affected programs and protect service recipients
- Confirm explicitly, in the final rule text, that formula and entitlement programs — including CDBG and HOME — remain excluded from discretionary "national interest" terminations
- Clarify that compliance is assessed against the requirements, executive orders, and priorities in effect at the time an activity was undertaken — not the requirements, executive orders, and priorities in effect at the time of any later review or termination decision
- Exempt costs already incurred in good-faith compliance with requirements in effect at the time of expenditure from claw-back under § 200.403, regardless of subsequent policy changes

Concerns Regarding New Pre-Award Review and Risk Evaluation Requirements — § 200.205; § 200.206

The proposed rule would require pre-award review of grant applications by senior agency officials and expanded risk evaluations of applicants prior to award. While appropriate risk management is an important goal, we are concerned that these requirements will significantly increase administrative burden, extend award timelines, and deter counties — particularly smaller and rural counties — from applying for federal assistance.

We are equally concerned that the certifications and clearances counties receive at the point of award offer little lasting protection. Under § 200.205, the senior appointee conducting pre-issuance review must confirm that a discretionary award will "demonstrably advance the President's policy priorities" and the national interest — standards the proposed rule does not define, and which, as discussed above, may be interpreted differently at a later termination review than at the time of award. Section 200.206 layers on additional undefined risk factors, including an applicant's "history of questionable practices" and its "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." A county that clears this review and certifies compliance in good faith, under the policies and executive orders in effect at the time of application, has no assurance that the same award will still be considered compliant a year — or even a month — later. That is a fundamentally different risk than the compliance review Erie County prepares for today, and it cannot be managed through better internal controls alone.

Erie County invests considerable resources in grant preparation and hires and maintains significant staff to evaluate programs and risk, as well as to review departmental grant applications and reconciliation activity on an ongoing basis. In our most recent Single Audit, Erie County was determined to be a low-risk auditee under 2 CFR 200.520 — the Uniform Guidance's own criteria for reduced audit oversight — with zero findings and zero questioned costs for the second consecutive year. Additional pre-award layers should not duplicate existing accountability mechanisms or create new barriers to well-qualified applicants with strong, demonstrated compliance records.

We urge OMB to:

- Define clear, objective and publicly available risk criteria so counties can anticipate and prepare for pre-award review
- Establish firm timelines for pre-award review to prevent indefinite delays in award execution
- Provide safe harbors for counties with strong audit histories and established compliance track records
- Ensure pre-award review processes do not duplicate Single Audit findings or other existing accountability mechanisms
- Provide that pre-award certifications and risk determinations remain binding for the life of the award, so recipients are not exposed to termination or cost disallowance based on policy interpretations, executive orders, or stated priorities that postdate their certification

Concerns Regarding Reclassification from Guidance to Binding Regulation — §§ 1.105, § 200.110

In tandem with the lack of definition and structure of evaluation as to where a program no longer advances Agency policy, the proposed rule would reclassify 2 CFR Subtitle A from OMB guidance to binding federal regulation. This would mean that future amendments would take effect government-wide without separate notice-and-comment rulemaking by individual agencies, further exacerbating the lack of clear definition and processes by which counties can evaluate the programs that they are responsible for administering and the risk involved to the county itself and those who rely on the administration of the programs.

We urge OMB to preserve notice-and-comment requirements for any future substantive amendments to the Uniform Guidance, consistent with the Administrative Procedure Act. The intergovernmental partnership depends on county governments having a meaningful opportunity to respond to regulatory changes that directly affect our operations and budgets.

Concerns Regarding New Policy Conditions on Award Administration and Cost Disallowance — § 200.300(b); § 200.403

The proposed rule would establish sweeping new government-wide prohibitions on how federal award funds may be used without defining the key terms that determine whether a recipient is in compliance. These prohibitions are drawn directly from current executive orders — including Executive Order 14168 and Executive Order 14187 — and are then written into the rule as open-ended, undefined standards of governmental policy rather than as fixed, citable requirements. Counties cannot reliably determine in advance whether a given program activity meets or violates the new standard — making good-faith compliance planning impossible and exposing counties to significant legal and fiscal risk.

Under the proposed rule, the prohibition's critical terms are undefined. Erie County departments administering health, workforce, housing and human services programs need clear, objective definitions before we can assess program-by-program compliance, update subrecipient agreements, or train staff. Without defined terms, counties face a difficult compliance standard — and face it immediately upon the rule's effective date with no defined period or process to return to compliance.

Compounding this concern, § 200.403 converts any violation of § 200.300(b) into an unallowable cost, meaning counties may be required to repay federal funds already spent on programs that were operating in good faith. This transforms what might otherwise be a forward-looking compliance adjustment into a retroactive financial liability with no clear ceiling.

Moreover, as the language of the proposed rule *requires* OMB to report and document noncompliance with SAM.gov, any determination of noncompliance may directly affect the awarding of funds or the continuation of existing funds from Federal sources, either to the County or as pass-throughs. This produces a possible cascading risk to all Federal funds that may be awarded to the County with no defined period or process to bring programs back into compliance.

We urge OMB to:

- Provide clear, objective definitions of all operative terms in § 200.300(b) before these prohibitions take effect, sufficient for counties to assess compliance program by program
- Establish an explicit safe harbor for recipients acting in good faith under state law, existing court orders or consent decrees at the time of expenditure
- Clarify that § 200.403 cost disallowance applies only to expenditures made after a specific, individualized finding of noncompliance — not retroactively to prior good-faith spending
- Confirm that pass-through entity liability does not extend to subrecipient activities beyond the direct scope of the federally funded award

Concerns Regarding New Viewpoint-Neutrality and Event-Services Requirements — § 200.219

The proposed rule would impose new viewpoint-neutrality requirements for event services on property under a public entity's control, regardless of whether any federal funds support the event itself. Counties would also bear responsibility for ensuring subrecipient compliance with these requirements. We have concerns about both the scope and workability of this provision.

Erie County manages a countywide parks and recreation system, County office buildings, and other public facilities that host community events throughout the year. Applying federal grant conditions to all activities on county-owned property — irrespective of federal funding — would require counties to monitor, regulate and potentially restrict constitutionally protected activities on public property, creating legal and administrative exposure.

We urge OMB to:

- Limit event-services requirements to events that are themselves supported with federal funds
- Remove pass-through entity liability for subrecipient event activities on non-federally funded county property
- Provide clear safe-harbor guidance that counties can implement without legal risk

The Intergovernmental Partnership and County Grant Administration — § 200.207(c)

We want to be clear about the quality and rigor of Erie County's federal grant administration. We maintain:

- Documented policies and procedures: a formal, multi-phase Budget Modification Request process governing budget and grant-related fund transfers
- Internal controls: a Budget Monitoring Report comparing budgeted to fully accrued actual data at the account level every month
- Audit history: an unmodified ("clean") independent audit opinion on both the County's financial statements and its compliance with federal program requirements, no material weaknesses or significant deficiencies identified, zero audit findings and zero questioned costs for the second consecutive year, and a formal low-risk auditee determination under 2 CFR 200.520 in our most recent Single Audit for the year ended December 31, 2024
- Staff training: Regular grant writing and technical writing training for staff and County partners, as well as department and program specific trainings for the application and use of grant funding to achieve program outcomes.

The intergovernmental system works because counties take federal stewardship seriously. We ask that the final rule be calibrated to the full range of county grant administrators — not only those with documented compliance failures — and that it not impose uniform new burdens that disadvantage well-managed governments like Erie County.

Conclusion

We are committed to the responsible stewardship of federal funds and to the success of the intergovernmental partnership that makes federal programs effective at the local level. We appreciate OMB's attention to stakeholder input and urge the agency to:

- Extend the comment period by at least 45 days, and push the rule's effective date past October 1, 2026
- Streamline subaward and subrecipient-determination requirements for established, multi-jurisdictional consortia like our CDBG and HOME Consortia, rather than requiring member-by-member re-documentation
- Account for New York's SNAP administrative cost structure — counties bear the full 50 percent non-federal match, with no state cost-share — when estimating recipient burden across the ten counties-administer-SNAP states
- Establish a separate, phased compliance date for Treasury Do Not Pay integration and E-Verify expansion, given the systems lead time required
- Confirm that existing fixed-amount awards, including active ARPA/SLFRF awards, are not pulled into the new framework through routine amendments or extensions
- Confirm that formula and entitlement programs, including CDBG and HOME, remain excluded from discretionary "national interest" terminations, and otherwise limit termination authority with clear, predictable procedures
- Narrow event-services requirements to federally funded activities
- Preserve notice-and-comment rulemaking for future substantive changes

We stand ready to provide additional information or to meet with OMB staff to discuss these comments in greater detail. Please contact Raymour Nosworthy, Deputy Budget Director, at Raymour.Nosworthy@erie.gov, with any questions.

Respectfully,

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County Executive
Erie County, New York