July 13, 2026

To: **The Office of Management and Budget (OMB)**
Re: **OMB-2026-0034, Office of Management and Budget (OMB) Regulation for Federal Financial Assistance**
Submitted: **https://www.regulations.gov/document/OMB-2026-0034-0001**

On behalf of the undersigned national member based performing arts associations, we appreciate the opportunity to comment on the Office of Management and Budget's (OMB) proposed revisions to the Uniform Guidance governing federal financial assistance published at 91 FR 40136.

Together, our associations represent tens of thousands of nonprofit performing arts organizations, arts administrators, businesses, and artists serving rural, suburban, and urban communities throughout the United States. Our members include organizations of every size, from volunteer-led community arts organizations to nationally recognized cultural institutions. Collectively, they strengthen local economies, expand access to arts education, preserve America's cultural heritage, and enrich the civic life of communities across the country.

Federal financial assistance plays a vital role in advancing these public purposes. Through grants awarded by the National Endowment for the Arts, the National Endowment for the Humanities, the Institute of Museum and Library Services, the Department of Education, and other federal agencies, nonprofit performing arts organizations engage millions of Americans through performances, educational programs, community partnerships, workforce development, and cultural preservation. Our field's extensive experience applying for, administering, and reporting on federal awards provides a practical perspective on how the proposed revisions may affect nonprofit recipients and the communities they serve.

We support several provisions of the proposed rule that would reduce administrative burden, simplify application processes, and expand access to federal funding opportunities for new applicants.

At the same time, several proposed revisions could dissuade many organizations from accessing federal support due to a lack of clarity regarding the terms of compliance, which is vital in any grant administration process. Nonprofit performing arts organizations frequently develop artistic programming, enter contractual commitments, engage artists and educators, secure performance venues, and raise matching funds many months and years before a federally supported project is implemented. Thus, organizations rely upon grant administration policies that are clear and consistent throughout the life of an award.

For this reason, **we encourage OMB to ensure that the final Uniform Guidance provides applicants/recipients with regulatory standards that are transparent, predictable, and consistent with the statutory authorities established by Congress**. Clear guidance benefits both federal agencies and recipients by promoting consistent implementation, reducing unnecessary administrative burden, and strengthening public confidence in the stewardship of federal financial assistance.

The performing arts community shares OMB's overarching commitment to effective grants management and responsible stewardship of public resources. The recommendations below are offered in that spirit.

1. [200.202] and [200.204]: Program Planning and Design and Notices of Funding Opportunity

We support proposed revisions that would improve the administration of federal financial assistance, including encouraging multi year awards where appropriate and writing Notices of Funding Opportunity in plain language. These provisions have the potential to reduce administrative burden and improve access to federal funding, particularly for small and mid-sized nonprofit performing arts organizations with limited administrative capacity. When paired with clear and predictable program requirements, multi year awards can reduce administrative burden, support long term planning, and improve program administration.

Recommendation 1: We encourage OMB to retain these provisions in the final rule.

2. [200.205]: Federal Agency Merit Review of Proposals

The proposed merit review provisions would require federal agencies to ensure: “Discretionary awards are consistent with applicable law, federal agency priorities, and the national interest.” They would also require, where applicable, that “awards advance the President's policy priorities and prohibit funding for certain identified activities.”

The proposal goes on to state that discretionary awards must not be used to “fund, promote, encourage, subsidize, or facilitate 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 of program participation; denial by the recipient of the sex binary in humans or the notion that sex is a chosen or mutable characteristic; illegal immigration; or any other initiatives that compromise public safety or promote anti-American values.”

These additional review criteria create a lack of clarity regarding the standards governing grant review for nonprofit performing arts organizations and for federal cultural agencies whose authorizing statutes already establish the standards for awarding grants. For example, the National Foundation on the Arts and the Humanities Act directs the National Endowment for the Arts to award grants based primarily on artistic excellence and artistic merit. Likewise, the National Endowment for the Humanities and the Institute of Museum and Library Services operate under statutory review processes established by Congress. Introducing additional merit review criteria tied to changing Administration priorities creates ambiguity regarding how applications will be evaluated and how those criteria will be applied and reconciled with existing statutory requirements.

We are also concerned that several key terms in the proposed rule, including "promote," "encourage," "subsidize," "facilitate," and "national interest," are not defined. Without additional guidance and specificity, applicants and agencies may interpret these standards inconsistently, increasing compliance uncertainty and administrative burden.

Existing federal civil rights statutes prohibit discrimination by recipients of federal financial assistance and provide established enforcement mechanisms. As a result, the proposed revisions risk creating uncertainty regarding compliance expectations.

Finally, recent litigation involving federal cultural agencies underscores the importance of administering grant programs in a manner that is consistent with statutory authority and to the extent authorized by law. In *American Council of Learned Societies and Authors Guild v. National Endowment for the Humanities* and *Rhode Island Latino Arts v. National Endowment for the Arts*, the courts addressed the limits of agency discretion, the need for grantmaking decisions to remain consistent with the authority established by Congress and with applicable constitutional protections, including the First Amendment and equal protection component of the Fifth Amendment.

Recommendation 2: We request OMB define key terms and ensure any new rules are consistent with statutory authority, recent court rulings, and existing laws.

3. [200.206]: Federal Agency Review of Risk Posed by Applicants

We recognize OMB's interest in ensuring that federal agencies appropriately assess the risks associated with awarding federal financial assistance. Effective risk assessment helps protect federal resources and supports responsible stewardship of taxpayer funds. At the same time, we encourage OMB to provide greater clarity regarding several aspects of the proposed applicant review process.

The proposed rule would require agencies to consider an applicant's record of managing previous and current federal awards, activities or initiatives that are inconsistent with federal civil rights laws or religious liberty laws, and an 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.

Further guidance and clarity regarding the meaning of the term "affiliation" would help applicants understand the types of relationships that are relevant to an agency's assessment and ensure that applicants can accurately evaluate their compliance responsibilities before applying.

Many organizations regularly collaborate with a broad range of educational institutions, community organizations, cultural organizations, local governments, and other nonprofit partners. Additional clarification providing greater specificity regarding the factors agencies will consider during applicant risk assessments would also promote more consistent implementation across federal agencies and provide applicants with greater confidence that evaluations will be based upon clear and objective standards.

Recommendation 3: We encourage OMB to provide additional guidance regarding the proposed applicant risk assessment provisions, including the meaning of "affiliation" and the factors agencies should consider when evaluating an applicant's organizational relationships.

4. [200.211], [200.340], [200.341], [200.342], and [200.343]: Suspension and Termination of Federal Awards

Current text in Section 200.340(a)(4) provides that a federal award may be terminated “[b]y the Federal agency or pass-through entity pursuant to the terms and conditions of the Federal award,” including, “to the extent authorized by law,” where “an award no longer effectuates the program goals or agency priorities.” The proposed rule would expand the authority of federal agencies and pass through entities to suspend or terminate awards based on program goals, federal agency priorities, or the national interest as they exist at the time of the termination.

The additional conditions for termination would result in increased administrative burdens for compliance, given shifting agency priorities, and vague interpretations of the national interest. This uncertainty is particularly challenging for nonprofit performing arts organizations, which often make significant contractual and financial commitments in reliance on approved federal awards. If an award is suspended or terminated because priorities change after an award is made, recipients may face significant financial, operational, and reputational risk despite complying with all applicable award requirements up until the time of termination.

The proposed rule would not ensure recipients have an opportunity to object, request a hearing, or appeal a discretionary termination unrelated to noncompliance. We recommend preserving procedural protections, including notice and an opportunity to appeal before an award is terminated for reasons unrelated to recipient noncompliance.

Recommendation 4: We ask OMB to revise these proposals to clearly define the circumstances under which discretionary suspension or termination may occur; to define key terms; and allow grant recipients an opportunity to respond or appeal.

5. [200.219]: Prohibition of Discriminatory Event Services

The proposed rule would prohibit public entities receiving federal financial assistance from discriminating based on viewpoint, content, or subject matter of speech when providing services for events, meetings, or other expressive activities. It would also apply these prohibitions to activities occurring on property or in facilities under the control of the recipient, regardless of whether the activity is directly supported by federal financial assistance.

For nonprofit performing arts organizations, the proposed rule raises questions about the scope of these requirements. Terms such as "events," "meetings," and "other expressive activities" are not defined, making it unclear how the provision would apply to the wide range of artistic and educational activities conducted by recipients.

Nonprofit performing arts organizations are bound by their missions to curate and present content to the public. Lack of clarity on how “discriminating on the basis of viewpoint, content, or subject matter of speech” would be defined and judged would create uncertainty for grantees and the federal agencies. It is also unclear whether the proposal is intended to apply to activities supported entirely with non-federal funds that take place in recipient-owned or operated facilities.

Recommendation 5: We recommend that OMB clarify the intended scope of this provision by defining key terms related to viewpoint, content, and speech, including "events," "meetings," and "other expressive activities," and specifying how the requirements apply to activities that are not supported by federal financial assistance but occur in facilities owned or operated by recipients.

6. [200.220]: Prohibition on the Use of Federal Funds for Covered Foreign Collaborations

The proposed rule would prohibit recipients from using federal funds to support collaborations involving covered foreign countries or entities unless otherwise authorized by statute or approved by the federal agency.

For nonprofit performing arts organizations, the proposal raises significant implementation questions, particularly regarding the definition of “collaborations,” indirect costs and shared administrative expenses. Even when international collaborations are supported entirely with private or other non-federal funds, recipients may face substantial accounting and documentation requirements to demonstrate that no federal funds, including indirect costs, were used.

In addition to constraining international cultural activity that is a mainstay of U.S. performing arts organizations, these requirements could create a significant administrative burden, particularly for smaller organizations with limited administrative capacity.

Recommendation 6: We recommend that OMB define “collaborations,” explain how this provision applies to indirect costs, shared administrative expenses, and other common cost allocations, and provide recipients with clear standards for documenting compliance.

7. [200.303]: Internal Controls

The proposed rule would require recipients and subrecipients to participate in the Department of Homeland Security's E-Verify program for employees and contractors performing work associated with federal awards and to screen payees through the Department of the Treasury's Do Not Pay system, or an equivalent State system.

For many nonprofit performing arts organizations, particularly smaller organizations and subrecipients, these requirements would expand administrative burdens associated with working with international artists.

Recommendation 7: We recommend that OMB provide clear implementation guidance, technical assistance, and an appropriate transition period for these new requirements.

Conclusion

We support improvements to the administration of federal financial assistance. However, several provisions would introduce significant uncertainty into the federal grantmaking process by creating broad, undefined standards, expanding discretionary authority, and increasing administrative complexity for recipients.

We urge OMB to ensure that the final Uniform Guidance provides clear and predictable standards that are consistent with statutory authority and can be implemented consistently across federal agencies from one Administration to the next.

Nonprofit performing arts organizations are committed to planning, administering, and stewarding federally supported projects that serve communities throughout the country.

Thank you for the opportunity to submit these comments. We welcome the opportunity to answer questions or provide additional information as needed.

Sincerely,

Chorus America
Dance/USA
League of American Orchestras
OPERA America
Theatre Communications Group