



Regulation for Federal Financial Assistance

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The revisions to OMB's Guidance for Federal Financial Assistance are highly problematic for a number of reasons. As a Professor and Administrator at a public policy school, I am particularly concerned about the negative impacts on university research. Many researchers, particularly those who do not yet have academic tenure will be dissuaded from applying for funding for research that they fear run counter to administration priorities. This will be true for as long as these policies are either in place or being litigated. Given that administration priorities will change every 4 or 8 years, this makes it difficult for these young scholars to pursue any research that can be considered cutting edge.

Others however can comment on both the legality of the changes and the impacts on the research enterprise, not just across universities but across all federally funded research. In this comment, I am focusing only on the economic impact of the proposed rule which I think has been severely underestimated by OMB. In this, I am drawing on my background as a desk officer at the Office of Information and Regulatory Affairs (OIRA) from 1998-2003.

I am focusing on the changes to Section 200.205—Federal Agency Review of Merit of Proposals. In particular, as the preamble says,

agencies must ensure that proposals selected for funding are consistent with applicable law, Federal agency priorities, and the national interest. Consistent with the Executive order, senior appointees must conduct these reviews and apply specific principles when evaluating proposals. These principles include ensuring that discretionary awards advance the President's policy priorities, prohibit the use of funds for discriminatory or otherwise impermissible purposes, and emphasize ensuring compliance with applicable law.

This is indeed the proposed change that has received the most public attention. The reason for this attention is directly applicable to the economic impact. The expectation is that this guidance will lead agencies to significantly change their issuance of grants which prior to the current administration were based almost entirely on peer review recommendations.

Perhaps this expectation is overblown. But there are myriad quotes from administration that indicate that the concern is merited. The preamble itself says, "Federal awards were often used during those years to promote a "woke" policy agenda that did not reflect the values of the vast majority of the American public." The research that is the target of this proposal are "policies {that} wasted a great amount of taxpayer resources." In other words, by OMB's own words, there are a large number of grants that will be impacted by this guidance. Rhetoric from the administration only furthers this impression.

I was stunned therefore to read in OMB's Regulatory Impact Analysis (RIA), that the impact of Section 205 was described as "No perceived impacts; the revised policies are designed to align with law and existing discretionary authorities of executive agencies." OMB simply cannot have it both ways. It cannot assert in the actual document that the number of grants where there is a need for a political appointee to weigh in in order to comport with administration priorities is large, and then say there will be no impact.

So how large will the impact be? According to [one evaluation](#), in FY2023, the federal government provided \$60 billion in federal research and development to universities. I am sure OMB has more accurate data but this seems reasonable as a first approximation. The RIA for this rule notes that 37.4% of all grants go to institutes of higher education. That would signify that the total dollar value of grants that could be impacted is \$160 billion.

Obviously not all of these grants will be affected by the rule change to section 205. In fact, most will not. These grants (as noted by OMB in the RIA) may be impacted by the other changes in grants management in the proposed rule. The burden of the grants process is already [significant](#). This rule may make it more so although perhaps not significantly. As the referenced NAS report notes, making the grant process more burdensome is not the direction our research enterprise needs.

But the grants that are affected by the change to Section 205 will be affected dramatically. Some grants will be rejected that would otherwise have been approved if the basis for approval was scientific merit. Perhaps more importantly, the rule changes will incentivize faculty members (particularly the non-tenured ones) to seek alternative funding or to abandon lines of research altogether. Even if the administration sees this as a net benefit, there is no arguing that there will be a transfer of research dollars from researchers pursuing non-politically favored topics to those whose work meets whatever litmus test a presidential administration would put in place. Transfers count as economic impacts as Circular A-4 makes clear.

As a side note, while the transfers almost certainly clear the \$100 million annual threshold, the social costs may as well. Universities like mine that see reduced grant income for overhead will have less money for student aid. Obviously that affects the students themselves but it also may have downstream impacts on the economy if there are fewer college educated students. In addition, grants that curb research in areas like climate change will have negative economic consequences in terms of discoveries not made. These are harder to calculate than the transfers but the value of them is not zero (and that is the value implicitly assumed in the OMB RIA).

If 0.16% of university grants are impacted by this document, then it crosses the threshold that OMB uses for economically significant regulations. If 0.06% of all grants are impacted, then it also crosses this threshold. It seems to me to be exceedingly likely that these thresholds will be crossed. The rule should thus have a much more detailed economic analysis than the one provided under Executive Order 12866. Not doing so should be considered clear evidence that the action is arbitrary and capricious under the Administrative Procedure Act (you cannot call the document a Proposed rule and also say it is not a "regulatory action").

The arguments that the rule is exempt from economic analysis requirements and that the economic impact is minimal are the types of arguments that OMB would never tolerate (certainly not when I was employed there – and not through 2024) if they were made by the Environmental Protection Agency or the Department of Labor. They should not be tolerated now.

Finally, one final point on the Unfunded Mandates Reform Act (UMRA). Usually, the analysis under UMRA is a footnote to a broader economic analysis. But in this case, the impact of this rule on state governments is likely to be profound. Many grants are made directly to state agencies. Certainly, many of them (to choose one area, those regarding climate change) will be impacted by this action. And any cutbacks in grants to state universities will also lead to state budgetary pressures well in excess of the \$168 million threshold under UMRA. It is true as OMB asserts that there is no obligation to count financial assistance that states can simply not apply for under UMRA. But the practical impacts will be strains on all state budgets and cutbacks in student education at state universities. Whether or not it violates the letter of UMRA, it absolutely violates the spirit.

OMB should acknowledge both the unfunded mandate on state governments and conduct a more detailed economic analysis of this major change in research funding.

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