ACEC
AMERICAN COUNCIL OF ENGINEERING COMPANIES

July 13, 2026

Honorable Russell Vought
Director, U.S. Office of Management and Budget
The White House
725 17th Street, NW
Washington, DC 20503

RE: Comments on Proposed Rule: Regulation for Federal Financial Assistance (91 FR 32198; Docket ID OMB-2026-0034)

Dear Director Vought:

The American Council of Engineering Companies (ACEC) – the business voice of America's engineering industry – appreciates the opportunity to provide feedback on the Office of Management and Budget's (OMB) proposed rule regarding the Regulation for Federal Financial Assistance. ACEC is a national federation of 51 state and regional Member Organizations representing nearly 5,500 engineering firms that are essential partners in delivering the nation's transportation, energy, water, and environmental infrastructure, much of which is funded through federal grants and cooperative agreements.

ACEC supports OMB's overarching goal of improving transparency, accountability, and oversight to ensure taxpayer dollars are used effectively. We also support a preference toward widespread usage of fixed price contracting for most engineering and design services. However, our members have concerns regarding the practical implementation of several provisions and the potential for increased administrative burden and project uncertainty on our clients.

1. Procurement Methods (§ 200.320)

OMB proposes to revise §200.320 to include language strongly discouraging recipients from using cost reimbursement contracts. The rule would require recipients to notify the awarding federal agency of its use of this mechanism and maintain a written justification in its records. Federal agencies, at their discretion, may require prior approval of such contracts in the terms and conditions of the award.

For several years, ACEC has been advocating for a transition to more lump sum / firm fixed price contracts for engineering and design services. Federal agencies that do an extensive amount of contracting for engineering services now effectively utilize lump sum as the predominant contract payment method. We have been promoting more fixed price contracting with our state and local clients. Academic studies and practical experience have shown that lump sum contracts incentivize efficiency and innovation, provide more flexibility, reduce administrative resources needed to manage contracts, and allow agency staff to focus on technical aspects, project schedule, and outcomes rather than oversight. For these reasons, we support the proposed rule's preference for fixed price contracts.

However, we recognize that many state and local agencies have historically relied on hourly, cost-based contracts when procuring preliminary engineering, program management, environmental reviews, construction management, and other professional services. Cost reimbursement contracts may be justified when the scope of work, duration, site conditions, and other risks are not well known, especially in the early stages of a project. The changes in the rule could pose a burden on grantees and expose project sponsors and their contractors to financial risk by deterring certain contract types.

The proposed rule could also have implications for other emerging project delivery models, such as hybrid approaches that break out some tasks on a cost-reimbursement basis, or Progressive Design Build that utilizes iterative estimating, progressive validation, and collaborative scope refinement in phased cost negotiations. Requiring an agency's pre-approval may be burdensome in such circumstances and may deter grantees from utilizing certain useful contract models.

We encourage OMB to consider removing the sentence providing discretion for Federal agency prior approval of cost reimbursement contracts. The remaining provisions, including the statement of preference and written grantee justification, should send a strong signal in favor of fixed price contracts while allowing flexibility in circumstances where a cost-reimbursement contract type is the most feasible option.

2. Elimination of Fixed Amount Awards and Subawards (§§ 200.201, 200.333)

The proposed rule seeks to eliminate fixed amount awards and subawards, citing concerns that they can limit transparency and hinder cost oversight. Many engineering firm clients, particularly smaller recipients, rely on these instruments for predictable budgeting in well-defined projects. Critical infrastructure investments such as bridge rehabilitation projects, wastewater system upgrades, transit facility expansions, and others cannot be responsibly planned and executed without budget certainty and reliability. Fixed grant amounts for state and local clients are an important component of that planning certainty, particularly for small and rural areas. Forcing all assistance agreements into cost-reimbursement models may significantly increase the administrative and reporting burden, potentially undermining infrastructure improvements and hindering state and local agencies from participating in federal programs.

3. Discretionary Termination and Suspension Provisions (§ 200.340)

ACEC is wary of the expanded authority for agencies to terminate discretionary awards for convenience, including for reasons such as "Federal agency priorities" or the "national interest." The planning, design, and construction of infrastructure projects often spans multiple years and requires significant upfront investment. The ability of a federal agency to terminate an award based on evolving political views creates substantial uncertainty for project sponsors, potentially threatening the continuity of critical public works. Grant recipients executing long-term contracts and other financial commitments need to rely on awarded federal funds. This is not a partisan issue and potentially threatens infrastructure projects of all types in all regions.

We recommend stronger protections for allowable costs incurred and clearer definitions for what constitutes a “discretionary reason” for termination so that grant recipients are not left with an unfunded project after expending resources for initial project planning and development.

4. Cost Restrictions (§§ 200.254, 200.432, 200.461)

The new restrictions on allowable costs for advertising, public relations, conference attendance, and publication expenses may have unintended consequences for associations like ACEC and our Member Organizations at the state level. These costs are often incurred for project outreach and professional knowledge sharing. For example, a state transportation agency may receive a grant for developing advanced digital construction management systems and partner with an engineering firm on the project. The proposed rule would limit the ability of the project sponsor and the engineering firm from disseminating lessons learned and best practices to other peer organizations. As such, the proposed rule discourages industry stakeholder participation and outreach that leverage federally funded work and make it more effective. ACEC Member Organizations and many other industry associations provide education and training at conferences and through publications and programming where results are disseminated and the technical workforce is equipped.

5. Omissions Regarding § 200.319 and Conflicts of Interest

One provision in the Uniform Guidance that the proposed rule does not address is revision to §200.319 on competitive advantage and conflict of interest policies. Our members have experienced varying interpretations and implementation of these rules across federal, state, and local agencies. For example, in some locations, a firm that assists a local agency with a grant application is prohibited from competing for the engineering and design contract funded by the grant because of a perceived competitive advantage. That same practice is allowable in other jurisdictions. Similarly, a firm contracted as the city engineer may be excluded from competing for professional services on a specific grant-funded project in order to promote competition.

We encourage OMB to consider ways to provide more consistency in implementation of these policies across agencies, as differing applications across all levels of government create significant hurdles for engineering firms operating across multiple jurisdictions.

6. Rebranding and Regulatory Status of the Uniform Grants Regulation (UGR)

Lastly, ACEC notes the proposed shift from “Uniform Guidance” to the “Uniform Grants Regulation” (UGR) at 2 CFR part 200. We understand that Subtitle A will now carry regulatory effect in its own right. While we appreciate the drive for uniformity, we urge OMB to ensure this transition does not result in a one-size-fits-all approach that ignores the unique programs of individual federal agencies. For example, financial oversight and cost accounting for scientific research through the National Institutes of Health is quite different from funding and delivery of complex infrastructure projects through the Department of Transportation, the Environmental Protection Agency, or the Department of Housing & Urban Development.

We appreciate your attention and consideration of these comments. ACEC looks forward to working with OMB to ensure that federal grant-making regulations promote efficiency and accountability without compromising the stability of our nation's infrastructure projects.

Respectfully,

Linda Bauer Darr
President & CEO