NATIONAL LOW INCOME HOUSING COALITION

July 13, 2026

Submitted via regulations.gov
Office of Management and Budget
Office of Federal Financial Management
725 17th Street, N.W.
Washington, D.C. 20503

Re: OMB-2026-0034, Regulation for Federal Financial Assistance

The National Low Income Housing Coalition (NLIHC) submits this comment to express strong opposition to the Notice of Proposed Rulemaking, "Regulation for Federal Financial Assistance" (Proposed Rule).[1] At a time when the United States faces an affordable housing crisis, the Proposed Rule's injection of political ideology, regulatory uncertainty, and confusion into federal financial assistance – including funds for crucial federal housing programs – threatens to make this crisis worse.

NLIHC is an organization whose members include state and local affordable housing coalitions, residents of public and assisted housing, nonprofit housing providers, homeless service providers, fair housing organizations, researchers, faith-based organizations, public housing agencies, private developers and property owners, local and state government agencies, and concerned citizens. While our members include the spectrum of housing interests, we do not represent any segment of the housing industry. Rather, we work on behalf of and with low-income people who receive or need federal housing assistance, especially extremely low-income people and people who are homeless. NLIHC also leads *Our Homes Our Votes*, a nonpartisan campaign to register, educate, and mobilize low-income renters and affordable housing advocates to vote.

For the reasons outlined below, we urge immediate withdrawal of the Proposed Rule.

[1] 91 Fed. Reg. 32,198 (May 29, 2026).

A. The Proposed Rule Would Create Uncertainty Within Federal Affordable Housing Programs [2 C.F.R. 200.300; 200.340; 200.339]

The Proposed Rule would exacerbate the national affordable housing crisis by injecting uncertainty into critical housing programs. According to NLIHC research, in the United States, there are 11 million renter households with extremely low incomes, yet only 3.8 million rental units affordable and available to such households.[2] People of color, specifically Black, Latino, and American Indian or Alaska Native (AIAN) households, "are disproportionately extremely low-income renters and disproportionately impacted by the housing shortage."[3] Federal financial assistance is critical to supporting jurisdictions, public housing agencies (PHAs), and the private sector in building, maintaining, and preserving affordable units. The Proposed Rule would jeopardize such efforts by turning already scarce federal resources into a guessing game of how to comply with amorphous requirements and whether essential funding will be taken away on the whim of political appointees. Because of the complexity and lengthy time horizons of affordable housing development and maintenance, inserting doubt into federal housing programs will negatively impact efforts to address our nation's need for safe, decent, and affordable housing.

Under the Proposed Rule, HUD grantees would be expected to comply with vague requirements grounded in undefined or exceedingly broad terms, possibly at odds with state and local antidiscrimination protections. Under proposed § 200.300, grantees are prohibited from using funds to "fund, promote, encourage, subsidize, or facilitate" diversity, equity, inclusion or accessibility (DEI/DEIA) policies or "gender ideology." In this context, terms like "encourage" or "facilitate" are overbroad, leaving open the possibility that merely using pronouns consistent with a person's gender identity would count as "encouraging" or "facilitating" so-called "gender ideology" and in turn jeopardize a housing provider's federal funds. Yet, housing providers are also subject to state and local nondiscrimination laws, including fair housing laws, that prohibit many forms of discrimination, including gender identity discrimination. This places grantees in a double bind – risk loss of federal dollars or risk legal liability under state or local laws. Furthermore, the Proposed Rule primarily focuses on "DEI/DEIA" in terms of race, but says nothing about the relationship between DEI/DEIA and disability (the "A" in DEIA stands for accessibility), leaving unanswered whether initiatives to address disparities across disability fall under the proposed rule's prohibitions. Nor does the Proposed Rule speak to how the "DEI" label applies to other groups – for example, would targeted outreach or recruitment to veterans or faith-based groups, often characterized by providers as part of their DEI work, be considered prohibited DEI/DEIA initiatives? The Proposed Rule is silent.

In addition to compliance with vague concepts and terms, the Proposed Rule would allow for termination of funds at an agency or pass-through entity's discretion "if a Federal award does not effectuate "the national interest" at the "time of the termination."[4] The threat of arbitrary and unpredictable loss of funding via overbroad and undefined terms such as "national interest" will only serve to inject uncertainty into programs that are seeking to serve low-income tenants. As

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[2] NLIHC, *The Gap: A Shortage of Affordable Homes* (2026), at 11, available at: https://nlihc.org/gap
[3] *The Gap* at 4 (noting that "[e]ighteen percent of Black non-Latino households, 16% of AIAN households, and 13% of Latino households are extremely low-income renters compared to just 6% of white households").
[4] Proposed 2 C.F.R. 200.340(a)(2).

one PHA pointed out in their comments regarding this rulemaking, "[h]ousing providers often enter into multi-year obligations, contractual commitments, and service arrangements that depend on predictable federal funding."[5] Avoiding uncertainty about programmatic requirements, therefore, is critical. For instance, grantees for programs such as HUD's Choice Neighborhoods[6] need predictability to attract private investment. Such investment in turn works to ensure that distressed housing stock can continue to serve people with the lowest incomes.

Furthermore, because of the sprawling yet unspecific nature of the Proposed Rule, it is difficult for housing stakeholders to fully appreciate and understand the implications for each federal housing program. For example, while the scope of the discretionary suspension and termination provisions would not apply to statutorily created entitlement funds (e.g., block grants), other remedies are still available to federal agencies in the event of noncompliance by recipients of such funds.[7] This means that critical community development programs such as CDBG and HOME could see negative consequences based on noncompliance with requirements rooted in impossibly vague concepts such as a prohibition on "DEI." Private entities will be hesitant to invest in affordable housing projects that rely on CDBG and HOME funds. Pass-through entities such as states and local governments will be left to attempt to understand and enforce these requirements themselves while also providing technical assistance to their subrecipients. Such administrative chaos will in turn require staff time and resources to navigate capricious federal demands and any conflicting state and local requirements. And, to the extent that PHAs are also impacted by the changes in the Proposed Rule, such negative effects will harm people with the lowest incomes. For instance, the Public Housing Capital Fund is used for activities such as "the development, financing, and modernization of public housing projects, including the redesign, reconstruction, and reconfiguration of public housing sites and buildings."[8] Introducing uncertainty into such crucial funding streams will impact the ability of PHAs to address conditions in aging public housing stock.

B. The Proposed Rule Conflicts with Obligation to Affirmatively Further Fair Housing by Undermining Fair Housing Enforcement [2 C.F.R. 200.218; 200.206]

The Proposed Rule would directly conflict with the statutory obligation of HUD and other federal agencies to affirmatively further fair housing by significantly hampering fair housing enforcement across the country. Under the federal Fair Housing Act (FHA), HUD has an obligation to "administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies" of the FHA.[9] Yet the obligation does not extend just to HUD – in fact, the FHA requires that all "executive departments and agencies shall administer their programs and activities relating to housing and urban development…in a manner affirmatively to further the purposes" of the FHA "and shall cooperate with the [HUD] Secretary

[5] https://www.regulations.gov/comment/OMB-2026-0034-46219
[6] Choice Neighborhoods is a program that awards "competitive grants to redevelop severely distressed HUD housing, catalyze investments in the surrounding neighborhood, and improve the lives of residents of the HUD housing." HUD Exchange, "Choice Neighborhoods," https://www.hudexchange.info/programs/choice-neighborhoods/.
[7] *See* Proposed 2 C.F.R. 200.339.
[8] 24 C.F.R. 905.200(b).
[9] 42 U.S.C. 3608(e)(5).

to further such purposes."[10] Yet the Proposed Rule fails this obligation because federal agencies, including OMB and HUD would be hampering effectuating the FHA rather than advancing the aims of the statute to create integrated, inclusive housing opportunities for all.

First, the Proposed Rule fails to acknowledge that disparate impact liability is crucial to effectuation of the FHA – and instead incorrectly declares that using disparate impact liability requires or amounts to discrimination. The Proposed Rule states that agencies "must eliminate the use of disparate-impact liability in all contexts relevant to Federal awards."[11] Yet, the Proposed Rule ignores that the U.S. Supreme Court has affirmed the existence of disparate impact liability under the FHA in the *Inclusive Communities Project* decision in 2015.[12] In fact, *Inclusive Communities* declared that recognition "of disparate-impact claims is consistent with the FHA's central purpose." And while the Proposed Rule includes the caveat "[t]o the maximum extent permitted by law," the Proposed Rule's language elsewhere renders this caveat merely rhetorical by declaring that disparate impact liability "imperils the effectiveness of civil rights laws by mandating, rather than proscribing, discrimination."[13] This conflicts with *Inclusive Communities*, which recognizes that disparate impact liability "plays a role in uncovering discriminatory intent" and that it "may prevent segregated housing patterns that might otherwise result from covert and illicit stereotyping." It is therefore unclear how grantees under programs such as Fair Housing Initiatives Program (FHIP) could possibly operate when a tool recognized as consistent with the "central purpose" of the FHA is prohibited.

Second, although disparate impact liability has long been utilized as a cornerstone of fair housing enforcement, the Proposed Rule would make it easy to exclude fair housing organizations and other grantees that have historically utilized disparate impact liability from future funding opportunities. Under Proposed § 200.206(b)(2)(vii), given the current Administration's inaccurate characterization of disparate impact liability as requiring discrimination, applicants that have used disparate impact liability could be considered as having a history of "questionable practices," which in turn would negatively impact the risk assessment for that applicant. This would essentially penalize entities that have used a legal tool that the Supreme Court has called consistent with the central purpose of the FHA.

In short, the Proposed Rule would undermine, rather than further, the purposes of the FHA. The Proposed Rule is silent on the affirmatively furthering fair housing obligations for OMB, HUD, and other federal agencies that administer housing and community development programs.

C. The Proposed Rule Updates HUD-Specific Regulations and Therefore Commenters Should Have Been Provided at Least a 60-Day Comment Period

The Proposed Rule improperly afforded only 45 days for public comment for changes to HUD-specific regulations, rather than a minimum 60-day comment period required for HUD proposed rules. The Proposed Rule seeks to amend HUD regulations, including at 2 C.F.R. Parts

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[10] 42 U.S.C. 3608(d).
[11] Proposed 2 C.F.R. 200.218(a).
[12] 576 U.S. 519 (2015).
[13] 2 C.F.R. 200.218(a).

2400, 2424, and 2429. Regulations in this part of the Code of Federal Regulations are issued by HUD *not* OMB.[14] Under HUD regulations, "[i]t is the policy of the Department that its notices of proposed rulemaking are to afford the public not less than sixty days for submission of comments."[15] Additionally, Congress recently affirmed at least a 60-day comment period for HUD rulemaking.[16] As this purports to be a joint NPRM between OMB and numerous other federal agencies,[17] including HUD, the NPRM should have allowed for at least 60 days for public comment. In failing to do so, the NPRM runs afoul of both HUD regulations and the express will of Congress. A 45-day comment period is wholly insufficient for commenters to review, analyze, and respond to the Proposed Rule.

This rulemaking essentially creates a default rule wherein the OMB general rules will apply, notwithstanding agency regulatory conflicts.[18] Forty-five days is simply not sufficient time to comprehensively assess which HUD regulations may be overridden by the adoption of the Proposed Rule, let alone other agencies that have programs relevant to housing stakeholders, such as USDA. This abbreviated comment period is particularly misguided with respect to HUD considering the outsized impact the Proposed Rule will have on HUD programs. According to the Regulatory Impact Analysis for this rulemaking, HUD's Office of Community Planning and Development (CPD) was one of the federal components that issued the most grants between 2015 and 2024.[19]

Although much of this letter focuses on impacts on federal housing programs, we note that others have more generally raised concerns about the short comment period. For example, Senator Susan Collins has heard from "numerous stakeholders that the current comment period is inadequate."[20] Senator Collins therefore requested that OMB extend the current comment period for at least 90 days, a testament to the complexity, scope, and anticipated impact of the changes outlined in the Proposed Rule.

D. The Proposed Rule Raises Concerns About Chilling Lawful Nonpartisan Voter Registration Activities [2 C.F.R. 200.450]

The Proposed Rule would prohibit federal funds from being used for engagement in nonpartisan voter registration activities.[21] While nonfederal funds could be still used for such registration efforts, confusion stemming from the very limited references to voter registration

[14] 2 C.F.R. 1.110 states, "*Each federal agency* that has a chapter in subtitle B of this title *issues that chapter*." (emphasis added). Parts 2400, 2424, and 2429 appear in Title 2, Subtitle B, Chapter XXIV ("Department of Housing and Urban Development").
[15] 24 C.F.R 10.1.
[16] Consolidated Appropriations Act, 2026, § 242 (H.R. 7148).
[17] *See* 91 Fed. Reg. at 32,205 n.52 (Nearly all "grantmaking agencies in the Executive Branch have joined this proposed rulemaking and plan to actively adopt the specific policy changes in tandem with OMB through the joint interagency final rule."); *id.* at 32,198-99 (including HUD among listed agencies).
[18] Proposed 2 C.F.R. 200.101(d)(2).
[19] A Regulatory Impact Analysis of Proposed Revisions to 2 CFR 200, at 6, https://www.regulations.gov/document/OMB-2026-0034-0038
[20] U.S. Senate Committee on Appropriations, Press Release, "Sen. Collins Asks OMB to Withdraw Parts of Grant Rule, Extend Comment Period" (July 6, 2026), https://www.appropriations.senate.gov/news/majority/sen-collins-asks-omb-to-withdraw-parts-of-grant-rule-extend-comment-period.
[21] Proposed 2 C.F.R. 200.450(c)(1)(iii).

specifically in the Proposed Rule could also discourage lawful voter registration activities even where federal funds are not used.[22] The Proposed Rule also raises concerns that the timing of a final rule's implementation would chill nonpartisan voter registration efforts in advance of fall 2026 elections.[23] Furthermore, the Proposed Rule creates confusion for entities that receive grants or contracts to administer programs with voter registration obligations under the National Voter Registration Act of 1993.[24] Given NLIHC's commitment to increasing voter participation through the *Our Homes, Our Votes* campaign, we are very concerned about the confusion and interference with lawful, nonpartisan voter registration efforts the implementation of this rulemaking will cause.

In conclusion, we urge the immediate withdrawal of the Proposed Rule.

Sincerely,

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Senior Vice President of Public Policy

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[22] Brian Miller, Nonprofit VOTE, "OMB Should Not Use Federal Grant Rules to Silence Nonprofit Civic Voice" (July 9, 2026), https://www.nonprofitvote.org/omb-should-not-use-federal-grant-rules-to-silence-nonprofit-civic-voice/

[23] *Id*.

[24] *Id.*