ATTACHMENT A

Capital Investment Grants
WORKING GROUP

July 13, 2026

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

Mr. Joel Savary & Mr. Andrew Reisig
Office of Management and Budget
Office of Financial Management
725 17th Street, NW
Washington, DC 20503

RE: Comment on Proposed Revisions 2 CFR §200 and Section §200.340

Dear Director Vought, Mr. Savary and Mr. Reisig:

Thank you for the opportunity to submit comments in response to the proposed Regulation for Financial Assistance (91 *Fed. Reg. 32198) ("Proposed Regulation")* published on May 29, 2026. The Capital Investment Grants Working Group ("Working Group") is a national coalition of nearly forty cities, counties, transit agencies and private sector firms that support the Federal Transit Administration ("FTA") Capital Investment Grants ("CIG") which is the largest federal discretionary grant program. The CIG program was authorized at $4.6 billion per year in the Infrastructure Investment and Jobs ("IIJA") and has consistently been funded annually at more than $3 billion through the appropriations bills. We write to express our grave concerns regarding the Proposed Regulation and the adverse impacts on the CIG program.

The Working Group opposes the current draft of the Proposed Rule, and we request that it be withdrawn, or, at a minimum, we urge a substantial revision prior to being published as final rule. The CIG program is governed by 49 U.S.C. §5309 and that statute sets forth a very rigorous process and specific project justification criteria. The rigor of the project approval process makes it unique among the federal government discretionary grant programs and the level of non-CIG funding commitment also separates it from other federal formula and discretionary grant programs. The entire Proposed Rule appears to completely fly in the face of stated Administration policy to reduce red tape and eliminate unnecessary regulatory oversight. If anything, the Proposed Rule adds a completely new and additional layer of government regulation that will delay and, in many cases, cause the termination of promising infrastructure projects.

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CIG funds support a national pipeline of heavy rail, light rail, commuter rail, streetcar, and bus rapid transit projects, each representing years of planning and billions of dollars in state and local investment committed in reliance on the federal commitment. The Full Funding Grant Agreement (FFGA) and the Small Starts grants are unlike ordinary federal awards. A grant agreement is signed only after a project has satisfied the program's statutory criteria, including rigorous rating metrics, completed design, and secured local funding commitments. Once signed, it commits the federal government to future reimbursements and, concurrently, permits the sponsor to execute construction contracts and notices to proceed that obligate it to spend, in many cases, billions of dollars. Although each reimbursement depends on a future appropriation, Congress has consistently appropriated the funds necessary to meet CIG reimbursements. The market has therefore treated these grant agreements as guaranteed funding, and that guarantee is precisely what lowers lender risk, reduces interest rates, and holds down construction bids to the benefit of taxpayers.

The proposed rule disrupts that foundation. By extending discretionary termination and new suspension authority into the post-agreement construction phase, on grounds as open-ended as evolving agency priorities or the national interest, the rule converts a commitment the market has always treated as firm into one revocable at will. It provides no defined, project-performance-based criteria for when that authority would be exercised.

The predictable result is that projects either pause or become dramatically more expensive. Faced with the possibility that federal reimbursement could be withdrawn mid-construction, some sponsors will decline to expose local funds and will halt; others will proceed only after contractors and lenders price the new risk into their bids and financing. Stripping the certainty of the grant agreement means higher interest rates, and higher construction bids, as firms and lenders demand compensation for the risk of losing federal funds after contracts are signed. The taxpayer bears the result in higher-cost projects and, where funding is actually withdrawn, in half-built projects unable to deliver the service they promised.

Paused public constructions are not benign. Partially constructed guideway, stations, tunnels, and systems left in suspension create physical hazards that must be secured and maintained, and they defer the very safety and state-of-good-repair benefits the projects were designed to deliver. The longer a project sits in limbo, the greater the exposure.

These are not abstract commitments. Consider a project advanced to construction that is supported by non-federal funding, in some cases by a local ballot initiative, that has cleared its environmental review under the National Environmental Policy Act ("NEPA"), reached 100 percent design, and begun construction. Withdrawing federal funding after a sponsor has passed each of those milestones strands the very investments the program required it to make, and it does so for reasons that have nothing to do with how the project is performing.

The rule's treatment of costs already incurred makes matters worse. In general, obligations a sponsor properly incurred before a termination takes effect remain allowable, judged as though the award had continued or had expired normally at the end of its period of performance. That protection carries a qualification: it does not extend to costs incurred in anticipation of the termination. Once a sponsor can see that a discretionary termination is possible, it becomes unclear whether the costs it keeps incurring, prudently and in reliance on a signed agreement, would still be reimbursed. That is the very certainty the grant agreement was meant to provide.

Termination would also place a new burden on the recipient. Once an award is terminated, the sponsor must make all reasonable efforts to discontinue, cancel, or otherwise reduce its remaining financial obligations, and must document those efforts for the agency. For a capital project under active construction, unwinding millions of dollars in signed contracts and notices to proceed is neither quick nor inexpensive, and the rule transfers the cost and risk the local sponsor.

The economic consequences extend well beyond any single project. A sweeping pause of major federally funded infrastructure negates both the long-term efficiency gains that completed projects would produce and the substantial construction-phase economic activity -- the jobs, procurement, and regional spending -- that these projects generate while they are built. Uncertainty of this kind, applied across the national CIG pipeline at once, risks a broad and simultaneous slowdown rather than isolated delay.

Further, it has a substantially deleterious effect on the construction market resulting in the loss of jobs and financial losses for the private sector. A general downsizing of major federally funded construction shrinks the readiness and scale of the nation's heavy-construction workforce, specialized contractors, and supply chains. That capacity is not easily rebuilt once dispersed, and it is a national asset in both economic and security terms. Policies that chill sustained investment in it leave the country less able to build when it must.

Finally, the structural problem is larger than transit. Major infrastructure projects take many years to plan, design, and build, sometimes spanning two or three administrations. If any administration can cancel a project mid-construction because its priorities have shifted, the federal government's ability to make credible long-term commitments to any major project is undermined, whether transit, highway, airport, pipeline, or power. The reliability of the federal commitment is fundamental to advancing projects, and this Proposed Rule completely abandons that commitment.

We would also note that the rule, by its own terms, does not require the discretionary termination provision where including it would conflict with a Federal statute. We ask OMB to consider whether the statutory framework governing CIG full funding grant agreements under 49 U.S.C. 5309 falls within that exception and, if it does, to say so expressly in the final rule.

We further urge OMB to exempt executed CIG FFGAs and SSGAs from the discretionary termination and suspension provisions of Section 200.340. If OMB declines a categorical exemption, it should at a minimum limit post-agreement termination and suspension of CIG awards to defined criteria tied to a project's own performance or compliance and expressly exclude open-ended priorities and national-interest grounds once an agreement is signed.

Beyond our specific concerns regarding the CIG program, we share additional comments on other provisions of the Proposed Rule.

Failure of identify Specific Deficiencies or Prescribe Corrective Actions. The proposed revisions do not specifically identify deficiencies or prescribe corrective actions. These revisions are also being generalized to apply to all Federal agencies, creating a chaotic situation and confusion for existing recipients of Federal discretionary grants and potential applicants about what may be applicable to the Federal agency and its grant programs within the Federal Government. Therefore, the revisions are not intended to ensure that every discretionary award program is designed by Federal agencies to effectively achieve its underlying statutory purpose as authorized by Congress, but to impose the policies and priorities set by the President on applicants and recipients of Federal discretionary grants. The proposed revisions explicitly require Federal agencies to consider advancing the President's policy priorities as part of the merit review of discretionary grant applications. Any perceived conflict with key Executive Branch policies expressed in Presidential Executive Orders will most likely not result in a grant award.

Extend the Comment Period. The OMB allowed about four months to submit comments on the proposed revisions, with an effective date of October 1, 2026. This period is inadequate to assess the full impacts of the proposed revisions. Also, the following statement in the OMB's Federal Register Notice seeking comments on the proposed revisions makes it clear that what is being proposed is already being implemented: "All executive agencies have received clear policy direction through the President's Executive orders and other executive actions, which they will follow in their administration of discretionary award programs." This explains why, since January 2025, the FTA has not advanced projects to the next phase of the grant application and evaluation process or to grant agreement, even though these projects have met all Federal statutory and grantor agency requirements included in the FTA CIG process. Therefore, the two other stated objectives from the OMB's proposed revisions (transparency and accountability) are questionable.

Negative Impact on the Grant Cycle. The proposed revisions negatively affect the entire grant cycle, from pre-award through post-award to closeout. They create greater uncertainty for agencies seeking and receiving grant awards from the Federal Government, increase the risk of suspension or termination of grants after award, expand compliance and oversight obligations, and reduce predictability and long-term funding stability.

Negative Impact Existing Processes and Procedures. As applicable to the U.S. Department of Transportation ("USDOT") and its 10 operating administration agencies, the proposed revisions will also negatively impact existing processes and procedures, including the content of Notices of Funding Opportunities ("NOFOs"), evaluation criteria and selection process, conditions for grant award, terms for suspension and termination, and timing and conditions for payments. The proposed revisions will also negatively impact the project cycle, from planning through programming to project implementation and completion, resulting in delays, cost increases, and cash flow issues due to the reimbursement nature of Federal grants and the ability of project sponsors to make payments to their own staff, consultants, and contractors. The proposed revisions will also negatively impact the project sponsor's creditworthiness and rating due to the additional risk created by the proposed revisions to secure Federal grants, making it more difficult and expensive to finance projects and make payments, including higher interest rates for loans such as those from the USDOT/Build America Credit Bureau Transportation Infrastructure Finance and Innovation Act (TIFIA) Program or through the private sector.

Proposed Rule Supersedes All Existing Discretionary Grants and Project Criteria. The USDOT, through the Office of the Secretary and the FTA, Federal Railroad Administration ("FRA"), and Federal Highway Administration ("FHWA"), has successfully planned, designed, and implemented federal discretionary grant programs authorized by Congress (most recently through the Infrastructure Investment and Jobs Act) to achieve the policies, priorities, and objectives stated in the authorizing legislation. These agencies have developed guidelines for discretionary grant programs, as well as circulars and other documentation that provide instructions to grantees on how grants are administered.

These agencies have also developed and issued NOFOs that are easy to understand and provide opportunities for technical assistance to potential applicants and grantees, including through webinars. OMB's proposed revisions would require USDOT and its modal administration agencies, including FHWA and FTA, to revise their guidelines for discretionary grant programs, as well as circulars and other documentation for the administration of grants by recipients. The proposed revisions would apply to discretionary grant programs that result in a grant award for an application submitted in response to a NOFO, as well as to those that involve a multi-phase/multi-year grant application process, such as the FTA's Capital Investment Grants (CIG) Program.

USDOT NOFOs, including the Infrastructure for Rebuilding America ("INFRA") and Better Utilizing to Infrastructure to Leverage Development ("BUILD") programs, clearly and in plain language detail the evaluation criteria and the review and selection process. The NOFOs specify the statutory requirements and describe the methodology for determining whether projects satisfy these requirements, how projects will be rated against the selection criteria and other considerations, and how those criteria and considerations will be used to assign an overall rating. After the eligibility and merit criteria review in the Analysis Phase, the selection process continues through the Senior Review Phase, resulting in recommendations to the USDOT Secretary, who selects projects for grant award.

Another example is the FTA's CIG Final Policy Guidelines, as discussed above, which was last updated in November 2025, as well as the April 2026 Reporting Instructions that is applicable to Small Starts, New Starts, and Core Capacity grant applications. The grant application process goes through different phases and requires risk assessments and support from Project Management Oversight Contractors and Financial Management Oversight Contractors before a project is approved to move to the next phase and be considered for a grant award. On June 4, 2026, the FTA published its final rule that amended the definition of a "major capital project" and modified the applicability of project management oversight by raising the total cost threshold from $300 million to $400 million and the Federal investment threshold from $100 to $150 million. This amendment, contrary to the OMB's Proposed Rule, reduces the number of projects subject to project management oversight requirements and therefore reduces the regulatory burden.

Substantial Revision of All Awards Management Guidance for Recipients and Subrecipients. The OMB's proposed revisions would also require Federal agencies to amend existing guidance for recipients and subrecipients of Federal assistance to manage their projects and programs in accordance with Federal requirements. For example, the FTA's Award Management Requirements Circular (C 5010.1F), which incorporates OMB provisions, became effective on November 1, 2024, about nine months after the publication of the notice requesting comments on the proposed changes to the prior circular.

Remove Technical Merit for Grant Selection. The proposed revision requiring NOFOs to be drafted to "reasonably allow for all applicants to compete and succeed against institutions that have historically received consecutive awards in prior years" contradicts the OMB's emphasis on selecting recipients for discretionary grant awards based on the technical merit of their projects, readiness, and benefits. While this seeks to expand the field of potential grant recipients, it is contrary to the merit-based approach relied on by the Administration in other programs. Further, in the event that additional conditions, such as geographical location or size of the community, that should remain the prerogative of Congress to set those parameters by statute. Beyond any statutory requirements adopted by the Congress, the NOFOs should continue to be focused on technical merit and project readiness.

Arbitrary Termination of Grant Awards. OMB's proposed revisions emphasize that Federal agencies retain ongoing programmatic discretion to terminate a discretionary grant after an award is made if it does not achieve the goals of the grant program or the priorities of the Federal grantor agency, or if the agency otherwise determines that the grant is no longer in the Federal Government's interest. More concerning is that the Government's ability to terminate discretionary awards, contracts, and agreements can be for "convenience" and for "discretionary reasons." These are incredibly ambiguous standards and are not defined by statute or in this Proposed Rule.

Question Value of Statements of Interest. The OMB "encourages" Federal agencies to use Statements of Interest ("SOI") as part of their NOFOs when expecting a high application volume or lengthy proposals. While the stated objective of SOI is to reduce burden, a new requirement by Federal agencies for applicants seeking discretionary grant awards to prepare and submit SOI adds an additional layer of burden, including additional costs. It will also result in delays and uncertainty until the review of SOIs is completed and invitations to submit full proposals are sent to the project sponsors that were determined to be the most likely to be successful in delivering results based on the program objectives, including alignment with administration policies and priorities. This proposal does not align with the OMB's stated objectives of the proposed revisions (improving transparency and accountability and reducing recipient burden).

Pre-Issuance Review is Redundant. Similarly, the OMB's Proposed Rule seeks to establish a new pre-issuance review process to strengthen the requirements for the Federal agency merit review, ensuring that proposals selected for funding are consistent with the national interest and advance the President's policy priorities, among other principles, when the proposed senior appointees conduct these reviews. As applicable to USDOT discretionary grant programs and awards, this new layer of review is redundant, as it is already being followed. For example, for USDOT's INFRA and BUILD programs, after completion of the eligibility and merit criteria review as part of the Analysis Phase, the selection process continues through the Senior Review Phase, resulting in recommendations to the USDOT Secretary, who selects projects for grant award. Another example is the FTA's CIG Program, in which the selection of projects for grant awards goes through a rigorous evaluation and approval process that includes a period for FTA's leadership and Congressional review before the execution of the grant agreement.

Lack of Appeals of Mid-Project Reviews and Termination. The OMB asserts that the authority of Federal agencies, as provided by Congress throughout the award lifecycle, to make discretionary awards necessarily includes the ability to revisit earlier decisions and re-exercise agency judgment in light of changing circumstances, including reconsidering earlier decisions about awards. This includes adding discretionary termination and suspension provisions in the award instrument either at the time of award or through an amendment. However, it ignores the need to first identify corrective actions, establish an appeals process, and assess how the withdrawal, termination, or suspension of the grant award will affect the feasibility of implementing the project, as well as the impact on the project sponsor, its contractors, and the communities that would benefit from the project during and after its implementation.

Taking any such action for reasons such as the project, project sponsors, and/or grant not advancing the President's policy priorities and/or national interests as they exist at the time of the action by the Federal agency is not acceptable and contradicts Congressional intent and authorizing legislation for discretionary grant programs. The termination or suspension of grant awards will create significant financial uncertainties for project sponsors, including for securing non-Federal funding that the Federal grant could help leverage and be used to meet statutory non-Federal match requirements and Federal grantor agency priority for grant awards. With payments from the Federal grant award made to reimburse the project sponsor for eligible expenses, receiving such payments after grant withdrawal, suspension, or termination needs to be taken into consideration by the Federal grantor agency when making such decision.

Single Senior Level Pre-Issuance Review of Grants Will Delay Projects and is Arbitrary. The OMB's proposal requires Federal agency heads to designate one or more senior appointees to conduct a pre-issuance review of all discretionary awards and to follow a prescriptive list of principles that include: i) demonstrating how such awards advance the President's policy priorities; and ii) giving the awards to agencies with lower indirect cost rates. These two criteria do not reflect merit-based awarding. It strictly prohibits the senior appointees (or their designee) from ministerially ratifying or routinely deferring to the recommendations of others (including those from peer review panels or expert career staff) and instead requires them to use their independent judgment when evaluating Federal award proposals. Leaving the decision on discretionary grant awards to the judgment of one person contradicts the OMB's stated objectives of the proposed revisions and its emphasis on making selections for discretionary grant awards based on merit-based criteria. The proposal slows the grant application review process and creates new risks and potential burdens for project sponsors, including increased project costs and delays to the project's schedule.

Risk Assessment. The OMB's proposed revisions require Federal agencies to establish and maintain policies and procedures for conducting a risk assessment no earlier than 30 days before the Federal award to evaluate the risks posed by applicants. This proposal imposes an additional burden on project sponsors and Federal agencies, including costs, and will delay project implementation. It also contradicts other federal regulations, such as the FTA's final rule for Project Management Oversight (effective July 6, 2026), which reduces the number of projects subject to project management oversight requirements and therefore reduces the regulatory burden on project sponsors and recipients of Federal grant awards.

Thank you for your attention to the concerns we have express above. We welcome the opportunity to discuss these comments further prior to publication of any final rule.

Sincerely,

Jeffrey F. Boothe

Chair

Cc: The Honorable Sean Duffy
Secretary, Department of Transportation

Jamie Pfister
Acting Executive Director
Federal Transit Administration