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Powering Strong Communities

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Re: Comments on Office of Management and Budget's Notice of Proposed Rule revising Guidance for Federal Financial Assistance
Docket # OMB-2026-0034

To Whom It May Concern:

The American Public Power Association (APPA) respectfully submits comments to the Office of Management and Budget's (OMB) proposed rulemaking offering revisions to the Guidance for Federal Financial Assistance.[1]

Introduction

APPA is the national trade organization representing the interests of the nation's 2,000 not-for-profit, community-owned electric utilities. Public power utilities are in every state except Hawaii. They collectively serve over 55 million people and account for 15 percent of all sales of electric energy (kilowatt-hours) to end-use customers. Public power utilities are load-serving entities, with the primary goal of providing the communities they serve with safe, reliable electric service at the lowest reasonable cost.

APPA appreciates the opportunity to comment on this proposed rulemaking. The association has successfully executed multiple federally funded agreements totaling over $44.5 million. This funding has helped APPA to provide technical assistance to members to advance their cyber and physical security infrastructure and knowledge, including to utilities who serve military installations, guidance on implementing new technologies to ensure service to critical load, and to assist in wildfire mitigation. This funding has also helped APPA to offer toolkits, and other educational opportunities to its public power member utilities. In turn, members have used this technical assistance to deploy programs that have strengthened the nation's electric grid, enhanced resiliency and reliability, and to develop advanced technologies to better serve their customers.

Many aspects of this proposed rule would streamline the application process and remove unnecessary duplication. These changes would alleviate recipient and applicant burdens. APPA is concerned, however, that certain provisions would create new burdens for applicants and recipients of federal funding. Most public power utilities are small and locally owned entities,

[1] Code of Federal Regulation, Title 2, Federal Financial Assistance. https://www.ecfr.gov/current/title-2

with over 80 percent serving communities with fewer than 25,000 people, and some of the proposed rules would negatively impact their ability to apply for and receive federal funding.

APPA addresses the bulk of its comments to proposed revisions to these subsections:

[200.201] Use of Grants, Cooperative Agreements, and Contracts
OMB proposes to eliminate the use of fixed amount awards unless otherwise authorized by federal statute. While we appreciate OMB's concern about transparency, we are concerned that this provision would deter smaller not-for-profit, community owned electric utilities from applying for federal funding. As mentioned above, most public power utilities are small. Of the nation's 2,000 publicly owned electric utilities, all but 46 sold fewer than 4,000,000 megawatt-hours (MWh) according to 2024 Energy Information Administration (EIA) data, meaning they would qualify as small utilities under Small Business Administration (SBA) regulations. Three-quarters of public power utilities have total revenues of less than $15 million. Fixed amount awards provide a level of financial assurance to these small utilities, who operate with relatively tight margins. The elimination of this type of award could deter them from seeking federal funding to deploy grid enhancing projects focused on reliability, wildfire mitigation, and improved cyber and physical security.

OMB states that it is concerned that this type of award can hinder transparency and impede effective oversight. APPA and its members have executed numerous fixed amount awards while maintaining high levels of transparency. All federal funding is subject to Freedom of Information (FOIA) oversight. Additionally, other federal reporting requirements, including quarterly performance reports (QPRs), ensure financial transparency. If APPA or its members were ever negligent in the handling of federal funds, this would be observable in their regular reports to the relevant administrator. The elimination of fixed awards would thus have no observable impact on transparency.

[200.202] - Program Planning and Design
APPA applauds OMB's proposal to add a paragraph to subsection (f) encouraging agencies to design multi-year awards with budget periods longer than one year. This would increase financial security for awardees while reducing the administrative burden. We regularly hear from our members that the administrative burden is a key deterrent to accessing these funds. Multi-year awards also enable recipients to plan and implement longer-term projects, which are often more effective at addressing complex, evolving challenges, and mitigating risks facing our members.

[200.204] - Notice of Funding Opportunities (NOFO)
APPA supports several of the proposed revisions under this subsection, particularly the encouragement to use more plain language in NOFO, as well as allowing longer posting times. Applications often contain ambiguous and even conflicting instructions, causing applicants to guess at an agency's intent. Similarly, ensuring that there is a reasonable application period provides applicants with adequate time to compile their proposals, especially those which may include multiple sub-applicants. These changes would help reduce administrative burden while improving the quality and clarity of applications.

APPA is concerned with other changes to this subsection. Agencies would be directed to design programs that align with "administration policies and priorities." This may be in tension with the directive that programs "further public purposes authorized by law." Agencies might interpret the new language to delay or decline issuing NOFO for authorized or mandated programs that do not align with current executive priorities. Moreover, many public power utilities use federal dollars to build or deploy multimillion dollar projects, such as capital improvements in generation, transmission, or distribution projects to enhance grid reliability. This requires up front planning and engineering with long lead times in the supply chains for needed equipment. Creating uncertainty for "administration policies and priorities" could mean that the utilities anticipating cost recovery from the federal government would no longer be able to rely upon these funds even after an initial award has been issued with any real certainty.

While consolidation through grants.gov may streamline the application process, there is a risk that some funding opportunities may not be sufficiently communicated to audiences beyond this portal. As discussed above, many APPA members are small electric utilities with limited staff available to monitor federal funding opportunities. This provision would reduce the transparency usually associated with the NOFO process. If funding opportunities are not adequately publicized, smaller public power utilities may miss the opportunity to apply.

[200.322] – Domestic Preferences for Procurements

OMB proposes to shift from the current broader aspirational domestic-preference language to a framework directing agencies, to the greatest extent practicable and consistent with law, to include award terms and conditions that maximize the use of goods, products and materials produced in the United States. APPA encourages OMB to provide more clarity on what qualifies as domestic content. Public power utilities have expressed confusion around some of the provisions of the Build America, Buy America (BABA) requirements, and would appreciate clearer guidance to ensure compliance. Additionally, we caution that these requirements should be flexible and based on realistic appraisals of product availability and potential supply chain constraints. Also, there should be careful consideration of potential cost increases associated with these taxpayer-funded projects if the requirements are too stringently applied.

[200.331] – Subrecipient and Contractor Determinations

Revisions to this section would require awardees to ensure all entities collaborating with the prime recipient to report on sam.gov. APPA believes this would create an unnecessary burden on recipients. While we recognize the importance of transparency, as already noted, all federal awards are already subject to FOIA requirements. Additionally, all Department of Energy subawards are subject to review and approval by the National Energy Technology Laboratory. Furthermore, the Federal Funding Accountability and Transparency Act (FFATA) requires recipients of federal awards to report any subawards that equal or exceed $30,000. This includes obligations made to subrecipients and must be reported in SAM by the end of the month following the month in which the obligation was made. In light of existing regulations already in place, this additional proposed requirement is unnecessarily burdensome and provides little value.

[200.340] – Termination and Suspension
This subsection would permit much wider agency discretion to cancel awards. The overall impact of this subsection would be to create financial uncertainty for recipients while providing little recourse to appeal agency determinations.

APPA understands the need to ensure that taxpayer money is safeguarded and spent in a manner that aligns with the administration's priorities, as long as these priorities are consistent with statutory approval. If discretionary cancellation authority is significantly expanded, this would alter how utilities apply for funding, and may deter them from applying at all, especially for projects which could span multiple years and across different presidential administrations, as many significant projects do.

After years of mostly flat load growth, electric utilities across the country are seeing rising load growth due to data centers and the reshoring of manufacturing. Furthermore, load growth is projected to rise for the foreseeable future. Though efforts are underway to build more generation and infrastructure to meet this demand, many projects will take at least four years and longer to complete. If federally funded projects to build new infrastructure and enhance existing infrastructure are abruptly cancelled mid-stream, it would have significant impacts on grid reliability and could cause severe economic consequences. Electric utilities could be left with stranded assets and an inability to efficiently and safely interconnect load. Stranded asset cost would be borne by rate payers, which would impact affordability. Public power utilities may be averse to undertaking these projects absent some level of assurance that federal funding would be available for the life of the project, or at a minimum, would have an opportunity to appeal cancelation determinations.

The safeguards offered in the proposed rulemaking do not adequately address concerns over cancellations. OMB notes that if grant recipients believe their termination is unlawful, they can raise concerns with the U.S. Court of Federal Claims. These appeals are lengthy and burdensome. Even if the appeal is successful, the length of the appeal process may make it difficult or impossible to resume work.

[200.341]—Notification of Termination Requirement
OMB proposes to expressly require agencies to provide a brief summary of the reason or reasons why it decided to terminate an award or class of awards. However, there is no requirement that the summary provide a detailed or exhaustive analysis. Instead, it is only meant to ensure that the recipient or subrecipient is provided with information regarding the reason for termination. APPA is concerned that the language of this proposal is vague and would only require agencies to provide a minimal explanation for its termination, leaving recipients with insufficient information as to why their contracts were terminated. This lack of information could also make the appeals process more difficult.

The proposed rule would also require recipients to stop work and terminate all sub-awards and contracts related to the terminated portion of the award. Entities that work extensively with vendors would have to re-work many of their contract templates to account for rapid termination and to provide dispute resolutions in line with federal requirements. This provision may also make vendors somewhat more reluctant to engage in projects tied to federal funding, as their contracts could be terminated even if they have lived up to the terms of the agreement.

Conclusion
APPA appreciates the opportunity to respond to this proposal. If you have any questions regarding our submission, please do not hesitate to contact us.

Respectfully submitted,

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