Summary

A proposed new rule would replace merit-based funding of science with a heavily politicized process. It would also deprive scientists of the ability to rely on finding for long-term projects. This proposal has no real legal basis. It is likely to undermine American science, giving a boost to China's efforts to take over global scientific leadership.

Last week, Trump’s Office of Management and Budget (OMB) proposed a sweeping new regulation of grants across the federal government. Here are two quick takeaways. First, OMB gives every sign of realizing it is on shaky legal ground. Second, the OMB rule seeks to continue Trump’s 2025 campaign to rip apart research funding. The goals of that campaign were to destabilize scientific research; squelch research on forbidden topics like climate change, clean energy, race, and gender; and inhibit academic criticism of the Administration. The legal basis for the 2025 campaign was dubious and did not do well in court. OMB is now trying to create a foundation for making the war on science permanent.

Let me begin with the first point: OMB’s legal analysis gives every sign of papering over legal difficulties. It is vague and seems to admit that its effort to seize control of all grant-making goes beyond precedent. The sources of authority that OMB cites center on government efficiency but don’t give OMB power to control substantive policies. After all, it’s the Office of *Management and Budget*, not the Office of Governmental Policy.

OMB relies primarily on 31 U.S.C. 503, which is about the power of the deputy director — itself a sign that the provision is not intended as a vast delegation of authority. Under section 503, the Deputy “shall establish governmentwide financial management policies for executive agencies” and shall perform a list of “financial management functions.” Those financial management functions include ”establishing financial management policies and requirements,” which OMB cites as the primary basis for its new rule. OMB also refers to its authority to “issue supplementary interpretative guidelines to promote consistent and efficient use of procurement contracts, grant agreements, and cooperative agreements.” That’s in 31 U.S.C. 6307. (Note that these are guidelines, not rules.) This section clearly doesn’t give OMB the power to impose policies that go beyond promoting efficiency.

Yet the rule is full of substantive provisions such as banning what the

Administration likes to call gender ideology, which means any non-traditional view about gender. Similarly, it strikes out at DEI and environmental justice, an argument that was used in 2025 to cancel projects relating to racial health disparities. And the broader threat to deny funding to any project conflicting with Administration policies – and to cancel funding on a moment's notice if a project falls off the Trump Train – goes far beyond any concern with efficiency. Don't forget that "administration policy" is very broad. For instance, in one Executive Order, Trump embraces biological racism and denounces the view that "race is not a biological reality but a social construct." Clearly signs of ideological impurity could imperil funding. The mandate to comply with administrative policy would impose a stifling ideological conformity, raising serious First Amendment issues.

The rule has an exception for cases where the governing statute of an agency overrides one of its provisions, as indeed it must. Yet, it attempts to avoid the need for agencies to provide a reasoned explanation of how these provisions will achieve their specific research missions. For example, it fails to consider the possibility that researchers will be reluctant to pursue long-term research projects given the looming risk of unexpected political cancellation. That could be a much bigger problem for some types of research than others. Also, laws applying to specific agencies may vary significantly. While agencies have signed on to the OMB rule *en masse*, there is no consideration in the rule of agency-specific conditions, including differences in agency missions.

Researchers still remember the chaos of grant cancellations in 2025. The new rule gives complete control to political appointees pursuing Administration policies rather than prioritizing scientific merit in awarding grants. It also emphasizes that grants are always at the mercy of shifting Administration priorities. For science as a whole these are the most damaging parts of the rules, because they politicize research funding, eliminate merit-based grant awards, and make it hard to rely on funding for any project that lasts beyond the next presidential election. What had been a very competitive quest for scientific excellence is in the midst of being transformed into a much more political process, which can only damage American science as a whole.

The Administration's antipathy toward science remains a puzzle. It is reflected not only in the grant-cancelling jihad but in efforts to gut funding for NSF and NIH. But who is against finding useful new chemicals and materials? Or lifesaving treatments? Or a better understanding of AI's economic impact? And what American is in favor of ceding scientific leadership to China? The answer is "the Trump

Administration,” but don’t ask me why.

Update note: The argument that OMB lacks the statutory authority to issue the rule is developed in more depth in an issue brief from Governing for Impact, which came put a week after this post. One interesting point is that OMB previously characterized similar efforts as guidance rather than binding regulations.