

March 3, 2025

Via Federal eRulemaking Portal

Secretary Scott Turner
United States Department of Housing and Urban Development
c/o The Regulations Division, Office of General Counsel
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

Re: EPPC Scholar Comment Responding to Department of Housing and Urban Development's Proposed Rule "HUD's Implementation of OMB's Guidance for Federal Financial Assistance," RIN 2501-AE01

Dear Secretary Turner:

I am a scholar and Policy Analyst at the Ethics and Public Policy Center (EPPC). I write in response to the Department of Housing and Urban Development's (HUD) proposed rule "HUD's Implementation of OMB's Guidance for Federal Financial Assistance."¹ According to the proposed rule, its intent is to "conform with 2020 and 2024 changes to Office of Management and Budget (OMB) guidance governing Federal financial assistance."²

In the section on "Questions for Public Comment," the Department requests comments "on all aspects of the proposed rule," including,

Section 200.300 of title 2 of the CFR requires that agencies or pass-through entities manage and administer Federal awards in a manner to ensure compliance with applicable Federal nondiscrimination and environmental protection provisions. OMB also added paragraphs clarifying that sex discrimination encompasses sexual orientation and gender identity. Are these provisions, along with HUD regulations, such as those in 24 CFR part 5, sufficiently clear to make recipients aware of their civil rights and environmental protection obligations? What additional provisions, if any, should HUD add to program and

¹ 89 Fed. Reg. 107072 (Dec. 31, 2024), <https://www.federalregister.gov/documents/2024/12/31/2024-30260/hud-implementation-of-ombs-guidance-for-federal-financial-assistance>.

² *Id.* at 107072.

crosscutting regulations that would help ensure that Federal awards are administered in compliance with Federal nondiscrimination and environmental protection requirements?³

The Department should not adopt Section 200.300(b) and (c) of title 2 of the CFR in any finalized rule. This section does not align with President Trump's January 20, 2025, Executive Order, "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government."⁴ I specifically direct you to the following aspects of the President's Executive Order:

- Section 2(f) recognizes that "Gender ideology is internally inconsistent, in that it diminishes sex as an identifiable or useful category but nevertheless maintains that it is possible for a person to be born in the wrong sexed body."
- Section 2(g) recognizes that "'Gender identity' reflects a fully internal and subjective sense of self, disconnected from biological reality and sex and existing on an infinite continuum, that does not provide a meaningful basis for identification and cannot be recognized as a replacement for sex."
- Section 3(b) states that federal agencies "shall enforce laws governing sex-based rights, protections, opportunities, and accommodations to protect men and women as biologically distinct sexes."
- Section 3(c) states that, "[w]hen administering or enforcing sex-based distinctions," federal agencies "shall use the term 'sex' and not 'gender' in all applicable Federal policies and documents."
- Section 3(f) instructs the Attorney General to "immediately issue guidance to agencies to correct the misapplication of the Supreme Court's decision in *Bostock v. Clayton County* (2020) to sex-based distinctions in agency activities."

More broadly, I encourage HUD to review the identified provisions of the President's Executive Order on Gender Ideology, along with any guidance or other relevant documents issued pursuant to the President's Executive Order, as it considers adopting 24 CFR Section 200.300.

Conclusion

For the reasons stated above, I urge HUD to carefully examine its reference to and reliance on the OMB Guidance in light of President Trump's executive orders. I hope this public comment helps the Department better carry out its important responsibilities and ensure that the agency's actions and policies reflect the President's priorities and directives.

Sincerely,

³ *Id.* at 107088.

⁴ The White House. (2025, January 21). Defending women from gender ideology extremism and restoring biological truth to the federal government. <https://www.whitehouse.gov/presidential-actions/2025/01/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal-government/>.

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