Introduction
Center for Election Confidence, Inc. ("CEC") is a non-profit organization recognized as a key "civil society group"[1] that promotes ethics, integrity, and professionalism in the electoral process. CEC works to ensure that all citizens can vote freely within an election system of reasonable procedures that promote election integrity, prevent vote dilution and disenfranchisement, and instill public confidence in election systems and outcomes. CEC is and recognized as a tax-exempt social-welfare organization under section 501(c)(4) of the Internal Revenue Code.[2]

CEC submits these comments in response to the joint proposal by the Office of Management and Budget ("OMB") and the U.S. Election Assistance Commission ("EAC") (together, the "Agencies") to revise regulations governing the disbursement of federal election grant funds.[3] CEC's comments are deliberately narrow. They address only the proposed treatment of tax-exempt organizations, the treatment of HAVA formula grants, and the proposed prohibition on using award funds for voter-registration campaigns or similar activity.

CEC supports the proposal's central premise that federal assistance must serve the public purposes authorized by Congress and must not become a subsidy for unrelated political advocacy, lobbying, or voter-mobilization activity. Greater clarity, oversight, and fiscal accountability are especially important where federal funds support election administration. The final rule, however, should draw precise lines with objective criteria. Tax-exempt status should not substitute for a project-specific assessment of eligibility and risk and HAVA formula grants' exemption from discretionary termination should be made express. Further, subject to the considerations laid out for narrowly tailored eligibility restrictions, CEC generally supports the proposed amendments to 2 C.F.R. § 200.450(c)(1) concerning the Federal grant eligibility for organizations that conduct certain voter registration, issue advocacy, influence campaigns, or related activities.

I. Nonprofit Eligibility Should Be Narrowly Tailored and Turn on Statutory Fit and Demonstrated Risk, Not Tax-Exempt Status Alone

<u>2 C.F.R. § 200.202(d)</u>
Proposed 2 C.F.R. § 200.202(d) would permit Federal agencies to restrict eligibility for certain funding opportunities based solely on specific tax-exempt designations and would require a notice of funding opportunity to identify the Internal Revenue Code categories of nonprofit organizations eligible to apply whenever an agency institutes such a restriction. It further states that agencies should consider such restrictions when warranted by statute, program objectives, or "risk considerations."[4] CEC supports the transparency component. An applicant should not spend time and resources preparing a proposal only to learn later that the agency silently treated its tax classification as disqualifying.

[1] Elena Patel, Brookings Institute (Dec. 30, 2025), https://www.brookings.edu/articles/when-a-postmark-no-longer-tracks-mailing/.
[2] 26 U.S.C. § 501(c)(4)(A).
[3] Regulation for Federal Financial Assistance, 91 Fed. Reg. 32,198, 32,303 (proposed May 29, 2026) (to be codified at 2 C.F.R. § 5801.10).
[4] *Id*. at 32,247 (proposed § 200.202(d)).

The Agencies' proposal to employ available discretion to limit grant eligibility using bright-line tax-exempt categories,[5] however, should be more carefully bounded. A tax-exempt classification describes an organization's permissible purposes; it is not a substitute for examining the proposed activity, the authorizing statute, the applicant's compliance history, or the safeguards attached to the award.

The final rule should therefore require written, objective, and program-specific eligibility criteria grounded in statute. Unless Congress has so prescribed, a Federal agency should be permitted to exclude a whole category of tax-exempt organizations only after determining that the restriction is reasonably related to the program's statutory objectives or to a documented compliance risk that cannot be adequately addressed through ordinary award conditions. The notice should briefly state that basis. Agencies should also consider less restrictive controls, including segregated accounts, project-specific budgets, timekeeping, cost-allocation procedures, audit rights, certifications, and special conditions under proposed 2 C.F.R. § 200.208. These are familiar tools for ensuring that federal dollars support only the funded project without treating an organization's lawful, separately financed activities as disqualifying.

CEC is not asking OMB to make all tax-exempt organizations eligible to apply for every federal grant. Congress and agencies may define an eligible applicant pool consistent with law. CEC asks only that "risk considerations" not become an unexplained proxy for tax status, perceived viewpoint, or an organization's lawful advocacy outside the award. A concise written nexus between the restriction and the program would improve transparency, facilitate consistent administration, and reduce the possibility that similarly situated applicants are treated differently.[6]

II. The Final Rule Should Expressly Reference the Exemption of HAVA Formula Awards from Discretionary Termination

<u>2 C.F.R. §§ 200.340 and 5801.10</u>
Proposed 2 C.F.R. § 200.340 would permit discretionary termination when an award no longer effectuates program goals, agency priorities, or the national interest as those interests exist at the time of termination. The proposal also recognizes that this authority generally does not apply to awards made under statutory-formula programs or other programs in which legislation establishes an entitlement to the funds.[7]

That specific exception is important for the EAC. Major HAVA programs distribute funds to eligible states and territories according to statutory formulas rather than through a competitive selection process. The EAC itself describes HAVA election-security funding as "formula funding" and explains that HAVA allocations follow

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[5] For the EAC, affected grants would include those pursuant to the Help America Vote College Program, *authorized by* Sections 501-503, Help America Vote Act of 2002, 107 P.L. 252, *codified at* 52 U.S.C. § 21121 *et seq*. ("In making grants under the Program, the Commission shall ensure that the funds provided are spent for projects and activities which are carried out without partisan bias or without promoting any particular point of view regarding any issue, and that each recipient is governed in a balanced manner which does not reflect any partisan bias.").
[6] The same distinction should be carried into proposed 2 C.F.R. § 200.454(d), which makes membership costs unallowable when an organization's primary purpose is lobbying or issue advocacy. CEC agrees that federal award funds should not pay dues principally supporting lobbying or issue advocacy. But the final rule should clarify that "primary purpose" is determined from the organization's actual activities and the nature of the membership expense, not from a certain tax-exempt status alone. It should also clarify that the unallowability of a particular membership cost does not, without more, render the member organization or the recipient categorically ineligible for an award.
[7] 91 Fed. Reg. at 32,259 (proposed 2 C.F.R. §§ 200.340(a)(2), (b)(2)).

congressionally prescribed formulas.[8] Additionally, states plan multi-year procurement, cybersecurity, accessibility, and election-administration projects in reliance on those awards. Their eligibility and allocation should not change merely because an agency or administration later adopts different policy preferences.

OMB and the EAC should therefore note expressly that HAVA awards allocated by statutory formula are included within the exception described by 2 C.F.R. § 200.340(b)(2). That clarification would not insulate a recipient from remedies for noncompliance, misuse, unsupported costs, failure to satisfy HAVA conditions, or other violations but would simply preserve and make express the proposed rule's own distinction between discretionary awards and funds Congress directed to be distributed by formula.

For genuinely discretionary EAC grants,[9] a sufficiently specific written explanation should be required before discretionary termination. The notice should identify the statutory or published program objective no longer served, the material facts supporting that conclusion, and whether a narrower corrective measure would protect the government's interest.[10] A brief internal review procedure would reduce arbitrary or inconsistent terminations without converting a discretionary grant into an entitlement.

This distinction matters to nonprofit applicants as well. The EAC has used discretionary authority to make tax-exempt organizations eligible for nonpartisan poll-worker recruitment grants.[11] An applicant should understand at the outset whether an award is discretionary, what objectives govern selection and continuation, and what standards could support termination. Clear notice promotes competition, compliance, and responsible project planning.

III. Support for Voter-Registration Activity Restriction

2 C.F.R. § 200.450(c)(1)

CEC generally supports proposed 2 C.F.R. § 200.450(c)(1), which would make costs unallowable for establishing, administering, contributing to, or paying the expenses of a voter-registration campaign, voter-registration drive, issue advocacy, influence campaigns, and other, similar activities.[12] Subject to the considerations laid out above for narrowly tailored eligibility restrictions, CEC supports a clear prohibition on using federal award funds to finance voter-registration drives or private voter-mobilization campaigns. Federal election-administration dollars should not subsidize efforts to build an electorate for political, ideological, or organizational ends.

Conclusion

CEC supports stronger accountability for federal awards and clear limits preventing federal funds from subsidizing unrelated political advocacy, lobbying, or voter-registration campaigns. The final rule should nevertheless be precise to ensure eligibility restrictions are narrowly tailored. CEC respectfully requests that OMB and the EAC: require a documented, program-specific basis for excluding tax-exempt categories and expressly confirm that statutory-formula HAVA awards are outside discretionary termination and suspension. Subject to

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[8] U.S. Election Assistance Comm'n, HAVA Grant Programs, https://www.eac.gov/grants/hava-grant-programs (last visited July 13, 2026); U.S. Election Assistance Comm'n, Election Security Grant, https://www.eac.gov/grants/election-security-funds (last visited July 13, 2026).
[9] *See supra* n. 5.
[10] Proposed 2 C.F.R. § 200.341 requires written notice but does not provide the same express opportunity to object that applies to a termination for noncompliance.
[11] *See supra* n. 5.
[12] 91 Fed. Reg. at 32,263 (proposed 2 C.F.R. § 200.450(c)(1)).

the considerations laid out concerning narrowly tailored grant eligibility restrictions, CEC generally supports the provisions at proposed 2 C.F.R. § 200.450(c)(1) concerning the Federal grant eligibility for organizations that conduct certain voter registration, issue advocacy, influence campaigns, or related activities.

These focused revisions would improve transparency and oversight without creating avoidable uncertainty for nonprofit applicants, election officials, or the EAC. They would also better ensure that every federal election grant remains tied to Congress's authorized public purposes and administered under the legal safeguards Congress enacted.

Respectfully submitted this 13th day of July 2026,

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