

Overview & FAQs of GSA's Proposed Changes to the Required Certifications by Recipients of Federal Funds

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The Trump Administration is taking action in a low-profile part of the federal government that could significantly change the required conditions for receiving federal funding. **If finalized, these changes would seek to contractually bind almost all federal grantees and contractors—across all agencies, including the U.S. Department of Education—to the Administration's interpretations of what is lawful or unlawful regarding diversity, equity, and inclusion; immigration; public safety; and religious liberty.** Further, if the Administration later decides a funding recipient is out of compliance, it could pursue civil and criminal penalties in addition to potential loss of federal funds. Applying these types of conditions and penalties to just about every contract or grant provided by the federal government could have major implications on state, local, and organizational policies and practices.

These proposed changes are a big deal. They would carry significant consequences for almost any recipient of a federal grant or contract, including state education agencies, local education agencies, Head Start programs, institutions of higher education, and partners such as non-profit organizations. Education leaders should not only be aware of this development but also **consider [weighing in](#) via the public comment period ending on 3/30/26.**

Below we summarize the proposed changes and answer some frequently asked questions.

Overview

On 1/28/26, the General Services Administration (GSA) issued a [notice and request for comments](#) on a [proposed revision](#) to the “Financial Assistance General Certifications and Representations” in GSA’s System for Award Management (SAM or [SAM.gov](#)).¹ Registering in SAM is required to apply to any federal agency for grants or loans or to bid on government contracts. According to the notice, the revisions are designed to “align with updated executive branch guidance including” President Trump’s “[Ending Illegal Discrimination and Restoring Merit-Based Opportunity](#)” executive order (EO) and the U.S. Department of Justice’s more recent [guidance](#) on applying federal antidiscrimination law to efforts by any federal funding recipient to advance diversity, equity, and inclusion (DEI) or diversity, equity, and inclusion, and accessibility (DEIA). The list of certifications ends with a catch-all requirement, which appears in the existing version, that entities registering with SAM must comply with all “applicable requirements” of not just federal laws and regulations but also “executive orders” and “public policies.”

Under the proposal, when current or future funding recipients register or update their registration in SAM, they would have to agree to, among other things, three *new* certifications:

¹ For the current version of the SAM certifications, GSA points to Appendix I of SAM’s “[Entity Registration Checklist](#).”

“Will comply with the U.S. Constitution, all Federal laws, and relevant executive orders prohibiting unlawful discrimination on the basis of race or color in the administration of federally funded programs,” including those “labeled as” DEI or DEIA programs;

“Will not knowingly bring or attempt to bring to the United States, transport, conceal, harbor, shield, hire, or recruit for a fee an illegal alien; and will not induce an alien to enter or reside in the United States with reckless disregard of the fact that the alien is illegal”; and

“Will not fund, subsidize, or facilitate violence, terrorism, or other illegal activities that threaten public safety or national security.”

The anti-DEI certification includes an extensive (but only illustrative) list of practices that GSA states “may” violate antidiscrimination laws, including among others the “use of ‘cultural competence’ requirements, ‘overcoming obstacles’ narratives, or ‘diversity statements.’”

In addition, GSA would slightly expand an *existing* SAM certification of note:

“Will comply with the U.S. Constitution, all Federal laws, and relevant Executive branch guidance in promoting the freedom of speech and religious liberty in the administration of federally-funded programs.”²

Regarding penalties for non-compliance, the catch-all certification at the end of the list expressly references potential application of the False Claims Act and a federal criminal law regarding false statements. Further, the SAM certifications section concludes with the following, which reinforces the potential consequences if the Administration later determines the grantee or contractor is not complying with any certification:

By submitting this certification, I, [AUTHORIZED OFFICIAL], am attesting to the accuracy of the certifications and representations contained herein. I understand that I may be subject to criminal prosecution under Section 1001, Title 18 of the United States Code or civil liability under the False Claims Act if I misrepresent [ORGANIZATION NAME] by providing false, fictitious, or fraudulent information to the U.S. Government.

As noted above, comments on the proposed revisions are due on 3/30/26. Before going into effect, GSA should publish a final version.

² GSA’s proposed revision to this speech and religion certification—expanding from “Executive guidance” to “Executive branch guidance”—suggests the inclusion of agency guidance documents, although GSA does not identify which guidance the certification incorporates.

FREQUENTLY ASKED QUESTIONS

Who will this affect?

Almost all recipients of federal funds. Almost every recipient of federal funding must register in SAM to do business with the government, including among other things both grants and contracts. When registering in SAM—or updating that registration—federal funding recipients would have to agree to the certification that GSA proposes revising via this notice as a prerequisite to receiving federal funds or entering into a federal partnership. This is not limited to contracts and grants from GSA but also applies to funds provided by other federal agencies including the U.S. Departments of Education, Health and Human Services, Labor, and Agriculture.³

Most of the DEI examples seem to be from higher education. Do these certifications apply to K-12 and early education?

Yes. The certifications are required of everyone registering in SAM, including early childhood and K-12 grantees or contractors, such as state agencies, school districts, and nonprofit organizations (e.g., Head Start providers). There is no language limiting any of the certifications, including the anti-DEI one, to only certain types of federal grantees or contractors. Furthermore, the examples of “practices that may violate applicable Federal anti-discrimination laws” are merely illustrative and appear to be directly drawn from the recent DOJ guidance, which is explicitly addressed to, among others, “state and local governments.” Although some of the specific examples are more commonly found in higher education contexts, most if not all of them have analogues in early childhood and K-12 settings. For example, education systems and organizations at all levels may implement “[t]raining programs” designed to advance diversity, equity, and inclusion.

Do the certifications attempt to require complying with anything beyond federal law?

Likely yes. Although it is possible to read the proposed certifications as merely repeating standard assurances to follow the law, the proposed certifications are vague and broad (which may cause chilling effects) and appear to go beyond the current state of the law in several ways. They suggest registering in SAM would include certifying compliance with the Administration’s policy views on DEI, immigration, terrorism/public safety, and free speech/religious liberty. By incorporating both examples from DOJ’s guidance and President Trump’s EOs—several of which have been halted by federal courts—the GSA proposal would at minimum subject recipients of federal funding to ongoing uncertainty as to what they can and cannot do without incurring liability. Exacerbating that uncertainty is the Administration’s track record of pursuing investigations and withholding funds based on its policy preferences.

This risk is especially high with respect to DEI-related policies because the introductory language of GSA’s notice (“Need & Method for the Information Collection”) explicitly references DOJ’s guidance even though DOJ itself described that document as “non-binding.” As noted above, GSA also includes many of DOJ’s examples in the text of the certification itself. (For more on the DOJ guidance, including how it is likely to chill lawful conduct, see our Deep Dive, “[Misguidance](#).”)

³ The GSA proposal does not indicate whether the Administration intends to also require these or similar certifications in the U.S. Department of Education’s G6 System, which is used by institutions of higher education to access their Title IV student assistance funds.

Didn't the Administration recently give up defending its anti-DEI Dear Colleague Letter in education, dropping its appeal in a lawsuit about it?

Yes, but... In February 2025, the U.S. Department of Education's (USED) Office for Civil Rights (OCR) issued a Dear Colleague Letter (DCL) that sought to "clarify and reaffirm" how federal law applies to efforts to advance diversity, equity, and inclusion. Despite this type of guidance being non-binding, OCR accompanied it with a demand that all states and school districts certify that they would comply with the guidance's take on what was legal or illegal. Multiple lawsuits followed, and three different federal courts temporarily halted the Administration's efforts. One court proceeded to a final decision that permanently vacated the guidance because OCR had acted illegally in issuing it and in demanding compliance.

Most federal courts have rejected the Administration's anti-DEI policy position in education (on the merits). But, the Administration's recent abandonment of its appeal in the OCR DCL case does not signal, as some have suggested, a broad retreat of the Administration's anti-DEI efforts, as illustrated by DOJ issuing its government-wide guidance cited by GSA here. The proposed GSA action would continue that line of work and apply to recipients of federal funds from *all* agencies rather than just USED's. Further, it would incorporate other Administration policy priorities as well, including policies regarding immigration and terrorism.

The Administration is enforcing its interpretation of the law anyway, so what difference do these GSA certifications make?

Quite a bit. Over the past year, the Administration has used multiple methods of enforcing its interpretations of Title VI and other antidiscrimination laws, including investigations, lawsuits, and grant cancellations. But one reason the Administration may be turning to the SAM assurances is that these other strategies have limitations. Numerous federal courts have blocked some of these Administration actions on both procedural and (increasingly) substantive grounds, including the court that blocked the OCR DCL discussed above. Further, following massive reductions-in-force and other personnel moves, the federal government currently has a smaller workforce to carry out the steps involved in investigating, suing, or reviewing grants.

The SAM assurances, on the other hand, would quickly apply high-stakes pressure on all recipients of federal funding to curb even legal activities that might run afoul of the Administration's interpretations. The pressure comes via the threat of criminal liability and/or civil liability under the False Claims Act, the latter of which can even be enforced through private citizens. In a future dispute, the Administration could point to the certifications as evidence that the funding recipient affirmatively agreed to follow the relevant part of the Administration's "updated executive branch guidance," and that a failure to do so constituted an actionable false claim or even a breach of contract. Even if the Administration's interpretation is later overturned by a court, the damage to a grantee may already be done.

Indeed, last year, the mere demand to certify compliance with OCR's guidance led numerous school systems to undo some of their efforts to advance diversity, equity, and inclusion—likely including many that were lawful under Title VI. Because the proposed revisions to the SAM assurances would leave federal grantees uncertain as to what they can and cannot do, many may similarly choose to avoid liability by preemptively complying with the Administration's wishes.

We don't use our federal funding for anything related to DEI, immigration, or the other topics in these assurances. Would this action by GSA still affect us?

Probably. It is true that two of the four certifications highlighted above—anti-DEI and free speech/religious liberty—include seemingly limiting language: “in the administration of federally funded programs.” (The immigration and terrorism/public safety ones do not.) But numerous federal laws, including antidiscrimination laws like Title VI, apply to *all* of a recipient’s programs and activities, not just those relying on federal funds. Further, the final catch-all certification that requires certifying compliance with EOs and “public policies” does not contain that same limiting language.

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