

3/10/2026

Thomas Shedd
Director, Technology Transformation Services
Deputy Commissioner, Federal Acquisition Service
U.S. General Services Administration
1800 F Street, NW
Washington, DC 20405

RE: 3090-0290, System for Award Management Registration Requirements for Financial Assistance Recipients

Dear Director Shedd,

The *Center for Racial and Disability Justice* (CRDJ) at UCLA School of Law is a research center focused on advancing equity at the intersection of race and disability. We submit this comment in response to the General Services Administration’s (GSA) [proposed revisions](#) to the System for Award Management (SAM) financial assistance certifications, including the new certification language concerning compliance with federal anti-discrimination laws and “relevant executive orders.”

We are commenting because the proposed language raises concerns about clarity, scope, and potential unintended effects on lawful diversity, equity, inclusion, and accessibility (DEIA) initiatives. As a center that studies and works alongside organizations serving racialized and disabled communities, we are attentive to how federal funding conditions shape institutional practices and access to critical services. Clear and legally grounded certification requirements are essential to ensuring both civil rights compliance and continued support for efforts to address documented disparities.

The proposed certification revisions raise several structural concerns about clarity, implementation, and downstream impact. While strong enforcement of anti-discrimination law is essential, funding conditions must be carefully framed to avoid undermining lawful efforts to address documented disparities. In particular, we highlight the following concerns:

- **Vagueness Chills Lawful Equity Work**
- **Unstable Funding Conditions**
- **Narrowing Structural Discrimination Protections**
- **Threat to Intersectional Programming**
- **Disproportionate Burden on Community Organizations**



BACKGROUND

The General Services Administration (GSA), through the Technology Transformation Services office, has [proposed revisions](#) to the System for Award Management (SAM) financial assistance certifications under OMB Control No. 3090-0290. The proposal would require recipients of federal financial assistance to certify compliance not only with the Constitution and applicable federal anti-discrimination statutes, but also with “relevant executive orders,” and includes language stating that federal anti-discrimination laws apply to programs or initiatives that involve discriminatory practices, including those labeled as Diversity, Equity, Inclusion, and Accessibility (DEIA) programs.

CRDJ strongly supports robust enforcement of federal anti-discrimination law. Compliance with [Title VI of the Civil Rights Act](#), [Section 504 of the Rehabilitation Act](#), the [Americans with Disabilities Act](#) (ADA), and related civil rights protections is essential to ensuring equal access to federally funded programs. We also support clear certification mechanisms that promote accountability and transparency in the administration of federal funds.

However, we are concerned that the proposed certification language introduces ambiguity and scope uncertainty in ways that may have unintended consequences for lawful equity and accessibility initiatives. In particular, the requirement to certify compliance with unspecified “relevant executive orders,” combined with language referencing programs “labeled as” DEIA, risks creating confusion about the distinction between unlawful discriminatory conduct and lawful, evidence-based efforts to remedy documented disparities. Because SAM certification is a condition of eligibility for federal financial assistance, ambiguity in the scope of the attestation may influence institutional decision-making in ways that extend beyond existing statutory obligations.

Given the central role of federal funding in supporting educational institutions, healthcare systems, nonprofit service providers, and community-based organizations, clarity in certification language is especially important. The proposal’s framing has potential implications for how institutions structure equity and accessibility programming, collect and analyze disparity data, and design targeted interventions consistent with existing civil rights law. The concerns outlined below arise from this practical and structural context.

VAGUENESS CHILLS LAWFUL EQUITY WORK

The proposed certification language lacks clarity regarding what constitutes impermissible conduct, particularly in its reference to programs “labeled as” DEIA and compliance with unspecified “relevant executive orders.” Regulatory ambiguity of this kind is well recognized in administrative law as generating interpretive instability and compliance uncertainty (Livermore & Richardson, 2019; Walters, 2020). Where guidance rests on ambiguous statutory or executive foundations, regulated entities face difficulty discerning the boundaries of lawful conduct (Johnson, 2016; Lidstone, 2025).



Because SAM certification is a prerequisite to federal funding, ambiguity does not remain abstract. It shapes institutional behavior. Scholars have shown that when access to funding or enforcement exposure turns on uncertain standards, institutions adopt risk-averse strategies to avoid jeopardizing eligibility (Baer, 2022; Bagenstos, 2001; Fanto, 2021). Regulatory volatility and unclear enforcement signals incentivize precautionary withdrawal rather than calibrated compliance (Livermore & Richardson, 2019; Walters, 2020).

When compliance standards are unclear, institutions err on the side of retrenchment. Empirical and theoretical work on regulatory overdeterrence finds that organizations frequently scale back lawful but potentially controversial activities when enforcement expectations are uncertain (Kidron, 2016; Ribstein & Butler, 2006). In civil rights contexts specifically, research shows that ambiguity in equality mandates can lead to narrowed or cautious program administration rather than expansion of inclusive practices (Campbell, 2023; Johnson, 2016).

Lawful programs designed to address documented disparities, such as targeted outreach to historically excluded communities, disability accessibility initiatives, or race-conscious equity analyses consistent with existing law, may therefore be scaled back or eliminated, not because they are unlawful, but because the cost of uncertainty is too high. This dynamic aligns with scholarship describing “chilling effects” in compliance environments where institutional actors internalize ambiguous enforcement signals (Baer, 2022; Fanto, 2021; Lidstone, 2025). The result is not improved compliance, but diminished implementation of civil rights protections, particularly where proactive inclusion depends on administrative discretion (Bagenstos, 2001; Widman, 2022).

UNSTABLE FUNDING CONDITIONS

The proposal conditions federal funding eligibility on compliance with undefined “relevant executive orders,” rather than clearly identified statutes and regulations. However, executive orders do not themselves create enforceable private rights or independent statutory obligations for third parties absent congressional authorization or implementing regulation (Newland, 2014; Noyes, 1980; Ostrow, 1986). Although executive orders may bind executive agencies internally, their legal effect on regulated entities depends on statutory grounding and administrative implementation (Manheim & Watts, 2019; White, 2017).

Federal financial assistance supports core infrastructure in education, healthcare, housing, and community services. Scholarship emphasizes that stable, rule-bound funding frameworks are central to maintaining the rule of law and predictability in public administration (Kovacs, 2018; Metzger, 2010). Organizations serving marginalized communities, in particular, rely on continuity in grant conditions to sustain long-term interventions and institutional capacity.

When certification standards are open-ended or tied to evolving executive interpretation, institutions face a moving compliance target. Research shows that executive directives frequently shift across administrations and are implemented unevenly across agencies, contributing to regulatory volatility (Cooper, 2014; Kennedy & Rudalevige, 2025). Such



instability increases planning costs and compliance uncertainty, particularly where agencies must translate broad executive language into operational funding conditions (Chou, 2019; Manheim & Watts, 2019).

This instability discourages innovation, weakens long-term planning, and ultimately reduces the capacity of federally funded programs to address persistent inequities. Research has consistently linked durable programmatic effectiveness to stable and transparent legal baselines, warning that shifting executive directives can undermine institutional investment and long-term program development (Cooper, 2014; Kovacs, 2018; Metzger, 2010).

NARROWING STRUCTURAL DISCRIMINATION PROTECTIONS

The proposal's emphasis on "unlawful discrimination" without clarification risks reinforcing an intent-only conception of discrimination. Scholarship has long argued that narrowing discrimination to intentional acts obscures how inequality is reproduced through institutions and governance structures (Bonilla-Silva, 1997; Crenshaw, 1989; Crenshaw, 1988; Edelman, 1992; Nelson et al., 2008; Oliver, 1990; Russell, 2001; Small & Pager, 2020). Many of the most enduring barriers affecting racialized and disabled communities arise through structural mechanisms and facially neutral policies that produce disproportionate exclusion or harm (Bagenstos, 2000; Barnes & Mercer, 2005; Edelman, 1992; Pager & Shepherd, 2008; Reskin, 2012; Shakespeare, 2013).

Disparate impact analyses and disproportionality assessments are essential tools for identifying such systemic barriers. Effects-based frameworks and statistical disparity analyses are widely discussed as mechanisms for detecting structural exclusion that is not readily visible through intent-focused inquiry (Carle, 2011; Ceballos et al., 2021; Siegel, 2018).

If institutions interpret the proposed certification as discouraging structural equity analysis, they may retreat from examining outcome disparities altogether. Research on legal ambiguity and organizational compliance documents that contested or unclear standards can push institutions toward defensive, formalistic, or symbolic compliance practices, often weakening attention to substantive outcomes (Edelman, 1992; Edelman et al., 2011). That retreat would undermine one of the core functions of civil rights enforcement: ensuring not only formal equality, but meaningful access to publicly supported and federally funded programs (Ceballos et al., 2021; Nelson et al., 2008; Ray, 2019).

THREAT TO INTERSECTIONAL PROGRAMMING

Programs addressing intersecting disparities are especially susceptible to chilling effects. Intersectionality scholarship demonstrates that individuals situated at the intersection of race, gender, and disability experience forms of disadvantage that are not reducible to single-axis categories (Collins, 2022; Crenshaw, 1989; Hancock, 2007; Morgan, 2023). Further, institutional policies designed around single-axis frameworks often fail to capture compounded inequities (Bowleg, 2012; Purdie-Vaughns & Eibach, 2008; Yuval-Davis, 2006).

Intersectional initiatives—such as services for marginalized disabled students, addressing bullying and harassment, accessible maternal health programs for underserved women, or data projects examining disparate outcomes—require institutions to acknowledge and respond to structurally compounded forms of inequality (Annamma et al., 2013; Erevelles & Minear, 2010; Shaw et al., 2012). Disability studies scholars emphasize that racialized disablement is produced through social and institutional arrangements, not merely individual impairment, making intersectional analysis essential for effective intervention (Annamma et al., 2022; Bell, 2010; Erevelles, 2011; Erevelles & Minear, 2010; Watermeyer & Swartz, 2023).

If institutions perceive that explicitly identifying race-based disparities increases compliance risk, intersectional programming may be diluted or abandoned. Research on legal ambiguity and organizational compliance finds that when equality frameworks become politically contested or legally uncertain, institutions often narrow their equity initiatives or shift toward formally neutral approaches that avoid explicit recognition of disparity (Dobbin & Kalev, 2021; Edelman, 1992). Such retrenchment disproportionately affects multiply marginalized groups, whose exclusion is least visible within single-axis compliance models.

This would disproportionately harm communities whose exclusion cannot be resolved through single-axis approaches. Intersectionality research consistently finds that solutions targeting only race or only disability fail to address the lived realities of those who experience both simultaneously (Annamma et al., 2013; Collins, 2022; Hancock, 2007; Morgan, 2022). Federal civil rights enforcement has historically depended on attention to structural and intersectional inequities to ensure meaningful access to federally supported institutions (Ceballos et al., 2021; Nelson et al., 2008). Retreat from intersectional analysis therefore risks weakening, not strengthening, the protective function of civil rights governance.

DISPROPORTIONATE BURDEN ON COMMUNITY ORGANIZATIONS

Finally, ambiguity in certification standards places the heaviest burden on smaller, community-based organizations. Research consistently shows that administrative complexity and compliance demands disproportionately strain organizations with limited bureaucratic capacity (Herd & Moynihan, 2019; Moynihan et al., 2015). Unlike large institutions with in-house legal counsel and compliance departments, smaller nonprofits often operate with constrained administrative infrastructure and limited access to specialized legal expertise (Boris et al., 2010; Gronbjerg, 1993).

Increased exposure to audits, enforcement actions, or [False Claims Act](#) liability, even if only perceived, can deter participation in federal funding programs. Research demonstrates that enforcement uncertainty and the threat of liability can produce overdeterrence and withdrawal from regulated activity, particularly among risk-averse or resource-constrained actors (Ayres & Braithwaite, 1992; Engstrom, 2012; Herd & Moynihan, 2019; Moynihan et al., 2015). Studies of regulatory compliance similarly find that smaller entities are more likely to avoid complex



funding streams when perceived compliance risk outweighs potential benefits (Guo & Brown, 2006; Kettl, 2015).

These organizations are frequently the primary providers of culturally competent and disability-accessible services in underserved communities. Nonprofit sector research documents that community-based organizations play a central role in delivering localized, culturally responsive services that larger institutions often do not provide effectively (Mosley, 2012; Salamon, 2004). If compliance uncertainty discourages their participation, the communities most in need of federally supported services may face reduced access rather than increased protection. Administrative burden scholarship further shows that when procedural complexity limits provider participation, downstream access to services for marginalized populations declines (Herd & Moynihan, 2019; Moynihan et al., 2015).

CONCLUSION

Federal financial assistance programs play a central role in ensuring that civil rights protections translate into meaningful access to education, healthcare, housing, and community services. For the disability community, particularly those who also face compounding inequities, these programs often provide the primary pathway to accessible and inclusive services.

Policies governing eligibility for federal funding therefore have consequences beyond administrative compliance. When certification standards are ambiguous or unstable, institutions frequently respond by scaling back programs that address documented disparities, reducing data collection on inequitable outcomes, or withdrawing from initiatives that explicitly acknowledge structural barriers. The result is not stronger civil rights enforcement, but fewer resources reaching the communities those laws were designed to protect.

We respectfully urge GSA to ensure that the final certification framework provide clear and legally grounded guidance that distinguishes unlawful discrimination from lawful efforts to expand accessibility and remedy documented inequities. Clarity in this context will strengthen both compliance and the ability of federally funded programs to serve communities that have been historically disenfranchised. If you have any questions, please feel free to contact Dr. Kate Caldwell at caldwell@law.ucla.edu.

Sincerely,

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