

# DO YOU RECEIVE FEDERAL GRANTS OR FINANCIAL AID? PREPARE FOR CHANGES TO DEI AND IMMIGRATION REQUIREMENTS

Insights  
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## Do You Receive Federal Grants or Financial Aid? Prepare for Changes to DEI and Immigration Requirements

If your business or institution is considering applying for federal grant programs, you should be prepared for potential new requirements related to DEI and immigration proposed by the Trump administration. The federal government recently announced it was weighing changes to the legal attestations it requires applicants to sign on the System for Award Management (SAM). The new declarations on DEI, illegal immigration, and domestic terrorism largely echo already applicable law, but signal areas of potential increased oversight. This appears to be part of a larger Trump administration effort to root out what it calls wasteful and illegal DEI programs. Here's everything you need to know about the notice and how to prepare.

### What Could be Changing?

The General Services Administration (GSA) is a federal agency that manages government building, purchasing, and real estate. The GSA recently proposed the addition of new language to the Financial Assistance General Certifications and Representations form that applicants for grants, loans, and other federal aid must complete to register with SAM, the system in which federal aid and loan recipients maintain forms and documentation necessary to do business with the federal government.

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The changes would apply to those seeking financial assistance and would require entities to agree to three new attestations that we break down below.

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## 1. DEI and Antidiscrimination

Applicants utilizing the government's award system would have to agree to: "Comply with the US 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."

The notice adds that federal antidiscrimination laws apply to programs labeled as Diversity, Equity, and Inclusion (DEI) or Diversity, Equity, Inclusion, and Accessibility (DEIA). The attestation warns that recipients of federal funding "must ensure that their programs and activities comply with federal law and do not discriminate on the basis of race or color."

The notice also provides a roadmap of the types of programs the government would likely view as discriminatory, which are likely the areas that will face the most scrutiny by the GSA if the changes become final. These practices include:

- ***Granting preferential treatment based on race or color.***
  - This may include race-based scholarships or programs, preferential hiring or promotion practices, or access to facilities or resources based on race or ethnicity; and
  - The use of "cultural competence" requirements, "overcoming obstacles" narratives, or "diversity statements."
- ***Segregation based on race or color.***
  - This could include "race-based training sessions, segregation in facilities or resources, or implicit segregation through program eligibility."
- ***Unlawful use of race or color as criteria, such as in hiring, contracts, or resource allocation.***
- ***Training programs that stereotype, exclude, or single out individuals based on protected characteristics or create a hostile environment; or***

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- ***Retaliation by taking adverse actions against employees, participants, or beneficiaries because they engage in protected activities related to DEI practices and federal anti-discrimination laws.***

**Important context:** Don't forget that employers are, and have been, legally prohibited from making employment decisions based on protected characteristics, such as race and gender, even through affirmative action programs. Federal contractors, and employers in general, also are legally prohibited from taking race (as well as gender, color, national origin, and other protected characteristics) into account when making decisions related to hiring, promotions, terminations, and other terms and conditions of employment. Thus, these changes generally reiterate obligations employers already have under the law.

## **2. Immigration**

Applicants for federal financial assistance also will have to attest that they will not “knowingly” bring or attempt to bring, transport, conceal, harbor, shield, hire, or recruit for a fee, an undocumented immigrant. Applicants also must acknowledge that they will not “induce” an undocumented immigrant “to enter or reside in the United States with reckless disregard” of the fact that the individual is unauthorized.

**Important context:** It's already illegal for employers to intentionally hire an undocumented worker. You can face steep penalties if federal investigators find you “knowingly hired or knowingly continued to employ” an unauthorized immigrant or failed to properly verify the individual's employment eligibility.

## **3. Terrorism**

Those utilizing the SAM system also will have to attest that they “will not fund, subsidize, or facilitate violence, terrorism, or other illegal activities that threaten public safety or national security.” With international issues developing and evolving daily, employers should use extreme caution and ensure strict review when it comes to charitable donations or public statements.

## How Did We Get Here?

The new attestation appears to be the latest in the Trump administration's efforts to weed out "discriminatory" DEI programs, as well as the [broader crackdown on illegal immigration](#). Shortly after taking office, Trump issued executive orders that [directed federal agencies to combat these "illegal" corporate DEI programs](#) and [dismantled key affirmative action and DEI standards for federal contractors](#). The notice from GSA points to Trump's executive actions as well as [subsequent guidance from the US Department of Justice](#) about the federal government's increased scrutiny of these programs.

The change to the SAM form also comes as the Trump administration tightens its oversight of certain work-based immigration programs, [like the H-1B visa program](#).

## What's next?

The notice is open for public comment until March 30. Once the administration reviews and responds to that input, the new documents can go into effect. We will provide updates when GSA clarifies if and when applicants must update their legal attestations in SAM.

## How Should I Prepare?

1. Review any diversity, equity, or inclusion focused programs offered to ensure they align with federal anti-discrimination laws. Examples listed by the government include race-specific scholarship programs and diversity statements. If your programs include any of the potentially unlawful elements listed in the notice, consult with legal counsel.
2. Ensure your records related to any programs related to diversity, equity, and inclusion are in order. Prepare for potential questions or documentation requests regarding these programs.
3. Review your employment records for workers on visas or who have temporary status to ensure they have legal work authorization.
4. [Vet staff, students, trustees, payees, and all other individuals](#) who work with you against the federal sanctions database, which lists potential terrorists, drug

dealers, and other sanctioned individuals that US companies are barred from doing work with.

## Conclusion

Our team will be closely tracking enforcement actions and developments in this space. If you have any questions about how this trend may affect your business or school, please contact your Fisher Phillips attorney, the authors of this Insight, or any attorney on our [Government Contracting, Compliance, and Reporting](#) or [Education Team](#). Make sure you are [subscribed](#) to Fisher Phillips' Insight System to get the most up-to-date information.