March 30, 2026

U.S. General Services Administration
Integrated Award Environment (IAE) Program Office
1800 F St., NW
Washington, DC 20405

RE: Information Collection; System for Award Management Registration Requirements for Financial Assistance Recipients (Docket No. 2026-0001)

To Whom It May Concern:

Thank you for the opportunity to comment on the General Services Administration's (GSA) proposed changes to the System for Award Management (SAM). We appreciate this invitation to provide input on the SAM.gov pre-award registration requirements and help promote meaningful and effective information collection. The proposed additions to the Financial Assistance General Certifications require organizations to certify against overly broad standards that may mischaracterize lawful activities and even conflict with existing state or federal laws, without meaningfully preventing discriminatory practices.

About Inclusiv
Inclusiv is the leading network of credit unions with a primary mission of promoting community development and financial inclusion. The Inclusiv network represents more than 440 credit unions serving more than 18 million people in predominantly low-income urban, rural, and reservation-based communities across the United States, including Puerto Rico, Guam, and the U.S. Virgin Islands. Inclusiv channels capital to and builds the capacity of community development credit unions dedicated to serving low-income people and disinvested communities that mainstream financial institutions fail to serve.

About the Community Development Bankers Association (CDBA)
CDBA is the national trade association for banks that are designated by the U.S. Treasury Department as community development financial institutions (CDFIs). Collectively, there are 196 CDFI banks and thifts and 160 CDFI bank holding companies in 35 states and District of Columbia. CDFI banks and bank holding companies focus on promoting entrepreneurship and economic opportunity by serving small businesses located in low-income, rural, and small-town communities. Our members work directly with borrowers and developers in these communities, which are often challenged by persistent housing shortages and limited financing options that constrain economic opportunity and community stability.

Inclusiv and CDBA recommend withdrawing the proposed changes based on the following reasons. The proposed certifications would affect not only nonprofits like Inclusiv and CDBA but also regulated, member-owned credit unions and CDFI banks advancing economic opportunity in every state across the country.

1. **The broad and vague nature of the added certifications creates significant confusion and uncertainty for financial assistance recipients, making it unreasonably difficult to determine whether they are in compliance and introducing an unnecessary and excessive burden of legal consultation.**

   The new certification does not define "discriminatory practices" or "diversity, equity, inclusion, and accessibility (DEIA)" programs, explain which executive orders are relevant to the certification, or explain how compliance with the certification will be measured or assessed. It is also unclear what scope of the recipient's activities will be subject to these requirements.

   Discriminatory practices and DEIA programs are not clearly defined.

   Though the requirements appear to be added with the intention of removing race as considerations in federally funded programs, their vagueness could have a chilling effect on a wide range of programs that are not race-related, including those that are designed to target resources toward areas in economic distress. Federally funded programs are often designed to fill capital gaps and maximize impact by directing funds toward identified needs. From a program impact perspective, it wouldn't be very effective to direct funds where they are unlikely to generate significant benefits.

   This focus on targeting resources toward identified needs often includes prioritizing rural areas, where access to financial services is more limited. For example, the National Credit Union Administration's (NCUA) Community Development Revolving Loan Fund (CDRLF) provides grants to support low-income designated credit unions, which can be used to fund credit unions' outreach efforts. A credit union might use their grant to increase rural access to financial services by expanding their branch network into rural areas or introducing mobile banking. However, under the new requirements, it is unclear whether adopting a focus on rural access would be considered an illegal DEIA activity, implicit segregation, or believed to discriminate against urban or suburban residents.

   Further, the Federal Credit Union Act legally requires that credit union members have a shared connection(s), such as working for the same employer, living in a specific community, or belonging to an association or faith-based institution. While membership is open to anyone who meets the criteria set forth in a credit union's charter, those criteria necessarily limit membership to a defined field rather than the general public. As a result, the proposed certifications may introduce undue legal risk and uncertainty as to whether credit unions could be found noncompliant based on membership criteria that they cannot rescind without violating the Federal Credit Union Act.

Characterizing cultural competence requirements, overcoming obstacles narratives, and diversity statements as discriminatory overlooks the ways that cultural competence and lived experience can affect a candidate's ability to effectively perform a community-facing role.

As member-owned financial institutions chartered to serve consumers with a common bond, trust is at the heart of the credit union difference. Members trust their credit unions because they understand and respond to the needs and directives of the member-owners, and capital flows within the membership which is either highly localized or operates through a common bond affinity such as military service, employment or affiliation through faith-based or other associations.

People turn to credit unions and CDFI banks after negative experiences with predatory lenders or rejection from mainstream financial institutions, making trust and relationship-building especially important. Strong community relationships enable hyperlocal credit unions and CDFI banks to better identify and address members' needs and communicate their financial products and services in ways that resonate. These relationships also help people feel comfortable seeking financial guidance and counseling from the credit union or bank and engaging with savings and wealth-building products.

In this context, cultural competence and relevant lived experience can be strong assets for credit union and bank staff, indeed across the private sector in various community-facing roles where anti-discrimination laws also apply. If a financial institution were to invite staff applicants to elaborate on cultural competence or lived experience, it is not to disqualify applicants but rather to assess how effectively a candidate would be able to understand customers' or members' concerns and build trust to support access to fair and affordable financial services for everyone. A candidate who was born and raised in a low-income, rural service area of a credit union or bank may bring an inherent familiarity with the local socioeconomic context, as well as established relationships and credibility among local institutions like churches or civic organizations. Similarly, a candidate who overcame financial obstacles to achieve financial stability could bring additional credibility to a financial coaching role given their lived experience. At the same time, an individual from outside the community or without that personal experience could also be well suited for the role. Given the unique local contexts in which credit unions and CDFI banks operate, it is reasonable to ask a candidate to demonstrate the interpersonal listening and problem-solving skills and experience that would be required to work effectively with members whose socioeconomic background may differ significantly from their own. Imposing hiring restrictions on federal awardees that conflict with existing law and exceed those applied to non-federal-awardee peers places awardees at a competitive disadvantage when hiring.

The requirements do not explain which executive orders are "relevant" to the certification or explain how compliance with the certification will be assessed. Many recipients may not have the resources to seek the legal counsel necessary to understand what exactly is required of them.

The revised certification does not define key terms or explain which executive orders are relevant and must be followed. It simply provides a non-exhaustive list of examples that may violate applicable laws. The proposed certification also claims that certain DEIA efforts are illegal although they have been upheld by courts or can be administered lawfully (*see e.g.*, *Missouri v. Starbucks*

Corp., No. 4:25-cv-00165-JAR, (E.D. Mo. Feb. 5, 2026) (granting Starbucks' motion to dismiss because, *inter alia*, Missouri did not show that Starbucks' DEI program violated federal or state anti-discrimination law)). While the certification requires compliance with relevant executive orders, those orders only apply to federal agencies, not other entities, potentially creating significant confusion for award recipients.

Amid this confusion, many applicants would need to spend scare resources to consult with attorneys just to understand what is required of them. Requiring applicants to certify compliance imposes a significant cost and time burden on organizations and jeopardizes access to the critical services credit unions and other not-for-profit organizations provide.

For regulated financial institutions like credit unions and the non-profit organizations that support them, training and compliance with federal and state discrimination laws is already embedded into operations, and conflicting guidance would actually weaken the goal of eliminating discrimination in the financial system.

It remains unclear what scope of the recipients' activities will be subject to these requirements.

In part (6) of Financial Assistance General Certifications and Representations, the guidance notes that recipients "will comply…in the administration of federally funded programs," suggesting that compliance obligations are limited to federally funded activities. However, the guidance later asserts that "entities that receive federal funds…must ensure that their programs and activities comply," introducing ambiguity as to whether requirements apply only to the activities supported by federal funds or extend to all activities of the recipient. Extending requirements to all activities of the recipient would be an overreach, creating further unnecessary compliance burdens.

2. **The legal ambiguity and liability risks associated with the added certifications may deter many strong applicants from pursuing federal financial assistance, limiting opportunities to deepen and expand impact in their communities.**

Many well-qualified applicants may decide it is not worth the financial and legal risk to apply for federal grants under the new and ambiguous requirements. As a result, there will be missed opportunities for impact and unrealized community benefits, undermining the effectiveness of federal programs for the communities they are meant to serve.

There is vast demand for federal funding for CDFIs, and CDFIs are effective stewards of these funds, leveraging at least $8 in private investment for every $1 in public funding received. In FY 24, the CDFI Fund awarded just 24% of the total amount of Financial Assistance (FA) awards requested, demonstrating a clear gap in program demand and available funding. CDFI credit unions put these awards to work to increase access to capital in communities where mainstream financial services are limited.

CDFI credit unions and banks are experts at strategically deploying federal funds to drive local economic impact. Whether they're building a downpayment assistance program for first-time

homebuyers or expanding an agricultural lending program for rural farm owners, it's clear that communities benefit when mission-driven lenders participate in federal programs. We need more, not fewer, CDFI credit unions and banks deploying federal funds to promote affordable homeownership, small business growth, and long-term financial independence and wealth-building opportunities for Americans.

However, the added certifications may chill participation in this vital economic development program, particularly for credit unions and banks that may see these certifications as ambiguous or potentially in conflict with other federal anti-discrimination laws. If qualifying program participants—for example, low-income people in the case of the CDFI Fund—are disproportionately members of a single race or ethnicity in a credit union's field of membership or the geography a bank serves, fear of creating the appearance of implicit segregation may deter applicants. This would unduly limit access to economic opportunity, undermining economic development, affordable housing, and job creation goals.

3. **The added certifications may contradict existing state or federal laws, putting recipients in an impossible position of reconciling conflicting legal obligations.**

   For some federal programs, the guiding statute explicitly establishes a program structure designed to remedy disparities based on protected characteristics, including race or ethnicity. Certifications that conflict with existing state or federal laws can increase legal risk and burden by creating compliance challenges that may be impossible to resolve. We strongly recommend ensuring the proposed policy is consistent with existing law.

4. **The requirements appear to characterize all DEIA initiatives as discriminatory, overlooking their utility in addressing documented gaps in access or outcomes.**

   Demographic-based DEIA initiatives are typically designed to address differences in access, not to discriminate against any group. Congress acknowledges that Title VI of the Civil Rights Act of 1964 was enacted to address the federal government's distribution of billions of dollars to institutions such as hospitals and medical care centers, as well as private universities and other research centers, which continued to racially segregate their facilities, staff, patients, or students, or otherwise excluded Black citizens (The Civil Rights Act of 1964: An Overview | Congress.gov | Library of Congress (last visited Mar. 30, 2026)).

   Significant disparities in access to financing continue today and are well-documented along demographic lines. For example, data from the Federal Reserve System's Small Business Credit Survey (SBCS) consistently shows that minority-owned businesses are more likely to be denied financing when they apply. Programs aimed at addressing these financing gaps play an important role in promoting economic opportunity and financial inclusion for all. Such initiatives do not reduce opportunities for non-targeted groups; rather, they help ensure that communities with documented barriers have a fair chance to access the same resources and opportunities that are otherwise available to others. Efforts to advance meritocracy should account for the reality that access to opportunity is not evenly distributed and can be shaped by factors such as income, geography, and

race. Further, credit unions provide access to financial services for all in their field(s) of membership, so expanding access to more people does not deny access to others.

5. **The added certifications will not meaningfully prevent discriminatory practices.**

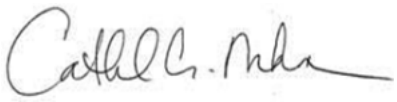
   In practice, the certifications are unlikely to achieve their stated objective of preventing discriminatory practices. By broadly restricting activities that expand access to opportunity, the certifications could penalize organizations that are effectively advancing administration priorities and inhibit legitimate efforts to deliver the benefits of federal programs to communities.

6. **The GSA lacks legal standing to introduce new terms and conditions without Congressional authorization.**

   The executive branch does not have the authority to add across-the-board terms and conditions to any potential applicant. Nor does it have the authority to add terms that go beyond what Congress has authorized or federal law. In this case, the Administration is attempting to use the certification process to add terms and conditions that it cannot lawfully impose. Similar actions by other federal agencies have been blocked by federal judges as violating federal law or the U.S. Constitution (*see e.g.*, *AFGE, AFL-CIO v. Trump*, 139 F.4th 1020 (9th Cir. May 30, 2025) (denying the government's emergency stay request of the District Court preliminary injunction order, which held that reduction in force approvals from the Office of Management and Budget and the Office of Personnel Management likely violated the APA as actions in excess of the agencies' statutory authority)).

Thank you for the opportunity to comment. For any questions regarding these comments, please contact Alexis Iwanisziw, SVP Policy & Communications, Inclusiv (aiwanisziw@inclusiv.org) or Jack Dunn, Public Policy Associate, CDBA (dunnj@cdbanks.org).

Sincerely,



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