



March 30, 2026

Mr. Edward C. Forst
Administrator
General Services Administration
1800 F St., NW
Washington, DC 20405

Sent electronically to: <https://www.regulations.gov>

RE: Information Collection; System for Award Management Registration Requirements for Financial Assistance Recipients (OMB Control No. 3090-0290; Docket No. 2026-0001; Sequence No. 2)

Dear Administrator Frost,

On behalf of the undersigned Tribal organization members of the Coalition for Tribal Sovereignty (CTS),¹ we respectfully submit the following comments in response to the U.S. General Services Administration's (GSA) proposed revisions to the System for Award Management (SAM) registration requirements for financial assistance recipients.

Tribal Nations maintain a unique government-to-government relationship with the United States. As a result, federal actions with Tribal implications must be developed through meaningful government-to-government consultation with Tribal Nations and with full consideration of the United States' trust and treaty obligations.

The following comments reflect serious concerns regarding the lack of Tribal consultation, the potential adverse impacts on Tribal Nations' access to federal funding, and the broader implications for the United States' trust and treaty obligations. We urge GSA to carefully reconsider the proposal in light of its legal responsibilities and the unique government-to-government relationship between Tribal Nations and the United States.

Failure to Engage in Tribal Consultation

Federal funding to Tribal Nations delivers on the United States' trust and treaty obligations to Tribal Nations, Tribal citizens, and Tribal communities, for which we prepaid with our lands and resources. Because access to federal funding for all grantees, including Tribal Nations, requires an active SAM.gov account, any proposed changes to SAM.gov not only directly impact Tribal Nations' ability to access federal funding, but also affect a critical mechanism by which the United States delivers on its trust and treaty obligations. Any proposed changes to SAM.gov should facilitate, not impede, Tribal Nations' access to federal funding.

The GSA announced these proposed revisions that will directly impact Tribal Nations without first engaging in any government-to-government Tribal consultation. Due to the United States' unique legal relationship with Tribal Nations based on Tribal Nations' sovereign governmental status and

¹ A CTS briefing paper on the formation and messaging of CTS can be found [here](#), and more information about CTS can be found on our website [here](#).

the United States' trust and treaty obligations—as recognized in the United States Constitution, treaties, statutes, Executive Orders, and court decisions—federal agencies must engage in Tribal consultation any time policies have Tribal implications. This obligation to engage in Tribal consultation is recognized in multiple Executive Orders and statutes, as well as GSA's own Tribal consultation action plan.²

Despite this longstanding requirement, GSA failed to engage in Tribal consultation despite direct impacts on Tribal Nations from the proposed updates to the “Financial Assistance General Representations and Certifications.” Tribal Nations rely heavily on federal grants and federal financial assistance to deliver critical services to our people and our communities. In order to carry out the United States' continuing trust and treaty obligations to Tribal Nations, Tribal citizens, and Tribal communities, GSA should pause the implementation of its proposed system until meaningful government-to-government consultation with Tribal Nations has taken place.

Failure to Clarify that Funding to Tribal Nations, Tribal Citizens, and Tribal Communities is in Furtherance of Trust and Treaty Obligations

The types of revisions GSA is proposing demonstrate that GSA has not adequately considered how sovereign Tribal governments should be treated differently from other federal funding recipients under this proposal. For example, GSA's proposal speaks at length about “practices that may violate applicable Federal anti-discrimination laws” but fails to note that even when antidiscrimination laws are applied to non-Tribal Nation entities, preferences or benefits for Tribal Nations, Tribal citizens, and Tribal communities in furtherance of trust and treaty obligations do not amount to discrimination. When the Administration discusses antidiscrimination laws in relation to services or funding that Tribal Nations, Tribal citizens, and Tribal communities access, we urge the Administration to acknowledge our special status under the law as it is inappropriate to condition access to federal funding in furtherance of trust and treaty obligations on compliance with laws that do not apply to us.

We believe GSA's proposal leaves room for the understanding that services or funding provided to Tribal Nations and Native people to the exclusion of others is not discrimination. For example, the proposed language requiring potential recipients of federal funding to acknowledge they “[w]ill 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,” should be interpreted to incorporate existing legal principles, and benefits provided to Tribal Nations, Tribal citizens, and Tribal communities are not discrimination. *Morton v. Mancari*, 417 U.S. 535 (1974). In short, Tribal programs are neither DEI nor DEIA programs, and Tribal Nations, Tribal citizens, and Tribal communities do not operate DEI or DEIA programs, but rather they work together to further Tribal self-governance and to serve Indian Country pursuant to Tribal Nations' political relationships with the United States.

To ensure no misunderstanding, we ask GSA and the Administration to take this opportunity, as Tribal Nations' trustee, to expressly acknowledge these foundational legal principles in the proposed modifications. We ask that GSA clarify that making services or funding exclusively available to Tribal Nations, Tribal citizens, or Tribal communities is not discrimination. Any such acknowledgements should not be framed as an “exemption,” since these requirements are not applicable in the first place.

² Available at: <https://www.gsa.gov/resources/native-american-affairs/governmenttogovernment-engagement/2021-tribal-consultation-action-plan>

Vague and Complex Proposals Fail to Justify Noncompliance Penalties

GSA proposes to add an assurance that the federal grantee will not facilitate “programs or initiatives that involve discriminatory practices, including those labeled as Diversity, Equity, and Inclusion (DEI) or ‘diversity, equity, inclusion, and accessibility’ (DEIA) programs.” The proposed language includes examples or practices that may violate applicable federal antidiscrimination laws, but it does not include clear definitions of DEI or DEIA. When providing an assurance is a required condition of receiving federal funds, the condition must be clearly defined and understood by a reasonable grantee to be able to facilitate compliance. This proposal does not afford grantees this understanding, leaving grantees at risk of inadvertently falling out of compliance and losing access to vital federal funding.

Further, the GSA proposal states, “This revision modifies the Financial Assistance General Representations and Certifications to align with updated executive branch guidance including DOJ Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination and executive order 14173 applicable to all entities receiving grants, cooperative agreements, and financial assistance such as loans, insurance, and direct appropriations.” Requiring recipients of federal funding to certify that they are in compliance with recommended best practices included in DOJ and other sub-regulatory guidance effectively turns “non-binding suggestions” into mandatory requirements for the receipt of federal funds.

Finally, the proposal imposes heavier penalties for noncompliance by incorporating the new Administrative False Claims Act of 2023. Heavier penalties should have clear and transparent requirements, not vague and complex ones. Tribal grantees, in particular, may lack administrative capacity to ensure compliance with new and vague requirements but are particularly reliant on federal funding to provide services to their citizens and communities. Therefore, CTS urges GSA to amend the proposal to provide clear definitions of prohibited activities, provide technical assistance and additional resources to Tribal grantees to help ensure compliance, and consider exceptions to steep penalties for Tribal grantees.

Unnecessary and Burdensome Reporting

GSA’s proposed revisions are in direct opposition to President Trump’s repeated commitment to address overly burdensome reporting requirements. President Trump has committed to doing away with the “ever-expanding morass of complicated Federal regulation[s]” that “create [] a substantial restraint on our economic growth and ability to build and innovate,” which often result in, among other things, “increasing compliance costs and the risk of costs of non-compliance.” See Executive Order 14192, “Unleashing Prosperity Through Deregulation.”

In the current instance, GSA acknowledges that the proposed revisions will collectively cost users of the System for Award Management (SAM)—including Tribal Nations and Native entities—more than \$33 million annually and will result in an annual burden to those same users of more than 600,000 total hours—and even that is a substantial *underestimate* of the likely costs. Additionally, GSA admits that the proposed changes will also burden the federal government at a rate of \$10 million annually. These costs—totaling *at least* \$43 million annually, and likely much more—will result in “increasing compliance costs and the risk of costs of non-compliance”, the very thing President Trump has claimed to oppose. Further, given that all recipients of federal funding are required to adhere to federal laws and regulations, the proposed changes are not likely to result in any meaningful positive outcomes that justify their expense.

Furthermore, the need for any additional and burdensome reporting requirements with respect to Tribal Nations is minimal. Tribal Nations are already among the most heavily regulated entities in the country, while still driving significant job creation, regional development, and infrastructure

investment.³ Tribal Nations already adhere to many federal laws and requirements in order to access funding and programs that carry out the United States’ trust and treaty obligations—programs and funding that Tribal Nations, Tribal citizens, and Tribal communities prepaid for with our lands and resources.

No additional burdens should be placed on Tribal Nations seeking to access, utilize, and report out on the various available federal programs and funding streams. Doing so will only stifle critical economic development in rural and urban economies across the United States.

Thank you for the opportunity to submit comments. CTS respectfully urges GSA to pause implementation of the proposed revisions and engage in meaningful government-to-government consultation with Tribal Nations before proceeding further. Any changes to SAM.gov must reflect the United States’ trust and treaty obligations and ensure that Tribal Nations’ access to critical federal funding is not impeded by unclear, burdensome, or inapplicable requirements. We welcome continued dialogue and stand ready to work collaboratively with GSA to develop policies that uphold Tribal sovereignty, provide clarity and fairness in compliance expectations, and support the effective delivery of essential services to Tribal communities.

Sincerely,

Affiliated Tribes of Northwest Indians (ATNI)
American Indian Higher Education Consortium (AIHEC)
National Congress of American Indians (NCAI)
National Indian Head Start Directors Association (NIHSDA)
National Indian Child Welfare Association (NICWA)
Native CDFI Network (NCN)
United South and Eastern Tribes Sovereignty Protection Fund (USET SPF)

³ See, e.g., “The Role of Tribal Nations in Local, Regional, and National Economies”, Coalition for Tribal Sovereignty (2025), available at: <https://coalitionfortribalsovereignty.org/wp-content/uploads/2025/06/5-General-Briefing-Paper-on-Tribal-Nation-Economic-Success-Stories-FINAL-06042025.docx>