

**InterAction Comment Submission: Information Collection 3090-0290, System for Award Management Registration Requirements for Financial Assistance Recipients (91 Federal Register 3726, Jan. 28, 2026)**

**Agency Name: General Services Administration**

Thank you for the opportunity to provide feedback on the General Services Administration's (GSA's) revision to an existing information collection requirement regarding the pre-award registration requirements for Prime Financial Assistance Recipients, published in the Federal Register on January 28, 2026 (hereinafter "Draft Certification").

InterAction is the largest U.S.-based alliance of international nonprofits and partners, with more than 150 member organizations that deliver programs and services for humanitarian relief, global health, development, and peacebuilding to some of the most vulnerable communities around the world.

InterAction and its members support the goals of anti-discrimination laws and policies and are committed to upholding these laws in our operations and programs. InterAction and its members also are committed to implementing programs in compliance with U.S. federal immigration laws and U.S. counterterrorism legislation and are providing additional feedback on language in the Draft Certification relating to these topics.

We are concerned the proposed requirements would create significant legal and financial risks for InterAction's members. Those risks could disrupt essential lifesaving services that the USG intends to provide, working through partners like our members, in communities globally, including community development, health, education, food, shelter, community services, disaster recovery, and more.

Recipients of federal financial assistance, including InterAction's members, are already bound by federal antidiscrimination law, immigration law, counterterrorism laws and related requirements, as well as various obligations imposed at the agency level. The proposed changes to the certification requirements in the System for Award Management (SAM) are therefore unnecessary and risk subjecting recipients to differing and conflicting requirements. In addition, terms used in the proposed changes are vague, introducing confusion, complexity, and undue burden. The proposed changes also create the risk of conflicts with both local laws and guidance issued by the U.S. Government. Finally, proposed changes 7 and 8, relating to immigration and violence, counterterrorism, and "other illegal activities," respectively, go beyond the stated purpose of the GSA Revision.

For these reasons, InterAction requests that GSA cancel the Draft Certification. If, however, GSA elects not to cancel the Draft Certification, InterAction requests that the following be addressed in any Final Certification:

## **The Draft Certification is Not Needed to Ensure Compliance with Federal Antidiscrimination and Other Laws**

Currently, all entities receiving financial assistance from the United States Government must certify adherence to existing anti-discrimination laws. Similarly, federal laws are currently in place to protect the nation's borders and provide stiff penalties for support of terrorism. In addition, all State Department grantees complete the anti-terrorism certification as part of the Standard Provision in State Department grants ([Certifications, Mandatory Reference for ADS Chapter 303](#), see 303d section 4, pp. 4-5). As such, the Draft Certification is not needed to hold recipients of federal financial assistance accountable for adhering to the relevant laws and regulations.

Should a revised certification be adopted, it should expressly reaffirm that nothing in the certification alters or expands the scope of existing federal anti-discrimination statutes as enacted by Congress and interpreted by federal courts. In particular, the GSA should avoid language that could be construed as endorsing expansive interpretations of federal civil rights laws beyond their text or established judicial construction. Courts have historically adjudicated claims under these statutes in cases brought by individuals who allege concrete and particularized injury. That structure ensures that federal law develops through adversarial litigation involving genuinely aggrieved parties, rather than abstract policy disputes.

Because organizations may seek to advance broader policy interpretations of anti-discrimination statutes through False Claims Act litigation absent direct injury, the certification language should not implicitly validate or anticipate such expansive interpretations. Instead, it should be anchored in statutory requirements as written and as interpreted in cases involving identifiable aggrieved parties.

## **Terms Used in the Draft Certification are Vague, Creating a Likelihood of Confusion and Conflict of Laws, Including Within the Federal Government**

Terms used in the Draft Certification are vague and lack definitions, creating significant compliance risks for grantees, particularly nonprofit and humanitarian organizations that operate across multiple jurisdictions and funding streams. Federal grantees require predictable standards in order to maintain lawful operations while continuing to serve communities effectively. Because vagueness in certifications can create a chilling effect, it is essential that the standards be objective and administrable.

Terms in the Draft Certification should be defined with specificity. Clear definitions will reduce unnecessary chilling effects and ensure that grant recipients can confidently certify compliance without fear of retroactive reinterpretation. Definitions should reflect existing statutory text, creating enough clarity that examples, such as those in Section 6, are unnecessary.

We recommend that GSA establish a clear safe-harbor provision for good-faith compliance efforts; and confirm that enforcement actions will be based on material, knowing violations rather than inadvertent or technical noncompliance.

The revised text should also clarify the extent to which the certification applies to internal employment policies, programmatic activities funded by federal grants, or both, and how the certification interacts with longstanding compliance obligations under statute, such as Title VI and Title VII of the Civil Rights Act.

### **The Draft Certification Also Risks Creating Conflicts with Local Laws and With Guidance Issued by the US Government**

U.S.-based nonprofits, which are implementing an international program agreed by the U.S. Government, must comply with the laws of the host country. There also will be instances in which grantees must comply with the laws of the grantor's host country, and foreign nonprofits will need to comply with their own domestic laws. This new certification will create conflicts with local laws, making compliance with both those laws and this certification in many cases impossible.

Current EOs and guidance deal with this issue in the following ways:

A State Department Bureau of Administration Global Acquisition guidance document on the implementation of EO 14173 (FEDERAL ASSISTANCE MANAGEMENT ADVISORY NUMBER 2025-07(D)), dated May 30, 2025, clearly "limits the certification requirements of EO 14173 to all federal assistance awards with a place of performance or delivery inside of the United States."

Similarly, the March 6, 2025 Global Health Strategy states, "Certification Regarding Compliance with applicable Federal anti-discrimination laws: If the place of performance or delivery of any award made under this Statement of Interest will be within the United States, applicants are advised that they will be required to certify the following at the time of award: Its compliance in all respects with all applicable Federal anti-discrimination laws is material to the government's payment decisions for purposes of section 3729(b)(4) of title 31, United States Code and; It does not operate any programs promoting Diversity, Equity, and Inclusion that violate any applicable Federal anti-discrimination laws. A program promoting Diversity, Equity, and Inclusion means a program whose purpose is to promote preferences based on race, color, religion, sex, or national origins, such as in training or hiring." See [DFOP0017890 GHSD Advancing Global Health APS.pdf](#)

GSA should separate any revised DEI certification tied to EO 14137 from the general certifications signed by all grantees so that agreements for which performance is based outside the U.S. are not subject to the new DEI language, per the May 30, 2025 State Department guidance. The new DEI certification should also include clarifying language that it applies only to awards that will be performed inside the US.

## **Draft Certification Sections 7 and 8 Are Outside the Scope of EO 14173**

The Federal Register notice announcing the updated certification states that the purpose of the changes are to update the Financial Assistance General Representations and Certifications to align with updated executive branch guidance including Department of Justice “Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination” (July 29, 2025) and Executive Order (E.O.) 14173 of January 21, 2025, Ending Illegal Discrimination and Restoring Merit-Based Opportunity. Section 7 (regarding “illegal alien[s]”) and 8 (regarding “violence, terrorism, or other illegal activities”) are not related in any way to E.O. 14173 or to the Department of Justice’s July 29, 2025, memo. The stated purpose of the Draft Certification is insufficient to provide notice to members of the public with expertise on those topics regarding changes on those topics. As such, the Draft Certification’s sections 7 and 8 should be withdrawn in their entirety.

Furthermore, current federal law already provides criminal penalties for bringing in and harboring certain aliens, making Section 7 of the Draft Certification unnecessary. The draft language in Section 8 is vague, uses undefined terms, and does not cite or reference how those terms are used in existing laws. Certifications must clearly define the prohibited conduct. The draft certification language encompasses more than terrorism and includes undefined terms such as “violence” and “other illegal activities that threaten public safety or national security.” As such, this language will create unnecessary confusion and as noted above, would conflict with the existing State Department anti-terrorism certification.

In addition, Sections 6, 7 and 8 of the Draft Certification cite 2 CFR 200.303, which requires recipients to “[c]omply with the U.S. Constitution, Federal Statutes, regulations, and the terms and conditions of the Federal award.” As the Draft Certification language goes beyond that regulatory language, it necessarily will be restricting otherwise lawful conduct, including potentially expressive conduct or even speech.

### **Opportunity for Ongoing Stakeholder Engagement**

Finally, we encourage the GSA to provide additional opportunities for stakeholder engagement, including technical guidance or FAQs following issuance of the final revised certification language, should it choose to move forward with the revisions. Such measures would promote uniform implementation across agencies and reduce unnecessary disputes.

Thank you for considering these comments. We appreciate the opportunity to provide feedback and stand ready to provide further input as needed.