



First Children's Finance

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Re: 3090-0290, System for Award Management Registration Requirements for Financial Assistance Recipient

Comment on Proposed GSA Rule Regarding "Illegal DEI" Certifications:

I am writing to provide comment on the General Services Administration's proposed rule requiring federal funding recipients to certify that they do not operate "illegal DEI" programs.

I serve as Tribal Systems Coordinator at First Children's Finance, where I work in partnership with Tribal Nations across the country to strengthen early childhood systems through culturally grounded, sovereignty-centered approaches. This comment reflects both my professional experience and the perspectives of the Tribal communities we serve.

1. The proposed rule does not adequately account for Tribal sovereignty

Tribal Nations are sovereign governments with inherent authority to design and implement programs that reflect their cultural, political, and legal identities. Many Tribal programs are intentionally designed to serve their own citizens, preserve language, and strengthen cultural continuity.

Without explicit recognition of Tribal sovereignty, this rule risks applying a framework designed for non-Tribal entities to Tribal governments in ways that are inappropriate and potentially unlawful.

We strongly urge GSA to include explicit language clarifying that Tribal Nations and Tribal programs are not subject to interpretations that would undermine their sovereign rights to serve their own communities.

2. The definition of “illegal DEI” is unclear and creates significant risk for Tribal programs

The proposed rule does not clearly define what constitutes an “illegal DEI program.” This ambiguity is particularly concerning for Tribal Nations, whose programs often include:

- Tribal hiring preferences
- Language and culture-based curricula
- Indigenous-centered service delivery models
- Targeted investments in Native children and families

These are not “DEI initiatives” in the conventional sense. They are core functions of Tribal governance.

Without clear definitions, Tribal Nations and their partners may unnecessarily scale back culturally grounded programming out of concern for compliance risk.

3. The rule may unintentionally undermine federal trust and treaty responsibilities

The federal government has a unique trust responsibility to Tribal Nations, including supporting the well-being of Native children and families.

Programs such as Tribal child care, early learning, and workforce development are essential infrastructure in Tribal communities. These systems are most effective when they are rooted in Tribal culture and language.

A rule that introduces uncertainty or discourages culturally grounded approaches risks undermining federal investments and longstanding policy commitments to Tribal self-determination.

4. Impact on technical assistance providers and Tribal partnerships

Organizations like First Children's Finance work alongside Tribal Nations to build child care systems that are financially sustainable, culturally grounded, and aligned with Tribal priorities.

The proposed certification requirement may create barriers for these partnerships by:

- Introducing legal uncertainty into culturally specific program design

- Discouraging innovation in Tribal systems-building
- Requiring unnecessary legal review of standard Tribal practices

This could slow or limit progress in expanding access to high-quality early care and education in Tribal communities.

5. Recommendations

To address these concerns, we respectfully recommend that GSA:

- Engage in Tribal consultation prior to finalizing the rule
- Explicitly affirm that Tribal Nations retain the sovereign authority to design and implement programs serving their citizens
- Clarify that Tribal hiring preferences, language revitalization, and culturally grounded programming do not constitute unlawful discrimination
- Provide clear definitions and examples of prohibited practices to reduce ambiguity

Conclusion

Tribal Nations have the inherent right to design systems that reflect their identities, values, and responsibilities to future generations. Any federal policy that affects Tribal programs must be carefully crafted to respect and uphold that sovereignty.

We urge GSA to revise the proposed rule to ensure it does not unintentionally harm Tribal Nations or the systems that support Native children and families.

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(she/her/hers)

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