



OMB Proposed Rule for Federal Financial Assistance

Potential Impacts for Tribal Nations | July 2026



Welcome

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Overview of the Proposed Rule

- Proposed rule moves Uniform Guidance from “guidance” to “regulation”
- Overhauls 2 C.F.R. Part 200 governing federal grants
- Adds new administrative requirements that will require Tribes to adjust processes to maintain compliance
- Allows for mid-award cancellations of funding
- Effective Date is October 1, 2026
- Public Comment Period is open until 11:59 pm EDT on July 13, 2026
- NAFOA will submit comments, and encourages Tribes to submit comments

Tribes Should Submit Public Comments

How to Use NAFOA's Template Letter

1. Download the template letter: <https://go.nafoa.org/2026OMB-TribalLetter>
 1. Go to File > Download > Microsoft Word (.docx)
2. Replace all [TRIBE NAME] and [TRIBAL LEADER NAME AND TITLE] placeholders, and add your Tribe's letterhead.
3. Customize the letter to describe your Tribe's specific concerns or potential impacts, or keep the template letter as is.

How to Submit Your Comments

1. Go to www.regulations.gov.
2. Search for Docket ID: OMB-2026-0034.
3. Click "Comment" and upload your completed letter.
4. **Submit no later than 11:59 pm Eastern on July 13, 2026.**



Potential Impacts to Tribal Nations

Funding Security

Funding Security

- Proposed rule increases oversight of discretionary awards.
- Introduces political appointee pre-issuance reviews for discretionary awards.
- Clarifies and expands authority to suspend or terminate certain discretionary awards, subject to applicable law.
- Emphasizes alignment with statutory purpose, Federal agency priorities, and the national interest.

Political Appointee Reviews

- Senior political appointees conduct a pre-issuance review of discretionary awards
- Review considers:
 - Applicable law
 - Agency priorities
 - National interest
 - Administration priorities
 - Explicitly states giving preference to lower indirect cost rates
- Peer review remains part of the process but is advisory.
- Grant applications should clearly connect activities to statutory authority and measurable outcomes.

Grant Terminations and Suspensions

- Proposal clarifies and expands discretionary termination authority.
- Certain discretionary awards may be terminated if consistent with law and no longer supports –
 - Program goals
 - Agency priorities
 - National interest.
- Proposal also includes temporary suspension authority of 90 days for discretionary awards if it is in the interest of the federal agency.
- Federal agency notifications of terminations and suspensions must be writing.
- Objections, hearings, and appeals for terminations only apply to terminations for noncompliance.
- Formula and statutory entitlement programs are treated differently.



Potential Impacts to Tribal Nations

Diversity, Equity, and Inclusion Language



NAFOA POLICY DISCUSSION

DEI Provisions in the Proposed Federal Financial Assistance Regulation

Tribal programs are governmental and statutory programs – not DEI initiatives. The greatest risk is not the programs themselves, but how programs are described, documented and justified.

A moment of uncertainty

Since January 2025, a wave of federal Executive Orders targeting DEI has created real uncertainty for agencies, grantees, and Tribal program staff. Tribal programs risk being mislabeled as DEI and swept into pauses or cuts they were never meant to touch.

The May 29, 2026 proposed regulation places increased emphasis on:

- Alignment with statutory program purposes
- Federal oversight of grant activities
- Elimination of activities viewed as outside authorized purposes
- Restrictions on certain DEI-related activities
- Greater scrutiny over program narratives and grant language

Key question for Tribes – Will tribal language, cultural, education, and climate programs be considered DEI?

Political status - not a racial classification

The federal relationship with Tribal Nations rests on sovereignty and a government-to-government relationship — not on race or ethnicity. This is the foundation that places Tribal programs outside the scope of DEI.

Tribal programs are based on:

- Tribal sovereignty
- Treaty responsibilities
- Federal statutes
- Self-Determination Act authorities
- Federal agency program authorizations

These programs exist because Congress authorized them – not because of a DEI policy objective.

The Real Risk - Mischaracterization

Federal reviewers may ask:

- Does this activity align with the grant purpose?
- Is the expense necessary to achieve program objectives?
- Is the narrative describing a statutory program or a policy initiative?

Risks:

- No clear statutory authority
- No connection to award objectives
- Lack of documentation
- Ambiguous language
- Undefined “equity” initiatives
- Activities not tied to measurable program outcomes

Language to use - and to avoid

✓ USE THIS LANGUAGE

- Sovereign nations / Tribal Nations
- Political status; government-to-government
- Trust and treaty obligations
- Federal Indian trust responsibility
- Self-determination and self-governance
- Tribal citizens and members
- Statutory and treaty-based programs

✗ AVOID THIS FRAMING

- “Diversity, equity & inclusion” / DEI
- Minority, underrepresented, marginalized
- Race-based or racial preference
- Social justice / disadvantaged group
- Environmental justice (use climate resilience)
- Framing Tribes as a demographic category
- Equity grant or DEI set-aside

Program types most at risk of mislabeling



Language

Native language revitalization, immersion schools, and preservation grants.



Culture

Cultural preservation, repatriation, museums, and heritage programming.



Education

Tribal colleges, Native-serving funding, Johnson-O'Malley, and history curricula.



Climate

Climate resilience, natural resource stewardship, and land and water programs.

Programs Most Likely to Receive Questions

Tribal Language Programs

Potential Question: “Why is this program necessary?”

Response: Federal and tribal language preservation is an authorized educational and cultural objective.

Cultural Programs

Potential Question: “Who benefits from these services?”

Response: Eligible participants consistent with tribal and federal program requirements.

Education Programs

Potential Question: “How does this support grant objectives?”

Response: Improves educational outcomes and supports authorized educational services.

Programs Most Likely to Receive Questions

Climate & Environmental Programs

Potential Areas of Review:

- Climate adaptation
- Environmental justice
- Sustainability projects
- Traditional ecological knowledge

Recommended Framing – Discuss projects as:

- Natural resource protection
- Environmental management
- Climate resilience planning
- Infrastructure protection
- Community health and safety

Recast the same program in the right terms

✘ “Diversity program for underrepresented Native students”



✔ “Tribal education program fulfilling federal trust and treaty obligations”

✘ “Equity initiative for a minority community”



✔ “Government-to-government program serving Tribal citizens”

✘ “Environmental justice grant”



✔ “Climate resilience and natural resource stewardship on Tribal lands”

Practical steps to protect Tribal programs

1



Audit your language

Scrub grant applications, reports, and websites of DEI terminology; recast in political-status terms.

2



Cite the legal basis

Reference treaties, Title 25, Mancari, SO 3416, and agency opinions in every justification.

3



Engage agencies early

Request written confirmation that programs are excluded from DEI directives; use consultation.

4



Coordinate & advocate

Work with NAFOA, NCAI, and coalitions to defend funding and document any improper pauses.



Potential Impacts to Tribal Nations

New Compliance Burdens

Uniform Guidance Changes

- Internal Controls
 - Requirements for cybersecurity may expand to include safeguards over confidential business information in addition to safeguarding PII and sensitive information; and
 - Recipients and subrecipients must enroll in E-Verify and check eligibility for all employees and contractors to be paid with Federal funds.
- Mandatory disclosures: Disclosures made to offices of inspectors general are required to be shared with the U.S. Attorney's Office in D.C. within ten days of receipt.

Uniform Guidance Changes

- Cash Management: Recipients and subrecipients will be required to check eligibility of payment recipients through Treasury's Do Not Pay System prior to making payments.
- Subrecipient Monitoring
 - Transfers of funds to “affiliates, subsidiaries, or other related entities that are separate legal persons” must be evaluated as part of subrecipient-contractor determinations and treated as either subawards or contracts, as appropriate.
 - Highlights that “internal organizational affiliations do not exempt pass-through entities from subaward or contract classification and related compliance and reporting requirements.”
 - Fixed amount subawards are not permitted.

Uniform Guidance Changes

- Allowable costs and activities
 - Expands the scope of the telecommunications and video surveillance prohibited expenditures regulation.
 - Establishes a regulatory provision requiring Federal agencies to ensure, to the maximum extent allowed by law, Federal awards are not used to fund, promote, encourage, subsidize, or facilitate:
 - Diversity, equity, inclusion, and accessibility;
 - Gender ideology as discussed in Executive Order 14168;
 - Transition of a child under 19 years of age from one sex to another
 - Prohibits use of federal awards to promote or support theories of disparate impact liability

Uniform Guidance Changes

- Allowable costs and activities
 - Prohibits viewpoint, content, or subject matter of speech discrimination in federally-funded events
 - Travel costs “must” be subject to GSA per diem in the absence of an established written policy on travel costs
 - Extends selling and marketing cost allowability to require both inclusion in the federal award and must be necessary to meet award requirements

Uniform Guidance Changes

- Allowable Costs and Activities
 - Lobbying at 200.450 would now prohibit
 - (iii) Establishing, administering, contributing to, or paying the expenses of a voter registration campaign, voter registration drive, or any similar activity, or paying the expenses of another entity engaged in such activities
 - (iv) Engaging in issue advocacy or public messaging that promotes or opposes a particular social, political, or public policy position unrelated to the statutory objectives or performance requirements of the Federal award, including messaging designed to influence public attitudes on matters not necessary to accomplish the purpose of the Federal award
 - Various other changes to selected items of cost



Potential Impacts to Tribal Nations

Assessing Risks and Impact

Assessing Risks and Impact

- Separate discretionary awards from formula/statutory funding.
- Review award conditions, renewal dates, and funding sources.
- Identify programs most dependent on competitive funding.
- Understand which costs are allowed and the period of performance for suspended or terminated grants, including closing costs.
- Reevaluate your indirect cost rate approach for discretionary awards.

Which Grants May Receive Greater Scrutiny?

- Competitive discretionary grants.
- Research and demonstration grants.
- New discretionary awards.
- Programs with extensive policy review requirements.

Key Next Steps to Prepare for Changes

- Maintain a current grant inventory.
- Document statutory authority for each program.
- Align and standardize grant narratives and program objectives to statutory authority.
- Strengthen internal controls and documentation.
- Review subrecipient oversight procedures.
- Evaluate the impact of separate rates for P.L. 93-638 and non-P.L. 93-638 funding.
- Monitor OMB and agency implementation guidance.
- Provide timely responses to federal agency notifications of terminations or suspensions.
- Work with your auditors on potential non-compliance matters.
- Continue to participate in Tribal consultation and commenting opportunities.



Thank You!



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