

### **Grant News in 2026: Best Practices Memorandum Analysis**

On Jan. 13, 2026, the Substance Abuse and Mental Health Services Administration (SAMHSA) terminated approximately 2,800 grants, totaling roughly \$2 billion. The grants were reinstated the following day following rapid and intensive advocacy from stakeholders, however uncertainty remains regarding the possibility of similar future initiatives.

The National Council for Mental Wellbeing (National Council) recently engaged Feldesman, LLP to prepare a guidance memorandum on this and other recent issues related to federal grants. This summary of the guidance memorandum covers:

1. Background as to how the Administration has telegraphed its intentions to engage in such blanket termination actions;
2. Strategic guidance as to how recipients of federal funding can respond and plan;
3. Information on how the “three-day notification” mandate to Congress as required in the fiscal year 2026 (FY26) Department of Health and Human Services (HHS) appropriations bill’ explanatory statement may lead to a new category of litigation challenges and;
4. Information on another potential landmark change that we are monitoring in the grants world—the proposal to add a new SAM.gov certification requirement related to diversity, equity, and inclusion (DEI) restrictions.

As a reminder, National Council previously provided summaries of guidance memos from Feldesman on a [Department of Justice \(DOJ\) memorandum on diversity, equity, and inclusion \(DEI\)](#) and the [Executive Order 14332 \(“Improving Oversight of Federal Grantmaking”\)](#).

**The following does not constitute legal advice, but rather guidance based upon outside counsel's analysis.**

#### **1. SAMHSA Grant Terminations: Background**

While the SAMHSA grant terminations that occurred on Jan. 13 were ultimately overturned, the initial decision is a potential signal of possible similar actions in the future. The federal [Uniform Guidance](#) on grants contains a “termination for convenience” provision which states that a grant may be terminated:

By the Federal agency or pass-through entity pursuant to the terms and conditions of the Federal award, including, to the extent authorized by law, **if an award no longer effectuates the program goals or agency priorities.**

SAMHSA specifically invoked this “termination for convenience” clause ([§ 200.340\(a\)\(4\)](#)) in cancelling grants on Jan. 13. With this in mind, grantees may wish to consider staying aware of SAMHSA’s [2025 Strategic Priorities](#) and similar priority statements issued by other agencies ([HRSA, for example](#)) in order to better understand what may lead to future cancellations, as federal agencies have moved toward enhanced reliance on this termination authority.

## **2. Strategic Planning and Response Guidance**

The memo goes on to provide that once “termination for convenience” provisions have been incorporated into the terms and conditions of most federal grants, it will likely be substantially easier for agencies to terminate grants quickly with an established legal justification. As such, grantees should seek to identify alternative funding streams as a backup where possible. Grantees should also plan to try and identify which grants or programs may no longer “effectuate agency priorities” to the best of their abilities. It may be advisable to focus on grants which emphasize “protected groups” and/or “protected characteristics” (race, sex, or other protected characteristics), and determine whether funding is being used for such purposes. Examples of relevant questions to consider when making such determinations include the following:

- Would any programs or curriculum relating to mental health attract unwanted scrutiny due to a focus on emphasizing mental health’s impacts on a certain protected group or due to a potential emphasis on providing care to individuals identifying as transgender?
- If so, can the grantee make the argument that “protected characteristics” are not used as criteria? For example, even if a mental health training focuses on mental health issues relating to “Hispanic women,” is the training open to all and can anyone avail themselves of the opportunities and benefits?
- Has the grantee developed a system whereby it is engaging in some level of oversight of its contractors and vendors paid with federal funds? Does the grantee feel comfortable certifying that federal funds are not being allocated to third-party programs that discriminate?

When faced with unexpected terminations, grantees should look to [2 CFR §200.472](#), which allows recovery of costs that were (1) properly incurred before the termination date and (2)

would have been allowable had the award continued. This regulation supports a broader range of allowable closeout costs than grantees may realize, including:

- Personnel costs for final reporting and record retention
- Legal and accounting fees for resolving obligations, finalizing records, and subaward settlements
- Property disposition costs such as storage and transfer of grant-funded equipment
- Final audit costs, if required
- Contract and subaward settlements, including reasonable cancellation fees
- Administrative closeout overhead for reports and subrecipient notifications
- Lease obligations, if the grantee made reasonable mitigation efforts
- Other costs such as publication, printing, and related indirect expenses

Termination notices also vary in the closeout window they provide — Feldesman notes that this period is sometimes 90–120 days, but often as little as 30 days are provided to complete all procedures and paperwork. Again, grantees facing terminations should closely review 2 CFR §200.472, which provides a list of allowable costs and activities relating to closeout (examples listed above). Where a termination notice is silent or vague on allowable closeout costs, grantees have a good-faith basis to rely on this regulation as their guide.

The memo also reminds grantees of the effectiveness of advocacy and staying in close contact with the National Council when grant terminations occur. The day following the grant terminations saw a [letter from over 100 members of Congress](#) requesting that the grants be reinstated, and indeed that night SAMHSA announced the terminations would be reversed.

### **3. Congressional Notification Requirements in FY26 Appropriations Bill**

In February, Congress passed an appropriations bill, the [Consolidated Appropriations Act, 2026](#) (CAA), which funds all federal agencies except for the Department of Homeland Security for FY26 (through Sept. 30). The CAA report language includes a provision which requires HHS to notify Congress of any plans to terminate a grant at least three days before doing so.<sup>1</sup> This provision seems to provide two new potential avenues for grantees to push back against terminations.

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<sup>1</sup> The provision containing this language can be found at p. 69 of the [joint explanatory statement](#) that accompanies the CAA.

First, grantees can engage in rapid advocacy efforts in coordination with national organizations, as was seen in response to the Jan. 13 grant terminations. While three days is still a relatively short period of time, it is a longer notice period than was provided in January, and may enable grantees to take quick action to push back.

Second, the three-day period allows grantees the opportunity to file litigation in order to halt or prevent grant terminations. The Feldesman memo provides an example of this strategy in action. On Feb. 12, a federal judge [issued a Temporary Restraining Order \(TRO\)](#) ordering the Centers for Disease Control and Prevention (CDC) to refrain from terminating more than \$600 million in public health funding for four states (CA, CO, IL, and MN). The Trump Administration notified Congress of the intended cuts on Feb. 9, and state attorneys general from these four states quickly filed suit to prevent the terminations from occurring. The court specifically ruled that the Administration could not terminate the grants “based on undisclosed agency priorities.” (*State of Illinois et al. v. Russell Vought et al.*, N.D. Illinois).

With all of this in mind, grantees may wish to consider the following strategies:

- Establish relationships with federal lawmakers and their staff now, before any planned terminations occur to ensure they are aware of the importance and impact of programs in their district. Political pressure proved decisive in reversing the January SAMHSA terminations.
- Be prepared to act rapidly — whether through litigation, advocacy, or a combination of both efforts — within the three-day notification window if a termination is announced.

#### **4. New SAM.gov Registration Proposal on DEI Certification**

The memo also describes an unrelated but important proposed change to the registration process for the Systems for Award Management (SAM.gov). The proposed certifications would require grantees to attest that they: (1) do not operate programs promoting "illegal DEI" or discriminate on the basis of race or color in violation of federal anti-discrimination laws; (2) will not knowingly hire or harbor undocumented immigrants; and (3) will not fund or facilitate violence, terrorism, or threats to public safety or national security.

This proposal is published as an [Information Collection Request \(OMB Control No. 3090-0290\)](#), [91 Fed. Reg. 3726 \(Jan. 28, 2026\)](#), and is tied to both [Executive Order 14173 \(“Ending Illegal Discrimination and Restoring Merit-Based Opportunity”\)](#) and the DOJ memorandum issued July 29, 2025 titled, [“Guidance for Recipients of Federal Funding Regarding](#)

[Unlawful Discrimination](#)” (As noted above, National Council previously provided a [summary of a Feldesman memorandum](#) on the DOJ memorandum, and Feldesman attorneys provided an [overview via webinar](#)).

Unlike DEI-related certifications that some agencies have begun inserting into individual grant awards, this proposal would have grantees provide a SAM.gov certification that would apply universally, across every agency and every future grant for which an organization applies. A single certification at registration would bind an organization to compliance with these requirements for all future awards, regardless of the funding agency, as it would no longer be agency-specific through award terms and conditions.

What makes this proposal significant is its scope. While some agencies have already inserted similar language into individual grant awards, GSA's approach would apply these certifications government-wide, at the point of SAM.gov registration, before any specific award is made. The proposed language is also broader than most individual agency certifications, and much of the language is used is vague or unclear (the term “terrorism” for example is undefined).

To the extent that grantees have concerns about the interpretation of some of these provisions, they should closely examine what the provisions may actually mean (in practice) before agreeing to be bound (across all future grant applications) to language that is vague and unclear. The exact implications of the proposal are still unclear, and it remains unknown how such certifications would be enforced or interpreted. It is also unknown whether GSA will modify the draft proposal as written before it is finalized.

## **5. Conclusion**

This summary is intended to offer members a current overview of the shifting federal grants landscape as of February 2026, with a focus on strategic guidance regarding the "termination for convenience" provision and key takeaways from the SAMHSA grant termination experience.

Looking ahead, Feldesman expects new certification requirements, particularly those related to DEI, immigration, gender-affirming care, and similar topics, to remain a substantial issue through the rest of 2026, as federal agencies move toward enforcement through audits, investigations, and subpoenas. National Council and Feldesman remain committed to supporting our members as a trusted resource across all of these and other areas.

If you have any questions regarding any of the issues discussed here, please do not hesitate to reach out to [policy@thenationalcouncil.org](mailto:policy@thenationalcouncil.org).

Thank you for all you do!