

EXHIBIT 10

Staff Guidance –Award Assessments for Alignment with Agency Priorities - March 2025

Background

This staff guidance rescinds the guidance provided in the February 13, 2025, memo to IC Chief Grants Management Officers entitled Supplemental Guidance – NIH Review of Agency Priorities Based on the New Administration’s Goals. In accordance with the Secretarial Directive on DEI Related Funding (Appendix 1), NIH will no longer prioritize research and research training programs that focus on Diversity, Equity and Inclusion (DEI). Terminations that result from science that no longer effectuates NIH’s priorities must follow the appeals guidance below. All other terminations for noncompliance require, always, [appeal language](#).

Prior to issuing all awards (competing and non-competing) or approving requests for carryover, ICs must review the specific aims assess whether the proposed project contains any DEI research activities or DEI language that give the perception that NIH funds can be used to support these activities. To avoid issuing awards, in error, that support DEI activities ICs must take care to completely excise all DEI activities using the following categories.

Category 1: The sole purpose of the project is DEI related (e.g., diversity supplements or conference grant where the purpose of the meeting is diversity), and/or the application was received in response to a NOFO that was unpublished as outlined above.

- Action: ICs must not issue the award.

Category 2: Project partially supports DEI activities (i.e., the project may still be viable if those aims or activities are negotiated out, without significant changes from the original peer-reviewed scope) this means DEI activities are ancillary to the purpose of the project. In some cases, not readily visible. This category requires a scientific assessment and requires the GM to use the DEI Restriction Term of Award in Section IV of the Notice of Award, no exceptions will be allowed without a deviation from the Office of Policy for Extramural Research Administration (OPERA)/Office of Extramural Research (OER).

- Action 1: Funding IC must negotiate with the applicant/recipient to address the activities that are non-compliant, along with the associated funds that support those activities, obtain revised aims and budgets, and document the changes in the grant file.
- Action 2: Once the IC and the applicant/recipient have reached an agreement, issue the award and include the DEI Term and Condition of Award in Section IV of the Notice of Award. Hard funds restrictions are not required.
 - **Note:** If the IC and the applicant/recipient cannot reach an agreement, or the project is no longer viable without the DEI related activities, the IC cannot proceed with the award. For ongoing projects, the IC must work with OPERA to negotiate a bilateral termination of the project. Where bilateral termination cannot be reached, the IC must unilaterally terminate the project. Terminated awards (bilaterally or unilaterally) should follow the process identified in [Appendix 2](#).

Category 3: Project does not support DEI activities, but may contain language related to DEI (e.g., statement regarding institutional commitment to diversity in the 'Facilities & Other Resources' attachment and terminology related to structural racism—this is not all-inclusive).

- Action 1: Funding IC must request an updated application/RPPR with the DEI language removed.
- Action 2: Once the language has been removed, the IC may proceed with issuing the award.

Category 4: Project does not support any DEI activities

- Action: IC may proceed with issuing the award.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary
Washington, D.C. 20201

SECRETARIAL DIRECTIVE ON DEI-RELATED FUNDING

February 10, 2025

The Department of Health and Human Services has an obligation to ensure that taxpayer dollars are used to advance the best interests of the government. This includes avoiding the expenditure of federal funds on programs, or with contractors or vendors, that promote or take part in diversity, equity, and inclusion (“DEI”) initiatives or any other initiatives that discriminate on the basis of race, color, religion, sex, national origin, or another protected characteristic. Contracts and grants that support DEI and similar discriminatory programs can violate Federal civil rights law and are inconsistent with the Department’s policy of improving the health and well-being of all Americans.

These contracts and grants can cause serious programmatic failures and yet it is currently impossible to access sufficient information from a centralized source within the Department of Health and Human Services to assess them. Specifically, there is no one method to determine whether payments the agency is making to contractors, vendors, and grantees for functions related to DEI and similar programs are contributing to the serious problems and acute harms DEI initiatives may pose to the Department’s compliance with Federal civil rights law as well as the Department’s policy of improving the health and well-being of all Americans. It is also currently impossible to assess whether payments the Department is making are free from fraud, abuse, and duplication, as well as to assess whether current contractual arrangements, vendor agreements, and grant awards related to these functions are in the best interests of the United States. *See* FAR 12.403(b), 49.101; 45 C.F.R. § 75.371-372. Finally, it is also impossible to determine with current systems whether current contracts and grant awards are tailored to ameliorate these specific problems and the broader problem of DEI and similar programs rather than exacerbate them. The Department has an obligation to ensure that no taxpayer dollars are lost to abuse or expended on anything other than advancing the best interests of the nation.

For these reasons, pursuant to, among other authorities, FAR 12.403(b) and 49.101 and 45 C.F.R. § 75.371- 372, the Secretary of Health and Human Services hereby DIRECTS as follows:

Agency personnel shall briefly pause all payments made to contractors, vendors, and grantees related to DEI and similar programs for internal review for payment integrity. Such review shall include but not be limited to a review for fraud, waste, abuse, and a review of the overall contracts and grants to determine whether those contracts or grants are in the best interest of the government and consistent with current policy priorities. In addition, if after review the Department has determined that a contract is inconsistent with Department priorities and no longer in the interest of the government, such contracts may be terminated pursuant to the Department’s authority to terminate for convenience contracts that are not “in the best interests of the Government,” see FAR 49.101(b); 12.403(b). Furthermore, grants may be terminated in accordance with federal law.

This Directive shall be implemented through the Department's contracts and payment management systems by personnel with responsibility for such systems who shall, in doing so, comply with all notice and procedural requirements in each affected award, agreement, or other instrument. Whenever a DEI or similar contract or grant is paused for review, Department personnel shall immediately send such payment to Scott Rowell, Deputy Chief of Staff for Operations, for prompt review to determine whether or not the payment is appropriate and should be made. Payments on paused contracts shall remain paused and already terminated contracts shall remain terminated pending completion of that review to the maximum extent permitted by law and all applicable notice and procedural requirements in the affected award, agreement, or other instrument.

I thank you for your attention to this matter, as well as your efforts to ensure that no taxpayer dollars are misspent.

A handwritten signature in blue ink, reading "Dorothy A. Fink", is positioned above a horizontal line.

Dorothy A. Fink, M.D., Acting Secretary

Appendix 2 – Guidance for staff to use when terminating awards identified by HHS or the IC.

- Issue a revised NOA.
 - Change the budget and project period end dates to match the date of the termination letter.
 - Check PMS, determine amount of funds remaining, and deobligate the amount reflected in PMS when revising the NOA. Note: This applies to Multi-Year Funded Awards, as well. Work with FFR-C if you have questions regarding deobligating funds to avoid placing the recipient in debt collection.
 - Remove all future years from the project, where applicable. If the grant is in a no cost extension, and the HHS requests a termination, the project must be terminated
 - Use the following termination term: This award related to [select the appropriate example relevant to your project by choosing one of the highlighted examples DEI, China, or Transgender issues] no longer effectuates agency priorities. It is the policy of NIH not to further prioritize these research programs. Therefore, the award is terminated. [Refer to Appendix 3 for language provided to NIH by HHS.] Please be advised that your organization, as part of the orderly closeout process will need to submit the necessary closeout documents (i.e., Final Research Performance Progress Report, Final Invention Statement, and the Final Federal Financial Report (FFR)) within 120 days of the end of this grant to avoid unilateral closeout.
 - Insert restriction language that allows for the recipients to use a portion of funds to support the health and safety of patients and orderly closeout of the project.
 - Sample language for use: “Funds in the amount of \$xxxxxxx [insert \$ amount total cost] may be used to support patient safety and orderly closeout of the project. Funds used to support any other research activities will be disallowed and recovered.”
- Appeals language must be used (prior to October 1, 2025):
 - NIH is taking this enforcement action in accordance with [2 C.F.R. § 200.340](#) as implemented in [NIH GPS Section 8.5.2](#). This letter represents the final decision of the NIH. It shall be the final decision of the Department of Health and Human Services (HHS) unless within 30 days after receiving this decision you mail or email a written notice of appeal to Dr. Matthew Memoli.

Please include a copy of this decision, your appeal justification, total amount in dispute, and any material or documentation that will support your position. Finally, the appeal must be signed by the institutional official authorized to sign award applications and must be postmarked no later than 30 days after the postmarked date of this notice.
- Termination actions taken based on agency priorities do not require appeals language because the action was not based on administrative nor programmatic noncompliance

Appendix 3 – Language provided to NIH by HHS providing examples for research activities that NIH no longer supports.

- China: Bolstering Chinese universities does not enhance the American people's quality of life or improve America's position in the world. On the contrary, funding research in China contravenes American national-security interests and hinders America's foreign-policy objectives.
- DEI: Research programs based primarily on artificial and non-scientific categories, including amorphous equity objectives, are antithetical to the scientific inquiry, do nothing to expand our knowledge of living systems, provide low returns on investment, and ultimately do not enhance health, lengthen life, or reduce illness. Worse, so-called diversity, equity, and inclusion ("DEI") studies are often used to support unlawful discrimination on the basis of race and other protected characteristics, which harms the health of Americans. Therefore, it is the policy of NIH not to prioritize such research programs.
- Transgender issues: Research programs based on gender identity are often unscientific, have little identifiable return on investment, and do nothing to enhance the health of many Americans. Many such studies ignore, rather than seriously examine, biological realities. It is the policy of NIH not to prioritize these research programs.

Appendix 4 – Approved Term – Use for all Category 2 awards, i.e., renegotiated aims and associated budgets. Approval embedded below. ICs should use this term in the IC specific award conditions

Term and Condition of Award

NIH and the recipient have renegotiated the scope of this award. Pursuant to the revised scope, NIH funds may only be used to support activities within the revised scope of the award. NIH funds may not be used to support activities that are outside the revised scope of the award, including Diversity Equity and Inclusion (DEI) research or DEI-related research training activities or programs. Any funds used to support activities outside the scope will result in a disallowance of costs, and funds will be recovered.

This term is consistent with NIH's ongoing internal review of NIH's priorities and the alignment of awards with those priorities as well as a review of program integrity of awards. Such review includes, but is not limited to, a review for fraud, waste and abuse, and a review of the NIH portfolio to determine whether awards are in the best interests of the government and consistent with policy priorities. If recipients are unclear on whether a specific activity constitutes DEI or has questions regarding other activities that could be considered outside the scope of the award, refrain from drawing down funds and consult with the funding IC, particularly where the activity may impact the specific aims, goals, and objectives of the project.

Approval email from Dr. Memoli (Acting Director, NIH) on Friday, February 28, 2025.

From: [Memoli, Matthew \(NIH/OD\) \[E\]](#)
To: [Bundesen, Liza \(NIH/OD\) \[E\]](#)
Cc: [Bulls, Michelle G. \(NIH/OD\) \[E\]](#); [Lankford, David \(NIH/OD\) \[E\]](#); [Butler, Benjamin \(NIH/OD\) \[E\]](#); [Jacobs, Anna \(NIH/OD\) \[E\]](#); [Burklow, John \(NIH/OD\) \[E\]](#)
Subject: Re: Clean Version of DEI Restriction Term - Final
Date: Friday, February 28, 2025 2:54:19 PM

approved

Matt

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From: Bundesen, Liza (NIH/OD) [E] <lbundese@mail.nih.gov>
Sent: Friday, February 28, 2025 2:53:21 PM
To: Memoli, Matthew (NIH/OD) [E] <matthew.memoli@nih.gov>
Cc: Bulls, Michelle G. (NIH/OD) [E] <michelle.bulls@nih.gov>; Lankford, David (NIH/OD) [E] <lankford@od31tm1.od.nih.gov>; Butler, Benjamin (NIH/OD) [E] <butlerben@mail.nih.gov>; Jacobs, Anna (NIH/OD) [E] <anna.jacobs2@nih.gov>; Burklow, John (NIH/OD) [E] <burklowj@od.nih.gov>
Subject: Clean Version of DEI Restriction Term - Final

Hi Matt,

Attached is the term and condition of award for your approval. Please let us know if you approve and we will implement.

Thank you,
Liza