

Litigating "Freezing-Funds" Directive From OMB

02.14.25 | Linda J. Rosenthal, JD



The initial volley in the new Administration's promised "shock and awe" blitz began early in the afternoon of January 20th.

Excited officials and specially chosen guests in the Oval Office witnessed the formal launch of what would be a sweeping set of presidential executive orders. There were seven to start; now at Day 25, the pile has grown to dozens more. Some of them – directly or indirectly – affect the nonprofit sector as a whole or segments of it.

Most are unabashedly ideological, coming straight out of the controversial Project 2025 playbook. They include provocative titles: see, for instance, Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Government (1/20/25).

And they range from the banal – Ending Procurement and Forced Use of Paper Straws (2/10/25) – to the birthright-citizenship definition of the Fourteenth Amendment – Protecting the Meaning and Value of American Citizens (1/20/25).

The all-out assault on the "Administrative State" has been fueled with exhortations to root out "wokeness" and eradicate "Marxist equity, transgenderism, and green new deal social engineering policies."

In the first week or so, there were more presidential orders and actions along with directives and mandates from the executive branch. Case in point: the Office of Management and Budget's (OMB) Memorandum (M-25-13): Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs [2 pp. PDF] (January 27, 2025).

It triggered immediate confusion and panic around the nation and particularly in the nonprofit sector as government officials shut down federal-payment portals for grants and contracts.

But there was quick action in response. By Tuesday evening, January 28th, two sets of plaintiffs had filed separate federal lawsuits with requests for emergency relief to staunch the fiscal bleeding and chaos.

Less than a week later, on Monday, February 3rd, federal judges in the District of Columbia and in Rhode Island issued temporary restraining orders. That's the story we began to tell in *Federal Funding "Pause": Five-Alarm-Fire, Doused for Now* (February 4, 2024), *FPLG Blog*.

There's much more left to write about OMB Memorandum (M-25-13) and the battle is not over yet.

The state attorneys general who had sued in *New York et al v Trump et al* were back in the District of Rhode Island with an emergency motion to compel compliance with the February 3rd TRO. It was granted. See *Judge says Trump administration is not in full compliance with order on spending* (February 10, 2026, 7:14 pm EST) Elena Moore and Michael Copley, npr.org. [The administration "has continued to freeze some federal funds, despite a temporary restraining order ... blocking the administration's efforts to pause payments for grants and other federal programs."]

Chaos is a Feature, Not a Bug

As we emphasized in the February 4th blog post, the new Administration is relying on a "... shock-and-awe playbook dating back to January 2017 and weaponized since then. This strategy emphasizes the importance (mostly psychological) of '... firing tons of missiles into the air so that your adversary can't figure out which missile is real and which isn't..."

Chaos and disruption are the goals: "bizarre, rapid-fire presidential policy making" when "every day there's a new, radical initiative...that "doesn't give journalists or the public a chance to get a grip on what just happened." The internet meme – "We are already living Project 2025" – becomes more true each day.

The story of OMB Memorandum (M-25-13) debacle is all about twists and turns, confusion and unpredictability, secrecy and surprise.

The gist of the two-page directive signed by the Acting Director of Management and Budget late on Monday, January 27, 2025, is a seemingly straightforward message. Addressed to the heads of each executive department and agency, it begins: "The American people elected Donald J. Trump to be President of the United States and gave him a mandate to increase the impact of every federal taxpayer dollar." (So far, so good.)

"Career and political appointees in the Executive Branch have a duty," explained Matthew Veath, "to align Federal spending and action with the will of the American people as expressed through Presidential priorities." (Not entirely accurate, constitutionally....)

Almost one-third of the total \$10 billion spent by the federal government in 2024 was "for Federal financial assistance, such as grants and loans." Whoa. That's a huge chunk of change walking out of the Treasury every day, every hour, especially if it's used "to advance Marxist equity,

transgenderism, and green new deal social engineering policies!” That’s “a waste of taxpayer dollars that does not improve the day-to-day lives of those we serve.”

So – (paraphrasing) – we must act fast to temporarily plug that drain by no later than 5 pm tomorrow (Tuesday, January 28th) while we figure out how to redirect that mountain of money.

It should be used, instead, “...to advancing Administration priorities, focusing taxpayer dollars to advance a stronger and safer America, eliminating the financial burden of inflation for citizens, unleashing American energy and manufacturing, ending ‘wokeness’ and the weaponization of government, promoting efficiency in government, and Making America Healthy Again.”

The Acting Director advised relying on the early batches of Executive Orders for guidance in “how to protect the American people and safeguard valuable taxpayer resources” and to “ensure that “Federal funds are used to support ‘hardworking American families.’

Time is critical: “...[E]ach agency must complete a comprehensive analysis of all of their Federal financial assistance programs to identify programs, projects, and activities that may be implicated by any of the President’s executive orders....” by no later than February 10th.

The Lawsuits

This insidious document – with just two pages of print – is unconscionably sweeping, open-ended, and – frankly – incoherent (couched as it is in language unfamiliar to Americans not fluent in Project 2025-speak). It also violates various federal statutes and is unconstitutional, according to two federal judges.

Both Diane Yentel of the National Council of Nonprofits and Letitia James, Attorney General of New York, learned of the existence of Memorandum (M-25-13) the same night it was sent secretly to executive branch officials. One way or another, independent journalist Marisa Kabas got hold of a copy of the document. She circulated it on social media. The Washington Post soon confirmed the scoop and published it.

Ms. Yentel had just taken over the reins of the National Council of Nonprofits, replacing the retiring David Thompson. It was mid-January 2025, just ahead of Inauguration Day. She told a journalist that she’d “already been tracking the impact of President Donald Trump’s initial executive orders on nonprofits when she saw the memo in the evening” of January 27, 2025.

It’s not unexpected for a new federal Administration to bring policy changes, large or small. “[B]ut few contemplated the total suspension of foreign aid or a widespread pause of federal funding,” she explained. “The federal funding freeze was a moment widely viewed by the nonprofit sector as an existential crisis.” See *Nonprofit’s Lawsuit over the federal funding freeze is part of an ‘avalanche’ of litigation* (February 5, 2025, 5:10 AM) *Associated Press*.

The new NCN chief “moved quickly to take action....” “Posting to LinkedIn that night, Yentel wrote, the OMB memo was, ‘a potential 5-alarm fire for nonprofits and the people and communities they serve,’ adding, ‘We won’t stand by and let it happen.’”

In a post on the NCN website, [Why We Filed a Lawsuit Against the Administration](#) (February 10, 2025), Diane Yentel explained: “This is the first time in NCN’s history that we have filed a lawsuit against any entity,...” How did they do it so quickly and why? “If not us, who? Together, we have an obligation to step up and push back against actions that could cause catastrophic harm to the nonprofit sector and the people and communities they serve, and especially so when we can reasonably expect that our actions can prevent such harm. This was just such a moment.”

“Within hours,” NCN, Democracy Forward [which is counsel of record], “and several other groups joined forces and hammered out a legal strategy...We worked throughout the night to pull it all together and be able by 9 a.m. for the attorneys to call the judge in the district court and let them know that there would be a challenge to this order and that we would need to have an emergency hearing that day.”

In New York, Letitia James, the state attorney general, was also alerted to OMB Memorandum (M-25-13) soon after it was leaked. See [Letitia James Calls Out Trump’s Funding Move: ‘Reckless and Dangerous’](#) (January 28, 2025, 7:45 am EST, updated 10:04 am EST) Khaleda Rahman, *Newsweek*. “On Monday, James wrote on X, formerly Twitter: ‘This administration’s pause on federal funding is reckless and dangerous. Programs in communities across the entire nation depend on this funding to support our families, and this action is only going to hurt them.’”

It took a bit longer to alert the other 22 Democratic attorneys general around the nation and get a separate lawsuit going. But by Tuesday morning, Letitia James was in front of the cameras announcing that, by the end of the day, there would be a second lawsuit filed in the District of Rhode Island.

In both lawsuits, there were immediate results. In the NCN-led lawsuit in the District of Columbia, on Tuesday, the 28th, just minutes to go before the 5 pm federal-funds “temporary pause,” federal district judge Loren AliKhan ordered an emergency stay against the government. On Wednesday morning, the 29th, the Chief Judge in the federal district court of Rhode Island held a hearing and indicated he would soon enter a temporary restraining order.

Conclusion

(Temporarily pausing this post for reasons of length), please take this opportunity to check out these resources from the National Council of Nonprofits.

- [Executive Actions and Their Impact on Charitable Nonprofit](#) (February 7, 2025) [recorded webinar,[You Tube, 57:37] [councilofnonprofits.org](https://www.councilofnonprofits.org)
- [The Impacts of the Recent Executive Orders on Nonprofits](#) [current] [councilofnonprofits.org](https://www.councilofnonprofits.org)
- [Judge Issues Temporary Restraining Order on OMB Freeze](#) (February 3, 2025), [councilofnonprofits.org](https://www.councilofnonprofits.org)
- [Memorandum Opinion and Order](#) (February 3, 2025) *National Council of Nonprofits et al v. Office of Management and Budget et al*, Civil Action No. 25 – 239 (LLA)

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