

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

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| |) | |
| National Council of Nonprofits, <i>et al.</i> , |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | Civil Action No. 1:25-cv-239 |
| |) | |
| Office of Management and Budget, <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |
| |) | |

**DEFENDANTS' NOTICE REGARDING PLAINTIFFS' MOTION FOR TEMPORARY
RESTRAINING ORDER**

Plaintiffs in the above-captioned action have requested that this Court enter a sweeping temporary restraining order, interfering with the Office of Management and Budget’s (OMB’s) instructions to agencies on how to faithfully implement the President’s agenda. Moreover, Plaintiffs request that the Court enter this relief in a matter of hours—without any meaningful opportunity for Defendants or the Court to consider and address the relevant issues. And Plaintiffs make this request without any particularized showing that immediate relief is necessary—*i.e.*, that a temporary restraining order is necessary to avoid irreparable harm that would occur in the short time needed to adjudicate their request for emergency relief on a reasonable timeline.

Plaintiffs in this case challenge a Memorandum issued by OMB, directing that “to the extent permissible under applicable law, Federal agencies must temporarily pause” certain federal financial assistance. OMB Mem. 25-13, *Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs* (Jan. 27, 2025) at 2. On January 28, 2025, OMB issued further guidance about the scope of that temporary pause, confirming that “the pause does not apply across-the-board” and implicates only those programs subject to certain Executive Orders. *See*

Guidance (attached hereto) at 1 (“Any program not implicated by the President’s Executive Orders is not subject to the pause.”). Undersigned counsel e-mailed a copy of this Guidance to Plaintiffs’ counsel at approximately 1:31 p.m. ET on January 28, 2025.

Particularly in light of this Guidance, Plaintiffs have not established the need for immediate relief within the next several hours. Based on the current record, they have not shown which (if any) of their identified grant programs may even be affected by the pause. Moreover, even if a particular grant program involving Plaintiffs is paused, Plaintiffs have not established that they otherwise would expect to receive payments under that grant program within the next several days or even weeks—which is the only timeframe relevant to Plaintiffs’ request for a temporary restraining order that would last, at most, 14 days subject to renewal. *See* Fed. R. Civ. P. 65(b)(2). Nor have Plaintiff established that any temporary delay in such payments, for the short time needed to litigate their motion on a reasonable timeframe, would cause catastrophic harms requiring earlier action.

Thus, Defendants respectfully submit that these proceedings should unfold on a reasonable timeline, allowing for due consideration of Plaintiffs’ claims and their request for expansive relief. Defendants respectfully submit that they be afforded at least until 5:00 p.m. on Thursday, January 30, 2025, to file a written opposition to Plaintiffs’ motion, at which point Defendants would be available on Friday, January 31, 2025 (or any date thereafter) for a hearing on Plaintiffs’ motion.

Dated: January 28, 2025

Respectfully Submitted,

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ALEXANDER K. HAAS
Director

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

In implementing President Trump's Executive Orders, OMB issued guidance requesting that agencies temporarily pause, to the extent permitted by law, grant, loan or federal financial assistance programs that are implicated by the President's Executive Orders.

Any program not implicated by the President's Executive Orders is not subject to the pause.

The Executive Orders listed in the guidance are:

Protecting the American People Against Invasion

Reevaluating and Realigning United States Foreign Aid

Putting America First in International Environmental Agreements

Unleashing American Energy

Ending Radical and Wasteful Government DEI Programs and Preferencing

Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government

Enforcing the Hyde Amendment

Any program that provides direct benefits to individuals is not subject to the pause.

The guidance establishes a process for agencies to work with OMB to determine quickly whether any program is inconsistent with the President's Executive Orders. A pause could be as short as day. In fact, OMB has worked with agencies and has already approved many programs to continue even before the pause has gone into effect.

Any payment required by law to be paid will be paid without interruption or delay.

Q: Is this a freeze on all Federal financial assistance?

A: No, the pause does not apply across-the-board. It is expressly limited to programs, projects, and activities implicated by the President's Executive Orders, such as ending DEI, the green new deal, and funding nongovernmental organizations that undermine the national interest.

Q: Is this a freeze on benefits to Americans like SNAP or student loans?

A: No, any program that provides direct benefits to Americans is explicitly excluded from the pause and exempted from this review process. In addition to Social Security and Medicare, already explicitly excluded in the guidance, mandatory programs like Medicaid and SNAP will continue without pause.

Funds for small businesses, farmers, Pell grants, Head Start, rental assistance, and other similar programs will not be paused. If agencies are concerned that these programs may implicate the President's Executive Orders, they should consult OMB to begin to unwind these objectionable policies without a pause in the payments.

Q: Is the pause of federal financial assistance an impoundment?

A: No, it is not an impoundment under the Impoundment Control Act. It is a temporary pause to give agencies time to ensure that financial assistance conforms to the policies set out in the President's Executive Orders, to the extent permitted by law.

Temporary pauses are a necessary part of program implementation that have been ordered by past presidents to ensure that programs are being executed and funds spent in accordance with a new President's policies and do not constitute impoundments.

Q: Why was this pause necessary?

A: To act as faithful stewards of taxpayer money, new administrations must review federal programs to ensure that they are being executed in accordance with the law and the new President's policies.