



NONPROFITS: FINANCE

Preliminary Injunction Granted Re Freezing-Funds Directive

02.27.25 | Linda J. Rosenthal, JD



“The scope of power OMB seeks to claim is ‘breathtaking,’ and its ramifications are massive,...” wrote federal district judge Loren L. AliKhan two days ago to explain why she granted a requested preliminary injunction against the Trump Administration’s Office of Management and Budget.

The National Council of Nonprofits (NCN) is the lead plaintiff in one of two lawsuits filed in late January 2025 challenging the now-infamous OMB Memorandum (M-25-13): Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs [2 pp. PDF] (January 27, 2025).

Plaintiffs had “proved that the ‘funding freeze’ would be economically catastrophic — and in some circumstances, fatal — to their members.” And it’s why, according to Judge AliKhan, supplanting the existing Temporary Restraining Order with this Preliminary Injunction is entirely warranted because plaintiffs are “likely to succeed on the merits.”

Moreover, Judge AliKhan ruled that the injunctive relief will apply nationwide and is granted without requiring plaintiffs to post the outrageous and unprecedented bond demanded by the government. See National Council of Nonprofits v. Office of Management and Budget, Case No. 1:25-cv-00239, (D.D.C. Feb 25, 2025) Document #51 (Memorandum & Opinion); also Document #52 (Order on Motion for Preliminary Injunction).

The second lawsuit challenging the disastrous federal-funds freeze orders is making its way through federal district court in Rhode Island. The plaintiffs are the twenty-three Democratic state attorneys general. In that litigation, too, there is a temporary restraining order that the Hon. John James



McConnell, Jr. granted in early February. In a hearing late last week, Judge McConnell indicated he could rule any day now on a permanent injunction but the TRO will remain in place. See State of New York et al v. Trump et al, Case No. 1-25-cv-00039, (D.R.I. January 31, 2025) Document #50; (Order on Motion for TRO); also (D.R.I. Feb. 21, 2025) Document #153 (Hearing, Transcript ordered).

The Next Steps

It's been an extraordinary several weeks since Inauguration Day when the new administration took the first steps in its plan to drastically shrink the federal government and to remove federal funding and approval for projects and programs that were determined not to "align" with presidential "priorities."

For a review, see our recent posts: Federal Funding "Pause": Five-Alarm-Fire, Doused for Now (February 4, 2025); Litigating Freezing-Funds Directive From OMB (February 14, 2025); The Federal-Funds Freeze & the Impoundment Control Act (February 20, 2025); and The Federal Offensive Against Nonprofits: Navigating Quicksand (February 25, 2025).

For the original court documents, check out a wonderful resource courtesy of CourtListener.com a project of Free Law Project, a 501(c)(3) organization. It's available without charge online and gives access to court-docket listings – (updated several times a days) – with a level of detail and hyperlinks that far surpasses the courts' own online docket offerings. See:

- National Council of Nonprofits v. Office of Management and Budget, Case No. 1:25-cv-00239, (D.D.C.): as of 2/28/25 at 4:51 am EST, 53 items
- State of New York v. Trump, Case No. 1-25-cv-00039 (D.R.I.): as of 2/28/25 at 11:29 am EST, 159 items [Update 3/1/25: the docket was updated on 2/28/25 at 6:31 pm, adding plaintiffs' (new) second motion to enforce the TRO, specifically as against FEMA]

Commentary

In Federal Judge Extends Halt To Trump's Federal Funding Freeze (February 25, 2025) Jacob Knutson of Democracy Docket observes: The District of Columbia judge "...heavily criticized the Trump administration's implementation of the freeze and its handling of the fallout from the funding interruption...." In the simplest terms, the freeze was ill-conceived from the beginning." Also, the actions of the administration were "irrational, imprudent, and precipitated a nationwide crisis."

Hon. Loren L. AliKhan had tough words for the novice press secretary, Karoline Leavitt, who added gratuitous and contradictory statements on social media just after the OMB issued the purported retraction of the "pause" memorandum. "By any reading of the Press Secretary's remarks, the memorandum's retraction was an empty gesture."

See also:

- Judge Issues National Injunction to Block Trump Administration's Devastating Attempt to Halt Funding For Essential Services (February 25, 2025) National Council of Nonprofits
- NEW: Judge Issues National Injunction to Block Trump Administration's Devastating Attempt to Halt Funding for Essential Services (February 25, 2025) Press Release,



democracyforward.org

- [Federal Judge Extends Halt To Trump's Federal Funding Freeze](#) (February 25, 2025) Jacob Knutson, democracydocket.org ["In issuing a preliminary injunction, District Judge Loren AliKhan heavily criticized the Trump administration's implementation of the freeze and its handling of the fallout from the funding interruption."]
- [Judge continues to block Trump administration's freeze on federal assistance](#) (updated February 25, 2025 3:28 pm EST) Jacob Rosen and Melissa Quinn, *CBS News*
- [Federal Judge Issues Preliminary Injunction Blocking Trump Administration's Blanket Freeze on Federal Funding](#) (February 26, 2025) Samuel S. Finnerty, Esq., and Ryan Boonstra, Esq., *Client Alert*, Pilliera Mazza

"Parallel Litigation"

Although the two lawsuits challenging OMB Memorandum (M-25-13) are distinct cases in different federal courts, there are enough connections that both judges have taken pains to point out that they are somewhat related. For example, in the *Memorandum & Opinion*, Document #51 supporting the granting of the preliminary injunction, Judge AliKhan takes almost 3 pages of the ruling to establish that there is "parallel litigation" in the District of Rhode Island.

Similarly, on February 25, 2025 – the day that the District of Columbia preliminary injunction was entered – the plaintiffs in the Rhode Island case (i.e., the 23 Democratic state attorneys general) filed a *Notice of Supplemental Authority* Document #159, to "notify the Court of supplemental authority relevant to their pending motion for a preliminary injunction." By this move, they ask Chief Judge McConnell to give great weight to Judge AliKhan's findings and conclusions including: "that the plaintiffs' claims there are not moot; that the OMB Directive is final agency action under the Administrative Procedures Act ("APA"); that the funding freeze put in place by the Directive is arbitrary and capricious, in violation of the APA; and that the plaintiffs are entitled to injunctive relief."

Conclusion

This preliminary injunction is by no means the end of the story. It may be appealed.

And there are certainly many other executive orders or federal directives that have been issued since Inauguration Day that demand the temporary pause or the defunding of programs and projects that don't align with presidential priorities. So the danger to the charitable sector, to state and local governments, and to individuals is coming from multiple directions. For an excellent and continually updated resource, see "[Litigation Tracker: Legal Challenges to Trump Administration Actions](#)" from justsecurity.org.

All of this is, indeed, like [navigating through quicksand](#).

– Linda J. Rosenthal, J.D., *FPLG Information & Research Director*