GENERAL

The Midterms Earthquake and The Charitable Sector: First Thoughts

11.13.26 | Linda J. Rosenthal, JD



There has been so much harm done to the charitable sector since Inauguration Day 2025, it's hard to select just a single outrageous action as the most catastrophic on that long list.

Surely, though, at or near the top must be the first week's executive orders signaling the intent to take a machete to the nation's decades-long promise and pipeline of federal grant funds for the nation's 501(c)(3) organizations.

It came to a head by the evening of January 27, 2025, with the secret circulation of the (now-notorious) OMB Memorandum (M-25-13). That order – euphemistically referred to as a "temporary pause" in billions of dollars previously allocated funding by Congress – was effective immediately that Monday night. The small circle of recipients – the newly designated heads of various executive branch departments and agencies – were told to carry out the directive by no later than 5 pm Tuesday. Overnight, many of the spigots at the U.S. Treasury were shut down.

Also on Monday evening, there was a leak of the tightly-under-wraps OMB Memorandum (M-25-13) to the press. The National Council of Nonprofits and a coalition of over 20 Democratic state attorneys general sprang into action to draft and file federal lawsuits seeking emergency injunctive relief. By the 5 pm Tuesday deadline, one of the two lawsuits was docketed, a hearing was held, and a TRO was issued. Before the end of the next day, the second lawsuit was similarly set into motion. See *Federal Funding "Pause": Five-Alarm-Fire, Doused for Now* (February 4, 2025) *FPLG Blog; The Federal Offensive Against Nonprofits: Navigating Quicksand* (February 25, 2025) *FPLG Blog;* and *The Preliminary Injunctions Re OMB Memorandum (M-25-13): A Closer Look* (March 18, 2025) *FPLG Blog.*

This drama dragged out for almost two years. In violation of numerous court orders in 2025 and 2026, the administration continued to engage in this pattern and practice of upending previously approved federal funding to the tune of billions of dollars. See e.g., *The Charitable-Sector Pushback Against the Administration: One Year Post-Election* (November 12, 2025) *FPLG Blog; More Good Litigation News for the Charitable Sector* (July 21, 2026) *FPLG Blog;* and *Gov't Overreach At 18 Months* (July 30, 2026) *FPLG Blog.*

Urban Institute Report

Recently, the prestigious Urban Institute published an important report on the relentless federal budget cuts and disruptions by the Trump 2.0 administration. See: *The Prevalence, Persistence, and Financial Implications of Government Funding Disruptions for Nonprofits in 2025* [45 pp. PDF] (October 2026) Prof. Lewis Faulk *et al., The Urban Institute.*

This study and analysis opened with the Inauguration Day 2025 barrage of deeply troubling executive orders "directing agencies to review or pause federal expenditures in areas including foreign assistance, climate and infrastructure programs, and diversity, equity, and inclusion initiatives."

The authors also highlighted OMB Memorandum (M-25-13) (January 27, 2025). That infamous directive particularly ordered "federal agencies to temporarily pause certain obligations and disbursements of federal financial assistance while reviewing programs for consistency with the administration's policy priorities."

The Urban Institute analysis underscored "that government funding disruptions were not merely accounting events; they were operating shocks that introduced significant uncertainty and affected nonprofits' financial stability. The financial impacts … also affected nonprofits' workforce decisions, program delivery, and the communities they serve."

"For many nonprofits," the Report authors explained, "government grants and contracts do more than support individual, timebound programs: they underwrite staff positions, maintain and improve service capacity and quality, stabilize operating budgets by providing a reliable source of revenue, and increase the scale at which organizations can serve communities. When that funding is lost, delayed, frozen, paused, or interrupted by stop-work orders, the consequences are felt not only on balance sheets but also in the operational decisions nonprofit leaders must make to respond to funding uncertainty."

And there is a much broader ripple effect: "Government funding disruptions to some nonprofits can also have spillover effects on organizations that do not even receive government funding by increasing competition for other revenue and straining the resources of foundations and other private funders trying to fill funding gaps and keep programs running."

This particularly insidious Shock-and-Awe 2.0 strategy – among many others – continued right up to Tuesday, November 3, 2026.

Political Reshuffling: Managing Expectations

We had been warned ahead of Election Day 2026 to be conservative about our expectations and hopes for change. There was so much to fix – including but not limited to the administration's

repeated insidious attempts to strange the nation's 501(c)(3)s financially.

In the final days before the scheduled voting, though, cautious optimism crept in: the possibility that the actual vote tallies would show a shift in control of the House of Representatives was too tantalizing to ignore. There were dreams as well about more than just a razor-thin margin so as to avoid the constant worries about one or another member of Congress: (a) catching a bad cold and missing a crucial vote; (b) disappearing for 117 days ; or (c) repeatedly threatening to change parties. Hopes for a Senate takeover were buried quickly so as not to jinx such a long shot.

What happened on November 3rd, though, was not just a slight realignment in the Congressional map. Neither was it a rearrangement (as it were) of the deck chairs on the Titanic.

It was a broad, deep, and unequivocal political earthquake. Unexpected, too, was the fairly rapid determination of most of the winners by the end of Tuesday night. We were assured that could not happen.

Overnight, the national conversation pivoted to the astonishing shift in both chambers of Congress that will, to one degree or another, reorder the political landscape going forward over the next two years of the lame-duck presidency. It's not a total win: That was impossible in the middle of the four-year GOP presidential cycle. And the comfortable voting cushion does not extend far enough to constitute a veto-proof majority in the House or Senate, or filibuster-smashing majority in that upper chamber.

But there is enough wiggle room to allow for some House members to break ranks with leadership from time to time, or to engage in spirited policy debate. The Senate is a bit tighter, but it's not like the nail-biting circumstances in 2021 and 2022 when Vice President Harris had to be on call to break a tie.

Federal Wish Lists and Choices

By Wednesday morning, there were undoubtedly lots of wish lists being drawn up nationwide in the charitable community to prioritize strategy to reverse or at least lessen the damage from the first two years of Trump 2.0 chaos and disruption.

Of course, the federal-funding issue must be a priority, but there are almost too many other dreadful policies to count out of the lineup.

The election results were so historically unusual that care must be taken to educate ourselves about what is or is not possible under these remarkable facts and circumstances. There is, understandably, considerable confusion and misinformation.

In any event, there will be tough choices for charitable-sector leaders and for lawmakers.

Below is an initial smattering of reading materials that should be helpful to start. I expect a flood of additional commentary, analysis, and opinion from a wide range of experts and observers over the next days and weeks.

- *What constitutional powers does a majority party leverage in Congress?* (November 5, 2026) Scott Bomboy, Editor-in-Chief, *National Constitution Center* ["Under general

guidelines established by the Constitution, the Democrats as a majority party will have a greater ability to pass laws and take other actions, but subject to some significant restraints."]

- *The Appropriations Process: A Brief Overview* (May 17, 2023) Megan Lynch et al, CRS Report R47106, *Congressional Research Service* ["The key tools available to a majority party in Congress when the president is of the other party are: appropriations and the subpoena powers."]
- *What Democrats could actually do if they win Congress* (November 3, 2026 3:00 em PST) Andrew Prokop, *vox.com* ["Legislative accomplishments would likely happen in one of three ways: through confrontations on "must-pass" bills, through bipartisanship, or by laying the groundwork for bills a future Democratic president could sign. *** House or Senate majorities would give Democrats subpoena powers, but the Trump administration will likely refuse to comply; Democrats would have to think outside the box in how to make their investigations succeed. *** A Senate majority would make it far more challenging for Trump to confirm nominees and would slow his judicial confirmations to a trickle, if that."]
- *Nonprofits look for a reset following the midterms* (November 5, 2026) Alex Daniels, Senior Editor, Foundations, *The Chronicle of Philanthropy* ["With Democrats taking over both chambers of Congress, nonprofits want to restore cuts in funding."]
- *What Democrats Can, And Should, Do with Their New Majority* (November 9, 2026) Evan George, *legal-planet.org* ["Faculty of the UCLA Emmett Institute are thinking about the various ways congressional Democrats could tackle salient voter concerns at the intersection of corruption, pollution, and the cost of living. These include oversight authority, budgetary powers, and working on legislative priorities that might find some cooperation from Republicans and even Trump."]
- *Democrats won the midterms. What happens now?* (November 11, 2026) Christian Hetrick, interviewing the Provost of USC Price School of Public Policy, *Price School* ["Democratic control of Congress will sharply limit Trump's ability to advance his legislative agenda. Democrats will also gain the power to conduct investigations, issue subpoenas, and scrutinize executive branch activities. Their Senate majority will complicate the confirmation of judicial and executive appointments. Trump will retain considerable authority through executive action, particularly in foreign policy and regulatory matters, but he will face greater congressional resistance."]
- *2026 US Midterm Elections and the Impact on Philanthropy and Nonprofits* (November 6, 2026) Lauren M. Moore, Esq., *et al*, *WilmerHale* ["With majorities in both chambers of Congress, Democrats will take the gavel on key committees with jurisdiction relevant to the nonprofit sector. In the House, this includes Ways and Means, Oversight and Government Reform, Judiciary, and the Appropriations Committees. In the Senate, key committees include Finance, Homeland Security and Governmental Affairs, Judiciary, and Health, Education, Labor, and Pensions."]
- *What the Democrats can (and cannot) do to reverse Trump's education upheaval* (November 9, 2026) Danielle Douglas-Gabriel, *et al, The Washington Post* ["The new Democratic Congress is expected to try to roll back key changes the president made to federal education policy, including the dismantling of the Education Department."]

"Generational" Realignment at State Level

Among the most extraordinary news from Election Day 2026 is the dramatic political realignments that happened in so many states around the nation.

It's fair to say that most Americans did not see this coming. There were certainly hopes of eking out a slim Democratic win in the Texas Senate contest. But the actual result: that is, a double-digit point victory for Talarico, and a sweep of the governorship and other key state offices, was beyond expectations. The similar string of Democratic victories in Georgia was just as unprecedented. There were a record number of flips for governor, for attorney general, and for the control of state legislatures as well.

Since Inauguration Day 2025, the Democratic state attorneys general – in particular – have stepped up to the plate as a smoothly working coalition over and over again with stellar results. They have won temporary and (sometimes) permanent injunctive relief against many of the Oval Office attacks against the charitable sector including the freezing of assets or improper cancellation of federal grants. And now there will be more of these blue-cloaked superheroes: at least 29, perhaps 30, of them. They will represent almost 70% of the American population so the U.S. Supreme Court's recent restrictions on nationwide injunctions will have much less of an effect. When these legal warriors win their cases, more people in more states will be protected. See *More Thoughts on NCN Litigation and Nationwide Injunctions* (May 5, 2025) *FPLG Blog; Preview of Upcoming Nationwide-Injunction Oral Argument* (May 9, 2025) *FPLG Blog;* and *The Nationwide-Injunctions Ban: Is Clarity Possible?* (August 15, 2025) *FPLG Blog.*

Over the first two years of the Trump 2.0 administration, litigation and legislative help from the states in pushing back against the federal excesses, was frequent and remarkable. See, for example: *How a State AG Can Short-Circuit A Fed Executive Order* (November 23, 2025) *FPLG Blog; and Blunting Fed Threats to Charitable Sector: New CA Law* (October 7, 2026) *FPLG Blog.*

Conclusion

We'll explore these exciting developments in later posts.

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