



## **Executive Finance Committee Agenda**

02/13/2025 ▪ 2:30-4:00p

Join online via Microsoft Teams

Meeting ID: 215 847 887 216

Passcode: T8ck3Kg6

### **I. Welcome & Check-In Items**

- A. Introductions & Establish Quorum
- B. **Action Item:** Motion to Approve January 9, 2025 EFC Minutes (Attachment #1)
- C. Board Chair Comments
- D. [CEO Report](#)

### **II. Discussion Items:**

- A. **Discussion & Action Item:** Update of Procurement Policy #1.4.2-v4 (Attachment #2)
  - i. **Action Item:** Motion to Approve Updates to Procurement Policy #1.4.2-v4 and Recommend Do Pass to the full WDC Board
- B. **Discussion Item:** Community Reinvestment Project (CRP) Incentive Policy Update (Attachment #3)

### **III. Fiscal Items:**

- A. **Discussion Item:** PacMtn Financial Position (Attachment #4)
- B. **Discussion Item:** PY24 Q2 Financial Statement (Attachment #5)

### **IV. Executive Session**

*The Board can move to close the meeting for select and appropriately limited conversation on matters best conducted in confidence including meeting with an auditor on sensitive financial issues, handling top-level personnel matters including the CEO's compensation and performance review, planning for an important transaction like a real estate deal or a merger, matters where "personal or organizational confidentiality is requested or prudent", dealing in a preliminary way (including investigation) with crisis situations or with allegations of improper conduct by the CEO or a board member - before disclosure to staff or others who ordinarily attend full board meetings. Any specific action requiring a vote will be taken in the public portion of the meeting.*

### **V. Committee & Task Force Updates** (Committee Leads)

- A. One Stop Operations Committee
- B. Priority Populations Committee
- C. Business and Sector Engagement (BaSE)

### **VI. Good of the Order & Announcements**

### Executive Finance Committee Members

Name	Business	County	Position
1. Michael Cade	Thurston Economic Development Council	Thurston	Board Chair
2. Dr. Lorie Thompson	Capital STEM Alliance	Regional	Vice Chair
3. Christina Riley	Labor and Apprenticeship Representative	Regional	Treasurer
4. Vacant			Incoming Chair
5. Cheryl Heywood	Timberland Regional Library	Regional	One Stop Committee Lead
6. Jonathan Pleger	Morningside	Regional	Targeted Populations Committee Co-Lead
7. Sharon Trask	Mason County Commissioner	Mason	Consortium Chair, Ex Officio
8. Vacant			ABEL Committee Lead
9. Derek Epps	Seattle Shellfish	Mason	Business At-Large
10. David Schaffert	Thurston County Chamber of Commerce	Thurston	BaSE Co-Lead

### Workforce Development Speak (Commonly Used Acronyms)

<b>ABE</b>	Adult Basic Education	<b>IFA</b>	Infrastructure Funding Agreement
<b>CBO</b>	Community Based Organizations	<b>ITA</b>	Individual Training Account
<b>CJ</b>	Community Jobs	<b>MOU</b>	Memorandum of Understanding
<b>CLEO</b>	Chief Local Elected Official	<b>MyJob</b>	My Journey Out Beyond
<b>CSO</b>	Community Service Offices	<b>OJT</b>	On the Job Training
<b>DOL</b>	Department of Labor	<b>OURR</b>	Opioid Use Reduction & Recovery
<b>DSHS</b>	Department of Social of Health Services	<b>TAA</b>	The Trade Adjustment Assistance
<b>DVR</b>	Division of Vocational Rehabilitation	<b>TANF</b>	Temporary Assistance for Needy Families
<b>ESD</b>	Employment Security Department	<b>WDA</b>	Workforce Development Areas
<b>DW</b>	Dislocated Worker	<b>WEX</b>	Work Experience
<b>ESD 113</b>	Educational Service District - Capital Region	<b>WIOA</b>	Workforce Innovation & Opportunity Act
<b>ETPL</b>	Eligibility Training Provider List	<b>WTECB</b>	Workforce Training & Education Coordinating Board



### PacMtn Board Member Values

**Customer needs are priority #1.  
Innovate and be creative.**

**Ensure all counties are included.  
Honor diverse perspectives.**

**In all things demonstrate: Integrity, honesty, transparency, personal excellence,  
constructive self-assessment, continuous self-improvement, and mutual respect**

**Duty of Attention**= Full participation and Practical inquiry

**Duty of Allegiance**=Address conflict of interest & confidentiality, care about funding sources & potential opportunities

**Duty of Agreement** = abide by Federal, State & Local laws and PacMtn mission, vision, values, services, policies & programs

### Board Member Reminders

**Conflict of Interest:** In accordance with the Workforce Innovation and Opportunity Act and the standards of honorable business practice. Workforce Development Council members (WDC), as well as members of WDC Committees and Task Forces, who directly represent, are employed by, or act as consultants to organizations or agencies having business before the Council shall not vote on any matter or issue regarding said organization or agency. Any member having a conflict of interest will declare the conflict prior to any discussion on the matter and must recuse themselves from any formal action related to the conflict.

**Concern about misuse of public resources:** PacMtn Board of Directors takes seriously all matters of fiscal integrity and the ethical and lawful conduct of its business. Any concerns about fraud, abuse or unethical conduct should be reported to a Board Officer, the CEO or the [State Auditor's Office \(SAO\)](#).



## Executive Finance Committee Minutes

01/09/2025 ▪ 2:30 - 4:00p

Online Via Microsoft Teams

**Attendees:** Michael Cade, David Schaffert, Johnathan Pleger, Christina Riley, Dr. Lorie Thompson, Cheryl Heywood

**Staff:** William Westmoreland, Arissa De Lima, Shannon Hassan, Wes Smith, Christina Gorman, Wil Yeager, Jeff Bowe

### I. Welcome & Check-In Items

#### A. Introductions & Establish Quorum

Michael Cade called the meeting to order at 2:31 pm. Quorum was established.

#### B. Action Item: Motion to Approve September 12, 2024, EFC Minutes

*Cheryl Heywood motioned to Approve the October 10, 2024, EFC Minutes as presented. Christina Riley seconded. **Motion carries.***

#### C. Board Chair Comments

Michael has no comments and offers space for questions and comments

#### D. CEO Report

William shared highlights from his CEO report. For review of the CEO report please refer to our website [www.pacmtn.org](http://www.pacmtn.org)

### II. Discussion & Action Items:

#### A. **Discussion & Action Item:** Board Member Reappointment

##### i. **Action Item:** Motion to Approve Reappointment and Recommend Do Pass to the WDC Board and Consortium

- Richard DeBolt, Director of the Economic Alliance of Lewis County, 3-year term - Expiring June 30, 2026

*Arissa reviewed the reappointment of Richard DeBolt.*

*Christina Riley Motioned to Approve Reappointment and Recommend Do Pass to the WDC Board and Consortium. Johnathan Pleger Seconded. **Motions Carries.***

#### B. **Discussion & Action Item:** Business and Sector Engagement (BaSE) Committee Charter

##### i. **Action Item:** Motion to Approve the Business and Sector Engagement Committee Charter for July 2024 - June 2026 Recommend Do Pass to the WDC Board

*Jeff reviewed the BaSE Committee Charter, highlighting key updates, including revised language specifying a set day and time for meetings to allow for flexibility, as well as the addition of emerging sectors within the region.*

*David motioned to modify the BaSE Committee Charter to clarify its alignment with the bylaws and approve it for board review. Cheryl Heywood Seconded. **Motion Carries.***

**C. Discussion Item:** One Workforce Reporting Dashboard

William reviews the One Workforce Reporting Dashboard. He highlighted key dashboard features, contract progress with partners, and performance updates. He noted the benefits of using LaunchPad, citing reporting delays in Title 1B within ETO due to exiting criteria differences. He explained that EcSA and CRP exits, based on self-sufficiency, render ETO nonfunctional.

Lorie queries for clarity on determining job readiness and who makes that decision.

William stated that there are job readiness criteria standards and the participants case manager traditionally determines job readiness. He also noted that the Business Services Team, with the addition of sector leads and their expertise in employer relationships and industry sectors, plays a vital role in evaluation job readiness.

**D. Discussion Item:** Incoming Board Chair

William leads the discussion, stating the Board will be discussing and taking action on an Incoming Board Chair nomination at the January Board meeting. He explained the position and identified that the chair must represent an employer.

Michael and William welcomed open discussion during or after the meeting regarding the Incoming Chair position.

**III. Executive Session**

*Lorie Thompson Motioned to move to Executive Session for 45 minutes to discuss the CEO Evaluation. Johnathan Pledger Seconded. **Motion Carries.***

All parties not invited to Executive Session were removed from the virtual space.

Executive Session began at 3:17p

Executive Session concluded at 3:56p

Michael Cade announced that there was no action taken in Executive Session.

**IV. Committee & Task Force Updates** (Committee Leads)

**A.** One Stop Operations Committee- Cheryl reports that the committee met last month to have a team building 3-4 hours meeting.

**B.** Priority Populations Committee - Christina reports the committee had a strategy session and how we were going to move forward. Johnathan and Christina will meet with Dan to determine the outcome of that session on Friday January 10<sup>th</sup>.

- C. Business and Sector Engagement (BaSE) - David reports the committee is currently setting up the next meeting and agenda and will be checking in with PacMtn Staff.

**Good of the Order and Announcements**

Cheryl shared that Mountain View Timberland Library in Lewis County opens for the first time Saturday January 11<sup>th</sup> at 11am.

Michael shared that Pacific Salish Economic Development District has hired an executive Director, Annette Roth. She will be starting a week from today, first on her agenda will be to approve the budget given to her and put together the final plans and construction for the Economic Development District. Another announcement being Southwest Washington Agriculture Business Park North Buildings power was turned on yesterday. The South building will follow next month and there will be a ribbon cutting, all will be invited to that event.

Meeting adjourned at 4:00p

Submitted by: Arissa De Lima, Chief of Staff | WDC Board Liaison



To: Executive Finance Committee  
Date: February 13, 2025  
Subject: Update of Procurement Policy to Align with Updated Federal Regulations

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### **Recommendation and/or Recommended Motion**

Recommend Motion to Approve Updates to Procurement Policy #1.4.2-v4 and Recommend Do Pass to the full WDC Board

**Overview:** The purpose of this memo is to inform the Executive Finance Committee and Board of the need to update our procurement policy to align with recent revisions to federal regulations, including those in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200). These changes took effect on October 1, 2024, and impact thresholds, documentation requirements, and procurement methods.

**Key Updates in Federal Regulations:** The following changes necessitate updates to our procurement policy:

1. **Micro-Purchase Threshold**
  - Increased from \$10,000 to \$15,000 (effective October 1, 2024).
  - Documentation must demonstrate the reasonableness of price without requiring competitive quotes.
2. **Simplified Acquisition Threshold (SAT)**
  - Remains at \$250,000 for most federal awards.
  - Requires informal solicitation from an adequate number of qualified sources for purchases below the SAT.
3. **Formal Procurement Methods**
  - Clear guidelines for sealed bids and competitive proposals for procurements exceeding the SAT.
  - Emphasis on full and open competition and objective evaluation criteria.
4. **Noncompetitive Procurement**
  - Revised conditions for sole source procurements, including public exigency and emergency requirements.
  - Requires written approval from awarding agencies when applicable.
5. **Conflict of Interest and Competitive Practices**
  - Expanded guidance to ensure fairness, eliminate organizational conflicts of interest, and prevent restrictive competition practices.



**Impact on Current Policy:** Our current procurement policy does not fully reflect these updates. Key areas requiring revision include:

- Adjusting micro-purchase and simplified acquisition thresholds.
- Enhancing documentation standards for procurement decisions.
- Aligning noncompetitive procurement procedures with revised conditions.
- Strengthening compliance with conflict-of-interest provisions.

### **Recommended Action Steps**

1. **Policy Review and Revision:**
  - Initiate a comprehensive review of the current procurement policy.
  - Update language to reflect federal regulations and integrate best practices.
2. **Training and Capacity Building:**
  - Conduct training sessions for staff involved in procurement to ensure understanding and compliance with updated regulations.
3. **Board Approval:**
  - Present the revised procurement policy to the Board for review and approval.
4. **Implementation and Monitoring:**
  - Roll out the updated policy with clear guidelines and resources.
  - Establish monitoring mechanisms to ensure ongoing compliance.

**TITLE: PROCUREMENT  
POLICY # 1.4.2-v4**

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**Type:** Administrative Policy

**Date Established:** 01/01/2011

**Date Last Revised:** 1/27/2025

**Date Posted to Website:** 08/13/2015

**Status:** Draft

**Supersedes:** Policy # 1.4.2-v3

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## **Purpose**

This policy communicates the requirements for procurement under the Workforce Innovation and Opportunity Act (WIOA) and provides guidance regarding the procurement and purchase methods to adhere for allowable costs pursuant to federal regulations and PacMtn procedures.

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## **Policy**

1. All procurement transactions for the acquisition of property or services must be conducted in a manner providing full and open competition, consistent with the standards of this policy and 2 CFR 200.320, as revised. Additionally, processes shall align with and adhere to the most current federal and state regulations and guidance that pertain to utilizing the funds.
2. Any discrepancies arising between PacMtn policy and federal or state provisions due to revisions will default to the minimum federal guidance provided.
3. PacMtn policy may set forth stricter requirements than those provided by federal and state guidance. However, in no case will PacMtn policy fail to meet the minimum federal and state requirements.
4. PacMtn will comply with all policies on codes of conduct and conflict of interest during purchasing and procurement activities.
5. PacMtn will conduct all procurement transactions in a manner providing full and open competition, as required by the revised federal regulations.
6. Procurement procedures will be consistently applied when using non-federal and federal funds.
7. Procurements and purchases will be based upon funding and budget availability and must align with the goals and objectives approved in the PacMtn budget.
8. Noncompetitive procurement proposals must meet the minimum federal qualifications outlined in 2 CFR 200.320(c) and require prior approval by the CEO or their designee before execution of the contract.

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## Policy Guidelines

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Methods of procurement vary by the size and type of purchase. In all cases, purchases will be reviewed for cost reasonableness to foster greater economy and efficiency. Applicable PacMtn policies and procedures should be followed in conjunction with these policy guidelines.

### Micro-Purchases

1. Procurement by micro-purchase is the acquisition of supplies or general professional and non-professional services, the aggregate dollar amount of which does not exceed \$15,000 (or \$10,000 for funding issued prior to October 1, 2024).
2. Micro-purchases may be awarded without soliciting competitive quotations if the price is considered reasonable based on research, experience, purchase history, or other information, and supporting documentation is maintained.
3. Micro-purchases will be distributed equitably among qualified suppliers.
4. Purchase cards may be used as a payment method for micro-purchases.

### Simplified Acquisition Threshold

1. Purchasing supplies, equipment, and general professional and non-professional services between \$15,000 or (\$10,000 for funding issued prior to October 1, 2024) and up to the Simplified Acquisition Threshold (SAT) will be deemed small purchases.
2. Equipment and capital improvement purchases of \$5,000 or more using federal funds require prior approval from the awarding agency.
3. Where appropriate, an analysis of lease versus purchase alternatives, and any other appropriate analysis to determine the economic approach will be conducted.
4. Informal written solicitation documentation shall be used to secure responses from at least three sources. The information collected should include a description of the item or service needed; proposed time schedule; comparison of costs including setup, delivery, and taxes; and the reason for selection if other than cost. The use of intergovernmental agreements where goods and services have already been evaluated and procured is encouraged and does not require additional solicitation documentation.
5. Purchases of services related to the delivery of Workforce Innovation and Opportunity (WIOA) Title IB subrecipient services, including one-stop operations, even if under the SAT, will have additional requirements. These include:
  - i. **Risk Assessment and Internal Evaluations:** As part of the risk assessment process, internal evaluations will be conducted to thoroughly assess an organization's ability to manage a grant. These evaluations will include a review of the organization's experience with managing federal funds, including compliance with federal regulations such as 2 CFR Part 200, as well as their history of fiscal accountability and clean audits. Additionally, the assessment will examine the organization's past performance with similar grants, particularly those involving Youth, Adult, and Dislocated Worker (DW) funding under WIOA, focusing on their ability to meet programmatic and financial requirements. Only subrecipients involved in WIOA funding will be included in the risk assessment process to ensure alignment with federal compliance and accountability measures. Key factors such as staff capacity, operational infrastructure, internal controls, and previous performance outcomes will also be evaluated. Furthermore, the evaluation will consider the organization's ability to comply with reporting requirements, maintain data integrity, and adapt to changing program needs or federal priorities. This comprehensive approach

ensures that grant funds are entrusted to entities capable of achieving desired outcomes while adhering to all regulatory and financial standards.

## Competitive Proposals

1. Purchases of supplies, equipment, and any professional service, including delivery of WIOA Title I-B activities, above the SAT shall be procured through competitive proposals.
2. Requests for Proposals (RFPs) will be publicized and solicited from an adequate number of qualified sources.
3. Proposals will identify required services or components, technical requirements, and evaluation factors with their relative importance.
4. Responses will be reviewed and evaluated based on consistent grading methods. Review Committees will be established for evaluating WIOA Title I-B services.
5. Contractors and service providers will be selected based on the proposal most advantageous to the program, considering price, integrity, public policy compliance, past performance, and financial/technical resources. Price analysis is required for awards exceeding the Simplified Acquisition Threshold.
6. Contractors will be verified to ensure they are not excluded from federal awards. Measures will be taken to ensure objectivity and eliminate unfair competitive advantage. Restrictions on competition, including unreasonable requirements, unnecessary experience, or specifying brand names without allowing alternatives, will not be imposed.
7. Contracts will be monitored to ensure conformance with terms, conditions, and specifications. Contractor performance reviews will be conducted per programmatic requirements.
8. Procurement records detailing the rationale for procurement methods, contract type selection, contractor selection or rejection, and the basis for contract price will be maintained.
9. Bidders will be notified of procurement results and may file appeals within seven calendar days. Appeals will follow PacMtn's complaint resolution procedures, potentially delaying contract award effective dates.

## Noncompetitive Proposals

1. Procurement by noncompetitive proposals, or sole source, is allowed under the following conditions:
  - a. The item is available only from a single source.
  - b. Public exigency or emergency will not permit delay from competitive solicitation.
  - c. Written authorization for non-competitive procurement is provided by the federal awarding agency or pass-through entity.
  - d. Competition is deemed inadequate after solicitation of several sources.
2. Noncompetitive proposals for selecting one-stop operators, eligible training providers, etc., must follow WIOA guidance.

## Administrative Procedures

1. **Selecting a One-Stop Operator:** Our plan to conduct a competitive procurement process with at least 30-day public notice through PacMtn's website and other media outlets complies with federal requirements. The CFR mandates that the Local Workforce Development Board (WDB) must select the OSO through a competitive process at least once every four years. Providing adequate public notice is essential to ensure full and open competition.
2. **Procurement Frequency:** Conducting the procurement process every four years is in direct accordance with federal regulations, which require that the selection of the OSO occurs at least once every four years.

3. **Alignment with Federal Requirements:** Ensuring that all procurements align with federal requirements for public notice, evaluation, and contractor performance is consistent with the Uniform Administrative Guidance outlined in 2 CFR 200.318-326. This guidance emphasizes the importance of maintaining oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

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## References

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Public Law 113-128 - Workforce Innovation and Opportunity Act of 2014 (WIOA), including Sections:

- 107(d)(10): Functions of Local Workforce Development Boards
- 107(g)(1): Certification and Oversight of One-Stop Operators
- 121(d)(1-2): One-Stop Delivery System Requirements
- 123: Eligible Providers of Youth Workforce Investment Activities
- 134(c)(2)(C): Coordination of Activities with One-Stop Partners

OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200)

ESD Policy 5404R1 - Procurement & Selection of One-Stop Operators & Service Providers (Effective 11/30/2021)

Code of Federal Regulations:

2 CFR 200.313 - 316: Property Standards

- 2 CFR 200.317 - 326: Procurement Standards
- 29 CFR 95: Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations
- 29 CFR 97: Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
- 29 CFR 98: Governmentwide Debarment and Suspension (Non-procurement)

PacMtn Policies:

- Policy 1.1.1-v1: Conflict of Interest
- Policy 1.4.5: Allowable Cost and Prior Approval Requirements
- Policy 1.5.1: Property Management and Inventory

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## Attachment

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### Attachment 1: Request for Information and Appeals Process

**DATE APPROVED: 07/23/2015, 04/05/2021, 08/01/2022**

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**Direct Inquiries to:**  
**Pacific Mountain Workforce Development Council**  
201 5<sup>th</sup> Ave SW, Suite 401  
Olympia, WA 98501  
Telephone: (360) 515-5134  
Email: [info@pacmtn.org](mailto:info@pacmtn.org)

PacMtn is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. WA Relay 711.

# Attachment 1



## REQUEST FOR INFORMATION and PROCESS APPEALS

**Informal Debrief Meeting:** A bidder may request an informal debriefing meeting to seek clarification of the process or specific feedback on their bid submission. Informal debrief meetings do not include review of materials unrelated to the bidder. This process is available to exchange information, including how to improve future bids and help improve future procurement processes.

**Formal Appeal:** This Form is to be utilized when a bidder of record from an open procurement believes there have been procedural errors, violation of laws or regulations, or unfair or inequitable treatment in the procurement or selection process. Only official bidders from the procurement may file an appeal. This Form must be completed and submitted to the CEO of PacMtn within the time specified in the RFP. Forms may be submitted electronically via email to [Contracts@pacmtn.org](mailto:Contracts@pacmtn.org).

**Copies:** Bidders and the public may also request copies of submitted bids. Copies of bids will not be available until after the award and distribution of award information or posting of such information electronically for public review, the bids, quotes, and proposals of all bidders shall be open to public inspection.

<b>Requesting Applicant Organization:</b>	
<b>Procurement Process:</b>	
Contact Person:	
Mailing Address:	
Email:	
Phone:	

**Request For:**             **Copies of Bids**  
                                  **Informal Debrief Meeting**  
                                  **Formal Appeal**  
                                  **Other**

### Formal Appeal

Briefly describe the alleged violation that occurred during the RFP review or selection process:

Provide a description of evidence that supports your allegations and assertions:

In support of your claim, please indicate what materials you want to review and/or to be reviewed during the Appeal Process:

I attest that the claims made against the PacMtn procurement process are based on information that is factual and accurate to the best of my knowledge.

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

**You will be contacted within 3 working days in response to the inquiry. This could include notification that the appeal is not merited, requests for clarification of request, providing information, access to copies or scheduling an appeals conference for further discussion.**

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**Date Received:** \_\_\_\_\_ **By:** \_\_\_\_\_

**Final Dispensation: Attach other sheets, as necessary.**



## MEMORANDUM

To: Executive Finance Committee  
Date: February 13, 2025  
Subject: Community Reinvestment Funds Incentive Policy Update

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As part of our ongoing efforts to maximize the impact of the Community Reinvestment Project (CRP) and ensure alignment with the One Workforce Investment Strategy, we have developed an updated Community Reinvestment Funds Incentive Policy for board review and approval.

### **Policy Overview & Purpose:**

This policy establishes guidelines for the use of incentives within CRP-funded programs. The incentives aim to:

- Support workforce engagement among priority populations.
- Encourage completion of key employment and training milestones.
- Align with PacMtn's regional workforce strategies and compliance with state and federal funding requirements.

### **Key Policy Elements:**

- ✓ Eligibility Criteria - Defines participants and businesses eligible for incentives.
- ✓ Approved Incentive Types - Outlines permissible incentives, including financial and non-monetary support.
- ✓ Funding Allocation & Compliance - Ensures proper tracking, documentation, and reporting.

### **Next Steps:**

The attached draft policy provides a detailed framework and will be presented for discussion and approval at the next board meeting.

We value your input and encourage you to review the document ahead of our discussion. If you have any questions or recommendations, please feel free to reach out.

Thank you for your time and dedication to strengthening workforce opportunities in our region.

## TITLE: Community Reinvestment Funds Incentive Policy # \_\_\_\_\_

**Type:** Program Policy

**Date Established:** 06/06/2024

**Date Last Revised:**

**Date Posted to Website:**

**Status:** Draft

**Supersedes:** N/A

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### Purpose

The Purpose of the Community Reinvestment Funds Incentive Policy is to foster sustainable economic development and enhance the well-being of underserved communities. This policy was established in response to Washington State establishing the Community Reinvestment Account to address racial, economic, and social disparities created by the historic design to focus on reducing poverty with a focus on equality.

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### Policy

The Career Accelerator Incentives fund authorized the provision of financial support payments of \$1,000.00 per month to participants who are enrolled in the State EcSA program. These incentives are provided to individuals who are actively receiving career development assistance and are making satisfactory progress in implementing the career plan developed with their case manager/talent recruiter at the time of enrollment. The aim is to assist them in securing suitable employment that provides a self-sufficient living wage.

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### Policy Guidelines

To qualify for monthly incentive payments through the EcSA Career Accelerator, participants must first be eligible for and fully enrolled in the State EcSA program. They are also required to meet with their case manager/talent recruiter at least monthly to provide updates on the status of their career plan. These financial support incentives serve to recognize meaningful progress on participants' career plans, as noted and documented by their case manager/talent recruiter. This approach aims to incentivize participants to pursue training and work toward their customized self-sufficiency goals by acknowledging achievements and milestones.

The initial enrollment into the Career Accelerator Incentive program occurs during a meeting with a financial coach, where participants complete the necessary forms and discuss any relevant tax implications and potential impacts on benefits. This meeting will serve as both enrollment into the program and the first qualifying activity. During this initial meeting the financial coach will verify enrollment and fiscal documents and the participant will sign the participant agreement form which will then be signed by the financial coach validating all required elements of enrollment have been met. These fiscal forms and participant agreement will be submitted to PacMtn QA for approval and then forwarded to PacMtn fiscal department. The participant agreement will be uploaded into ETO for validation of approved enrollment into the Career Accelerator Incentive Program.

Following enrollment, participants must continue to meet with case manager/talent recruiter monthly and present evidence of meaningful progress on their career path, as documented by their case manager/talent recruiter. Examples of meaningful progress include but not limited to the following:

- Beginning or enrolling in training or education pathways including Work Experience:** This indicates the initiation of steps towards skill development and career advancement.
- Credential Attainment and/or achieving measurable skills gains:** Attainment of recognized credentials or measurable improvement in skills reflects tangible progress in career development.
- Barrier Mitigation to employment:** Overcoming barriers, such as transportation issues, childcare, or language barriers, signifies overcoming obstacles to employment.
- Job Search Activities:** Documented efforts made in seeking employment opportunities.
  - Employment attainment:** Securing employment signifies a significant milestone towards self-sufficiency. *\*after achieving employment, participants should complete a new UW Self-Sufficiency Calculator to reflect their updated individualized household income adequacy.*
- Employment Retention:** Maintaining employment demonstrates stability and resilience in the workforce.
- Wage Increase:** A wage increase indicates upward mobility and improved financial stability.
- Meeting with a financial advisor to establish a budget and plan for debt elimination and establishment of emergency fund:** Financial planning and debt management are crucial for long-term financial stability and self-sufficiency. *\* Participants are recommended to schedule regular meetings with a financial advisor every 6 months throughout their program enrollment. These sessions aim to monitor both their career advancement and overall financial health, ensuring meaningful progress in both areas.*
- Reaching Self Sufficiency:** Achieving self-sufficiency represents the ultimate goal of the program, where participants no longer rely on external assistance for their basic needs.

Incentive payments are exclusively available to participants enrolled in the State ESA program and must be tracked in the Efforts to Outcome (ETO) system. Eligible participants are those who are actively progressing in their career plans, as developed with their Case Manager/talent recruiter.

Under the EcSA Career Accelerator, incentive payments amount to \$1,000.00 per month. Participants may be eligible to receive up to 6 months of incentive payments, provided the participant remains enrolled in the program and funding for the Career Accelerator program remains available and are making continued and meaningful progress towards their career path. This period will allow for participants to engage and receive a CRF incentive for 2 months' worth of training, 2 months of job search activities and 2 months of retention upon unsubsidized employment obtainment. This breakdown may vary based on individual participant

Furthermore, within the EcSA program, Self-Sufficiency is defined as achieving 100% of individualized household income adequacy, as established through use of the [UW Self-Sufficiency Calculator](#).

Participants must provide evidence of eligible activities to their Talent Recruiter no later than the 20<sup>nd</sup> of the month to be eligible for the current month's CRF incentive. If a participant does not check in with their Talent Recruiter by the 20<sup>nd</sup> they will not be eligible for that month's CRF incentive. If the 20<sup>th</sup> falls on a holiday or weekend participant check-in due date will fall to the previous workday.

Incentive payments will be processed by the end of the month and incentives will be issued on the 5<sup>th</sup> of the following month.

\*PacMtn & Equus reserve the right to stop services and exit a participant if they are deemed to be non-compliant with program requirements.

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## Definitions

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ETO- Efforts to Outcome

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## References

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Workforce Innovation and Opportunity Act of 2014  
WIOA Final Rule; 20 CFR Parts 676,677, and 678; Federal Register, Vol. 81, No. 161, August 19, 2016  
WIOA Final Rule; 20 CFR Parts 603, 651, 652, et al; Federal Register, Vol. 81, No. 161, August 19, 2016  
State Guidance and Instructions for the State Economic Security for All (EcSA) Program Policy #7000  
WIN 0140 Community Reinvestment Fund  
PacMtn Policy 9200P State EcSA Program Procedure

**DATE APPROVED: TBD**

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**Direct Inquiries to:**  
**Pacific Mountain Workforce Development Council**  
**201 5<sup>th</sup> Ave SW Se. 401, WA 98501**  
**Telephone: (360) 704-3568**  
**Email: [Info@pacmtn.org](mailto:Info@pacmtn.org)**

PacMtn is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. WA Relay 711.



**MEMORANDUM**

To: Executive Finance Committee  
Date: February 13, 2025  
Subject: Cashflow and "Pause in Funding"

**Background**

The following memorandum was issued:  
OMB Memorandum M-25-13, *Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs* (Jan. 27, 2025) ("OMB Memo").

A Temporary restraining order was placed:

In the case of *New York et al. v. Trump*, No. 25-cv-39-JJM-PAS (D.R.I.), ECF No. 50 (Jan. 31, 2025).

**The following came out of the activity:**

1. Federal agencies cannot pause, freeze, impede, block, cancel, or terminate any awards or obligations on the basis of the OMB Memo, or on the basis of the President’s recently issued Executive Orders.
2. This prohibition applies to all awards or obligations—not just those involving the Plaintiff States in the above-referenced case—and also applies to future assistance (not just current or existing awards or obligations).
3. Agencies may exercise their own authority to pause awards or obligations, provided agencies do so purely based on their own discretion—not as a result of the OMB Memo or the President’s Executive Orders—and provided the pause complies with all notice and procedural requirements in the award, agreement, or other instrument relating to such a pause.

**Real effect:**

Office of Senator Patty Murray - FY24 Congressionally Directed Spending - Work Ex

On Pause 1.5 million. No contracts issued or budget allocated to program.

Department of Labor Grants - PacMtn request funding in advance to cover Jan and February activities

WIOA Adult	294,000
WIOA DW	309,000
WIOA Youth	217,500
WIOA Federal EcSA	65,000
Quest	25,275
DOL REO - Grant	<u>75,000</u>
Total Advanced	985,775

**In conclusion**, PacMtn has received or will receive all funds that have been requested and was conservative in its estimation of costs in forecasting January and February expenses.

**PacMtn’s mission is to lead dynamic regional workforce through collaboration and investment that enhances economic success.**

## NOTICE OF COURT ORDER

You are hereby advised that a temporary restraining order has been entered in the case of *New York et al. v. Trump*, No. 25-cv-39-JJM-PAS (D.R.I.), ECF No. 50 (Jan. 31, 2025). You are receiving this Notice pursuant to the Court’s directive that notice of the order be provided “to all Defendants and agencies and their employees, contractors, and grantees by Monday, February 3, 2025, at 9 a.m.” A copy of the Court’s Order is attached for reference.

This case challenges an alleged “pause” of certain Federal financial assistance, related to OMB Memorandum M-25-13, *Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs* (Jan. 27, 2025) (“OMB Memo”). Although that OMB Memo was rescinded on January 29, 2025, the plaintiffs in the above-referenced case allege that the funding pause directed by the OMB Memo is still in effect, including because of recently issued Executive Orders by the President.

In response, the Court has entered a temporary restraining order prohibiting certain actions by the Defendants in the case, which is effective immediately. All Defendants—including their employees, contractors, and grantees—must immediately comply with the Court’s Order. For complete details and terms of the Court’s Order, please refer to pages 11 and 12 of the enclosed Order.

To assist in your compliance, here is a summary of the key terms:

1. **Federal agencies cannot pause, freeze, impede, block, cancel, or terminate any awards or obligations on the basis of the OMB Memo, or on the basis of the President’s recently issued Executive Orders.**
2. **This prohibition applies to all awards or obligations—not just those involving the Plaintiff States in the above-referenced case—and also applies to future assistance (not just current or existing awards or obligations).**
3. **Agencies may exercise their own authority to pause awards or obligations, provided agencies do so purely based on their own discretion—not as a result of the OMB Memo or the President’s Executive Orders—and provided the pause complies with all notice and procedural requirements in the award, agreement, or other instrument relating to such a pause.**
  - a. On pages 11 and 12 of the Order, the Court prohibits agencies from pausing funding “except on the basis of the applicable authorizing statutes, regulations, and terms.” Thus, agencies remain free to exercise their own discretion under their “authorizing statutes, regulations, and terms,” including any exercise of discretion to pause certain funding. Additionally, agencies remain free to take action pursuant to the terms of the relevant award or obligation, such as in cases of grantee noncompliance.
  - b. Any exercise of agency discretion, however, cannot be based on the OMB Memo or the President’s Executive Orders, given that the Court has prohibited agencies from “implementing or giving effect to the OMB [Memo] under any other name

or title[.]” (Order, pg.12). Additionally, any decision to pause, stop, delay, or otherwise withhold federal financial assistance programs must comply with all notice and procedural requirements in the award, agreement, or other instrument setting forth the terms of the award or obligation.

- 4. Out of an abundance of caution, all federal agencies (even those not named as defendants in the case) should comply with the above-referenced terms.**

As the Court’s Order reflects, the above terms are temporary as litigation in the case is ongoing. At present, however, the Court’s Order is in effect and must be complied with.

If you have any questions about the scope or effect of the Court’s Order, please contact your agency’s Office of General Counsel or your grant officer, as appropriate. Thank you for your attention to this matter.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

STATE OF NEW YORK; STATE OF  
CALIFORNIA; STATE OF ILLINOIS;  
STATE OF RHODE ISLAND; STATE OF  
NEW JERSEY; COMMONWEALTH OF  
MASSACHUSETTS; STATE OF  
ARIZONA; STATE OF COLORADO;  
STATE OF CONNECTICUT; STATE OF  
DELAWARE; THE DISTRICT OF  
COLUMBIA; STATE OF HAWAII;  
STATE OF MAINE; STATE OF  
MARYLAND; STATE OF MICHIGAN;  
STATE OF MINNESOTA; STATE OF  
NEVADA; STATE OF NORTH  
CAROLINA; STATE OF NEW MEXICO;  
STATE OF OREGON; STATE OF  
VERMONT; STATE OF WASHINGTON;  
and STATE OF WISCONSIN,

Plaintiffs,

v.

C.A. No. 25-cv-39-JJM-PAS

DONALD TRUMP, *in his Official  
Capacity as President of the United  
States*; U.S. OFFICE OF  
MANAGEMENT AND BUDGET;  
MATTHEW J. VAETH, *in his Official  
Capacity as Acting Director of the U.S.  
Office of Management and Budget*; U.S.  
DEPARTMENT OF THE TREASURY;  
SCOTT BESSENT, *in his Official  
Capacity as Secretary of the Treasury*;  
PATRICIA COLLINS, *in her Official  
Capacity as Treasurer of the U.S.*; U.S.  
DEPARTMENT OF HEALTH AND  
HUMAN SERVICES; DOROTHY A.  
FINK, M.D., *in her Official Capacity As  
Acting Secretary Of Health And Human  
Services*; U.S. DEPARTMENT OF  
EDUCATION; DENISE CARTER, *in her  
Official Capacity as Acting Secretary of  
Education*; U.S. FEDERAL  
EMERGENCY MANAGEMENT  
AGENCY; CAMERON HAMILTON, *in*

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*his Official Capacity as Acting* )  
*Administrator of the U.S. Federal* )  
*Emergency Management Agency; U.S.* )  
 DEPARTMENT OF )  
 TRANSPORTATION; )  
 JUDITH KALETA, *in her Official* )  
*Capacity as Acting Secretary of* )  
*Transportation; U.S. DEPARTMENT OF* )  
 LABOR; VINCE MICONE, *in his Official* )  
*Capacity as Acting Secretary of Labor;* )  
 U.S. DEPARTMENT OF ENERGY; )  
 INGRID KOLB, *in her Official Capacity* )  
*as Acting Secretary of the U.S.* )  
*Department of Energy; U.S.* )  
 ENVIRONMENTAL PROTECTION )  
 AGENCY; JAMES PAYNE, *in his Official* )  
*Capacity as Acting Administrator of the* )  
*U.S. Environmental Protection Agency;* )  
 U.S. DEPARTMENT OF HOMELAND )  
 SECURITY; KRISTI NOEM, *in her* )  
*Capacity as Secretary of the U.S.* )  
*Department of Homeland Security; U.S.* )  
 DEPARTMENT OF JUSTICE; JAMES R. )  
 McHENRY III, *in his Official Capacity as* )  
*Acting Attorney General of the U.S.* )  
*Department of Justice; THE NATIONAL* )  
 SCIENCE FOUNDATION; and DR. )  
 SETHURAMAN PANCHANATHAN, *in* )  
*his Capacity as Director of the National* )  
*Science Foundation,* )  
 Defendants. )

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**TEMPORARY RESTRAINING ORDER**

The legal standard for a Temporary Restraining Order (“TRO”) mirrors that of a preliminary injunction. The Plaintiff States must show that weighing these four factors favors granting a TRO:

1. likelihood of success on the merits;
2. potential for irreparable injury;
3. balance of the relevant equities; and

4. effect on the public interest if the Court grants or denies the TRO.

*Planned Parenthood League v. Bellotti*, 641 F.2d 1006, 1009 (1st Cir. 1981). The traditional equity doctrine that preliminary injunctive relief is an extraordinary and drastic remedy that is never awarded as of right guides the Court. *Id.* The Court is also fully aware of the judiciary’s role as one of the three independent branches of government, and that the doctrine of separation of powers restricts its reach into the Executive Branch. The Court now turns to the four factors.

#### **Likelihood of Success on the Merits**

We begin with what courts have called a key factor—a consideration of the movant’s likelihood of success on the merits.

In **Count I**, the States allege that the Executive’s actions by the Office of Management and Budget (“OMB”)<sup>1</sup> violate the Administrative Procedure Act (“APA”)<sup>2</sup> because Congress has not delegated any unilateral authority to the Executive to indefinitely pause all federal financial assistance without considering the statutory and contractual terms governing these billions of dollars of grants.

In **Count II**, the States allege that the Executive’s actions violate the APA because the failure to spend funds appropriated by Congress is arbitrary and capricious in multiple respects.

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<sup>1</sup> See *supra* for discussion of mootness.

<sup>2</sup> 5 U.S.C. § 551 et seq.

In Count III, the States allege that the failure to spend funds appropriated by Congress violates the separation of powers because the Executive has overridden Congress' judgments by refusing to disburse already-allocated funding for many federal grant programs.

In Count IV, the States allege a violation of the Spending Clause of the U.S. Constitution. U.S. Const. art. I, § 8, cl. law 1.

And in Count V, the States allege a violation of the presentment (U.S. Const. art. I, § 7, cl. 2), appropriations (U.S. Const. art. I, § 7), and take care clauses (U.S. Const. art. II, § 3, cl. 3) (the Executive must "take care that the laws be faithfully executed . . .").

Because of the breadth and ambiguity of the "pause," the Court must consider the States' TRO motion today based on the effect it will have on many—but perhaps not all—grants and programs it is intended to cover. Are there some aspects of the pause that might be legal and appropriate constitutionally for the Executive to take? The Court imagines there are, but it is equally sure that there are many instances in the Executive Orders' wide-ranging, all-encompassing, and ambiguous "pause" of critical funding that are not. The Court must act in these early stages of the litigation under the "worst case scenario" because the breadth and ambiguity of the Executive's action makes it impossible to do otherwise.

The Court finds that, based on the evidence before it now, some of which is set forth below, the States are likely to succeed on the merits of some, if not all, their claims. The reasons are as follows:

- The Executive’s action unilaterally suspends the payment of federal funds to the States and others simply by choosing to do so, no matter the authorizing or appropriating statute, the regulatory regime, or the terms of the grant itself. The Executive cites no legal authority allowing it to do so; indeed, no federal law would authorize the Executive’s unilateral action here.
- Congress has instructed the Executive to provide funding to States based on stated statutory factors—for example, population or the expenditure of qualifying State funds. By trying to impose certain conditions on this funding, the Executive has acted contrary to law and in violation of the APA.
- The Executive Orders threaten the States’ ability to conduct essential activities and gave the States and others less than 24 hours’ notice of this arbitrary pause, preventing them from making other plans or strategizing how they would continue to function without these promised funds.
- Congress appropriated many of these funds, and the Executive’s refusal to disburse them is contrary to congressional intent and directive and thus arbitrary and capricious.
- Congress has not given the Executive limitless power to broadly and indefinitely pause all funds that it has expressly directed to specific recipients and purposes and therefore the Executive’s actions violate the separation of powers.

Judge Bruce M. Selya of the First Circuit succinctly set out the black letter law about appropriated funds and Executive powers:

When an executive agency administers a federal statute, the agency's power to act is "authoritatively prescribed by Congress." *City of Arlington v. FCC*, 569 U.S. 290, 297, 133 S. Ct. 1863, 185 L. Ed. 2d 941 (2013). It is no exaggeration to say that "an agency literally has no power to act ... unless and until Congress confers power upon it." *La. Pub. Serv. Comm'n v. FCC*, 476 U.S. 355, 374, 106 S. Ct. 1890, 90 L. Ed. 2d 369 (1986). Any action that an agency takes outside the bounds of its statutory authority is ultra vires, see *City of Arlington*, 569 U.S. at 297, 133 S. Ct. 1863, and violates the Administrative Procedure Act, see 5 U.S.C. § 706(2)(C).

*City of Providence v. Barr*, 954 F.3d 23, 31 (1st Cir. 2020).

The Executive's statement that the Executive Branch has a duty "to align Federal spending and action with the will of the American people *as expressed through Presidential priorities*," (ECF No. 48-1 at 11) (emphasis added) is a constitutionally flawed statement. The Executive Branch has a duty to align federal spending and action with the will of the people as ***expressed through congressional appropriations***, not through "Presidential priorities." U.S. Const. art. II, § 3, cl. 3 (establishing that the Executive must "take care that the laws be faithfully executed . . ."). Federal law specifies how the Executive should act if it believes that appropriations are inconsistent with the President's priorities—it must ask Congress, not act unilaterally. The Impoundment Control Act of 1974 specifies that the President may ask that Congress rescind appropriated funds.<sup>3</sup> Here, there is no evidence that the Executive has followed the law by notifying Congress and thereby effectuating a potentially legally permitted so-called "pause."

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<sup>3</sup> If both the Senate and the House of Representatives have not approved a rescission proposal (by passing legislation) within forty-five days of continuous session, any funds the Executive is withholding must be made available for obligation.

Justice Brett Kavanaugh wrote when he was on the D.C. Circuit:

Like the Commission here, a President sometimes has policy reasons (as distinct from constitutional reasons, *cf. infra* note 3) for wanting to spend less than the full amount appropriated by Congress for a particular project or program. But in those circumstances, even the President does not have unilateral authority to refuse to spend the funds. Instead, the President must propose the rescission of funds, and Congress then may decide whether to approve a rescission bill. *See* 2 U.S.C. § 683; *see also Train v. City of New York*, 420 U.S. 35, 95 S. Ct. 839, 43 L. Ed. 2d 1 (1975); Memorandum from William H. Rehnquist, Assistant Attorney General, Office of Legal Counsel, to Edward L. Morgan, Deputy Counsel to the President (Dec. 1, 1969), *reprinted in Executive Impoundment of Appropriated Funds: Hearings Before the Subcomm. on Separation of Powers of the S. Comm. on the Judiciary*, 92d Cong. 279, 282 (1971) (“With respect to the suggestion that the President has a constitutional power to decline to spend appropriated funds, we must conclude that existence of such a broad power is supported by neither reason nor precedent.”)

*In re Aiken Cnty.*, 725 F.3d 255, 261, n.1 (D.C. Cir. 2013).

The Court finds that the record now before it substantiates the likelihood of a successful claim that the Executive’s actions violate the Constitution and statutes of the United States.

The Court now moves on to the remaining three injunction considerations.

### **Irreparable Harm**

The States have put forth sufficient evidence at this stage that they will likely suffer severe and irreparable harm if the Court denies their request to enjoin enforcement of the funding pause.

- All the States rely on federal funds to provide and maintain vital programs and services and have introduced evidence that the withholding of federal funds

will cause severe disruption in their ability to administer such vital services—even if it is for a brief time.

- The States detail many examples of where the Executive’s overarching pause on funding that Congress has allocated will harm them and their citizens. These programs range from highway planning and construction, childcare, veteran nursing care funding, special education grants, and state health departments, who receive billions of dollars to run programs that maintain functional health systems. *See, e.g.*, ECF No. 3-1 at 56 (highway construction programs in Delaware), at 73 (childcare programs in Michigan), at 113 (veterans nursing care funding in Washington state), at 77 (special education programs in Minnesota), and at 100–01 (health care programs in New Mexico).
- The pause in federal funding will also hurt current disaster relief efforts. The States assert that the pause applies to federal actions directing federal financial assistance to North Carolina to address the damage inflicted by Hurricane Helene and to any Federal Emergency Management Agency grant money not yet disbursed, including key support for California’s ongoing response to the fires. ECF No. 1 ¶¶ 80–81.
- A January 28, 2025, email from Shannon Kelly, the Director of the National High Intensity Drug Case Trafficking Areas (HIDTA) program, who aids law enforcement in high drug-trafficking areas, shows that payments to state-based HIDTA programs have been paused, putting the public’s safety at risk. *Id.* ¶ 83.

The States have set forth facts showing that the Executive’s abrupt “pause” in potentially trillions of dollars of federal funding will cause a ripple effect that would directly impact the States and other’s ability to provide and administer vital services and relief to their citizens. Thus, the federal grants to States and others that are impounded through the Executive’s pause in disbursement will cause irreparable harm.

And it is more than monetary harm that is at stake here. As Justice Anthony Kennedy reminds us, “Liberty is always at stake when one or more of the branches seek to transgress the separation of powers.” *Clinton v. City of New York*, 524 U.S. 417, 449–50 (1998) (Kennedy, J. concurring)

#### **Balance of the Equities and Public Interest**

As the Court considers the final two factors, the record shows that the balance of equities weighs heavily in favor of granting the States’ TRO.

- If the Defendants are prevented from enforcing the directive contained in the OMB Directive, they merely would have to disburse funds that Congress has appropriated to the States and others.
- On the other hand, if the Court denies the TRO, the funding that the States and others are presumably due under law is in an indefinite limbo—a hardship worsened by the fact that the States had less than 24 hours’ notice to act in anticipation of the funding shortfall.
- The fact that the States have shown a likelihood of success on the merits strongly suggests that a TRO would serve the public interest. Moreover, the

public interest further favors a TRO because absent such an order, there is a substantial risk that the States and its citizens will face a significant disruption in health, education, and other public services that are integral to their daily lives due to this pause in federal funding.

The evidence in the record at this point shows that, despite the rescission of the OMB Directive, the Executive's decision to pause appropriated federal funds "remains in full force and effect." ECF No. 44.

### Mootness

The Defendants now claim that this matter is moot because it rescinded the OMB Directive. But the evidence shows that the alleged rescission of the OMB Directive was in name-only and may have been issued simply to defeat the jurisdiction of the courts. The substantive effect of the directive carries on.

Messaging from the White House and agencies proves the point. At 2:04 EST, less than an hour before the Court's hearing on the States' motion on Wednesday, the Defendants filed a Notice saying, "OMB elected to rescind that challenged Memorandum. *See* OMB Mem. M-25-14, *Rescission of M-25-13* (Jan. 28, 2025) ('OMB Memorandum M-25-13 is rescinded.')." ECF No. 43. Yet about twenty minutes before the Defendants filed the Notice, the President's Press Secretary sent a statement via the X platform that said: "The President's [Executive Orders] EO's on federal funding remain in full force and effect and will be rigorously implemented." ECF No. 44. And then the following day (January 30, 2025 at 7:50 MST and again at 5:27 p.m. EST) after the so-called rescission, the Environmental Protection Agency, in an email to

federal grant recipients, said that the awarded money could not be disbursed while it worked “diligently to implement the [OMB] Memorandum, Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs, to align Federal spending and action with the will of the American people as expressed through President Trump’s priorities. The agency is temporarily pausing all activities related to the obligation or disbursement of EPA Federal financial assistance at this time. EPA is continuing to work with OMB as they review processes, policies, and programs, as required by the memorandum.” ECF No. 48-1 at 6, 11.

Based on the Press Secretary’s unequivocal statement and the continued actions of Executive agencies, the Court finds that the policies in the OMB Directive that the States challenge here are still in full force and effect and thus the issues presented in the States’ TRO motion are not moot.

### Conclusion

Consistent with the findings above, and to keep the status quo, the Court hereby ORDERS that a TEMPORARY RESTRAINING ORDER is entered in this case until this Court rules on the States’ forthcoming motion for a preliminary injunction, which the States shall file expeditiously.

During the pendency of the Temporary Restraining Order, Defendants shall not pause, freeze, impede, block, cancel, or terminate Defendants’ compliance with awards and obligations to provide federal financial assistance to the States, and Defendants shall not impede the States’ access to such awards and obligations, except on the basis of the applicable authorizing statutes, regulations, and terms.

If Defendants engage in the “identif[ication] and review” of federal financial assistance programs, as identified in the OMB Directive, such exercise shall not affect a pause, freeze, impediment, block, cancellation, or termination of Defendants’ compliance with such awards and obligations, except on the basis of the applicable authorizing statutes, regulations, and terms.

Defendants shall also be restrained and prohibited from reissuing, adopting, implementing, or otherwise giving effect to the OMB Directive under any other name or title or through any other Defendants (or agency supervised, administered, or controlled by any Defendant), such as the continued implementation identified by the White House Press Secretary’s statement of January 29, 2025. ECF No. 44.

Defendants’ attorneys shall provide written notice of this Order to all Defendants and agencies and their employees, contractors, and grantees by Monday, February 3, 2025, at 9 a.m. Defendants shall file a copy of the notice on the docket at the same time.

Defendants shall comply with all notice and procedural requirements in the award, agreement, or other instrument relating to decisions to stop, delay, or otherwise withhold federal financial assistance programs.

The TRO shall be in effect until further Order of this Court. A preliminary hearing, at which time the States will have to produce specific evidence in support of a preliminary injunction, will be set shortly at a day and time that is convenient to the parties and the Court.

IT IS SO ORDERED.

*s/John J. McConnell, Jr.*

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John J. McConnell, Jr.  
Chief Judge  
United States District Court for the District of Rhode Island

January 31, 2025